

5 June 2020

Ms Aileen Fallon,
Clerk to the Committee (Work Programme)
Special Committee on Covid-19 Response
Leinster House
Dublin 2
D02 XR20

Dear Ms Fallon,

Thank you for your letter dated 27 May 2020 to Isolde Goggin, requesting that the Competition and Consumer Protection Commission (CCPC) make a submission to the Committee on the topic of passenger rights/refunds as they relate to travel arrangements.

I am the Member of the Commission with responsibility for the CCPC's consumer information and policy activities. In recent months, in response to the COVID-19 crisis the CCPC has been extremely active in providing information and assistance to thousands of consumers who are experiencing difficulties.

The enclosed briefing details consumers statutory rights as well as insights gained from the assistance we have been giving to consumers in recent months. I hope this document is of assistance to the Committee. Should the Committee or any individual member have questions in relation to our remit or work we would be happy to provide further information, either by email communications@ccpc.ie or by calling 01 470 3625.



Fergal O'Leary
Member
Competition and Consumer Protection Commission

Background

1. The Competition and Consumer Protection Commission (the CCPC) is the statutory body responsible for promoting compliance with, and enforcing where necessary, competition and consumer protection law. In addition, the CCPC operates a helpline and website service which provides information to consumers in relation to their statutory rights. Each year, in excess of 40,000 consumers contact our helpline and 1.8 million visit our website. In relation to queries concerning statutory rights, the issues which consumers experience and are therefore given information on, relate to a wide range of consumer protection instruments.¹
2. The impact of COVID-19 on consumers and businesses has obviously been very significant. Closures, restrictions on travel, liquidity and supply chain issues have meant that many traders have not been able to deliver the goods and services that consumers have purchased, who in turn, have experienced new challenges in engaging with businesses to try and get redress.
3. As a result we have seen a significant increase in the demand for our services from consumers seeking information about their rights. We have also had an increase in the number of requests from businesses seeking clarification around their responsibilities, particularly in the context of product safety requirements for the production of face masks.
4. In response, the CCPC developed a dedicated [COVID-19 Information Hub](#) which went live on 22 March. The Hub details, in one place, all relevant information on consumer rights and current issues such as: package holidays and travel, insurance, online shopping and cancelled contracts. It also provides information to businesses particularly in relation to their obligations under consumer protection law, for example if they are changing their payment methods or making changes to their terms and conditions as a result of the crisis.
5. In these challenging times there is a heightened risk that a small minority of traders may engage in commercial practices which are damaging to consumers, particularly vulnerable consumers. In recent months the CCPC has continued to monitor compliance with consumer protection law both in-store and online. We have increased our focus on sectors and issues which have been impacted by COVID-19. We have also increased our market surveillance activity and interactions with other Government authorities to enable importers and manufactures to place safe and compliant products, in particular face masks, on the market as quickly as possible.
6. The CCPC encourages consumers who may have encountered misleading practices or difficulties with any online trader offering health products for sale to contact us.

¹ For example the Sale of Goods Act 1893, the Sale of Goods and Supply of Services Act 1980, the Consumer Rights Directive, the Unfair Terms in Consumer Contracts Directive, the Unfair Commercial Practices Directive etc.

Passenger Rights

Package Holidays

7. The primary legislation in this area is the Package Holidays and Travel Trade Act 1995, which was substantially amended by S.I. No. 80 of 2019, the European Union (Package Travel and Linked Travel Arrangements) Regulations 2019. The CCPC has particular functions under this Act.
8. A package holiday, under consumer protection law, is a pre-arranged or customised holiday or trip that is sold at an inclusive price at a single point of sale, which must last at least 24 hours or include an overnight stay. It must also include at least two of the following:
 - Transport
 - Accommodation
 - Car or other vehicle hire
 - Other tourist service or activity – for instance, golf or hill-walking.
9. The legislation requires that traders selling package holidays provide detailed information to travellers outlining their key rights. Travellers also have the right to cancel their package holiday beforehand. If this cancellation is as a result of unavoidable and extraordinary circumstances taking place at or near their destination, which would affect their holiday, or their travel to the destination they are entitled to a full refund without any cancellation fee.
10. In either case, travellers are entitled to a full refund from the organiser without undue delay and not later than 14 days after the package travel contract is terminated.
11. From our contacts with consumers (see next section) we are aware that many are experiencing difficulties in obtaining a refund for cancelled package holidays and for cancelled flights. The CCPC is closely monitoring developments at a European and national level. In recent weeks, the European Commission has updated its guidance to say that travellers should consider accepting that their package holiday is postponed to a later point in time and that this could be done by means of accepting a credit note (voucher). However, the traveller should have the possibility to ask for a full refund if, eventually, he or she does not make use of the voucher.
12. In addition on 8 May 2020, the Government approved a proposal from the Minister for Transport, Tourism and Sport to legislate for a State guarantee for refund credit notes to be issued by registered travel agents and tour operators for package holidays cancelled due to restrictions arising from Covid-19. No legislative change as yet has occurred.
13. The CCPC is closely monitoring developments in this area and the information we are receiving from consumers. We continue to provide information to consumers about their rights under this legislation as it currently stands.

Right to cancel – Extraordinary Circumstances

14. As set out in the most recent [guidance](#) published by the Department of Business Enterprise and Innovation and the Department of Transport, Tourism and Sport, if due to COVID-19 a traveller wishes to cancel their package holiday and it is due to start before 20th July 2020, they have the right to cancel it and get a full refund of all payments that they made for the package. This includes if a package includes a travel component (e.g. a flight or accommodation) or a tourist component (e.g. attendance at a sporting or cultural event), and if either the travel or tourist component is cancelled before 20th July 2020 due to COVID-19 the traveller is also entitled to a full refund, with no termination fees. For packages that are due to start after 20th July 2020, the traveller is entitled to cancel the package at any time before the start of that package but they may, dependent on government health and travel advice at that time, have to pay an appropriate termination fee.

Cancelled Flights

15. In the case of flight cancellations, which are not part of a package holiday, there are statutory conditions as provided for under Regulation EU 261/2004. The Commission for Aviation Regulation is the competent authority for the purposes of this regulation.
16. If a consumer's flight is cancelled, regardless of when they are told about the cancellation, their airline must offer the choice between:
- Re-routing as close as possible to the original departure time
 - Re-routing at a later date, or
 - A refund of the cost of the unused flight ticket - this may be in the form of vouchers but the consumer does not have to accept this alternative.
17. Airlines are required to refund passengers within seven days of the flight cancellation. If a consumer does not receive a refund within this timescale they can submit a complaint to the airline. If they do not receive a satisfactory response to their complaint after six weeks they can escalate it to the relevant national enforcement body.
18. If the cancelled flight was due to depart from Ireland, they should contact the Commission for Aviation Regulation through their website www.flightrights.ie. Or if the cancelled flight was due to depart from another EU country, they will need to contact the national enforcement body for that country, for which contact details are also available on flightrights.ie. The CCPC is not in a position to comment further on flights as issues in this area are a matter for the Commission for Aviation Regulation.

Cancelled Ferries

19. If it is an Irish company and the ferry is cancelled or delayed by more than 90 minutes then the company must offer the consumer a choice between:
- Rerouting to their destination at the earliest opportunity, at no extra cost or
 - A refund of their ticket price (within 7 days).
20. If a consumer requests a refund but the company is not willing to provide it, they can make a complaint to the company in writing. Each ferry company must have a complaint handling process in place and they must respond to within one month indicating whether the complaint has been accepted, rejected or is still being considered. They must give a final response within two months. If a consumer is not happy with the outcome of their complaint, they may appeal it to the National Transport Authority.

Consumer Contacts

21. The CCPC operates a helpline which provides information to the public on their consumer rights and other avenues they can take to obtain redress when engaging with traders. This includes identifying cases where consumers would benefit in contacting another body in relation to their issue.
22. The range of issues being experienced by consumers due to COVID-19 has resulted in a significant increase in contacts to the CCPC's helpline since March. The following section provides information on the range of issues which over 10,000 consumers contacted the CCPC about from 9 March to 22 May. Travel, Transport & Holidays made up 37% of contacts from consumers. Of particular note is a significant spike in the travel sector which includes flights and package holidays, and in the catering/accommodation sectors which have increased primarily due to hotel cancellations for both events and overnight stays.
23. The table below breaks down the relevant sectors into top level categories and indicates the areas which experienced the greatest increase in contacts from consumers.

Row Labels	2020 Number	% YoY Increase
1. Travel, Transport & Holidays	2518	594%
Holidays/Package Holidays	1400	1567%
Flights	932	412%
Ferry	78	1200%
2. Catering/ Accommodation	593	403%
Hotels	326	453%
Self-Catering Accommodation	111	2675%
Other Catering/Accommodation	67	1575%
3. Recreation/Sport/Leisure	326	59%
Other Recreation/Sports/Leisure	113	265%
Concerts/Theatres/Cinema	72	3%
Sporting events/Organisations/Activities	64	113%

24. To assist consumers outside of helpline operating hours the CCPC developed a COVID-19 hub on the CCPC website so that information on consumer rights and business obligations is always available. It is positioned so that visitors see it straight away when they log onto www.ccpc.ie. Most of the consumer information is presented in a Q&A format so that it is easy to understand and actionable.
25. The COVID-19 hub was launched on 22 March has had over 53,000 views to date. The travel section accounts for 34% of the traffic, where consumers spend up to 4 minutes viewing the content.
26. As above, travel related issues such as package holidays, cancelled flights and accommodation cancellations have been the number one prompt for consumers to contact the CCPC in recent months. These contacts evidence the unprecedented disruption that consumers and businesses are



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experiencing. Our website has been specifically designed to help consumers obtain the information they need specific to their circumstances, and we continue to offer our helpline services to provide more tailored assistance.