

Mr Phil Cotterell
Department for Transport
Zone 1/25
Great Minster House
76 Marsham Street
LONDON
SW1P 4DR

08 June 2010

Dear Mr Cotterell

**THE EC AIR SERVICES REGULATION: CONSULTATION ON PRICING PROVISIONS
ENFORCEMENT REGIME AND LEASING APPEALS
(Consultation Ref No DFT-2010-16)**

The Board of Airline Representatives in the UK (BAR UK) is the industry association for scheduled airlines, and has nearly 90 members. This letter provides our response on their behalf.

Introductory remarks

1. Before providing responses to the questions below, it is worth understanding that, should there be any transgression of the ASR, then it's likely to be arise from either a programming fault, or a website that has not been updated. Either way, the instances of failure to meet the ASR will probably be several, rather than individual nature.
2. Without understating the requirement for compliance with the ASR, members of the public, whilst they could certainly be inconvenienced, and possibly shocked at the final price by failure of compliance, will still have the opportunity to decline the sale. Nobody should actually find themselves committed to purchase without consciously pressing the 'buy' button.
3. The above two points set out the background aspects to our responses.

Responses to the Consultation Questions

Q1: Do you agree with this approach to enforcing the ASR? If not, what are your reasons? What alternatives do you believe should be considered?

Response:

BAR UK does not object to this approach.

Q2: Do you agree with the criminal penalties proposed? In what circumstances do you think criminal as opposed to civil sanctions should be used by the enforcers?

Response:

BAR UK is wary of the introduction of criminal sanctions unless there is a distinct unwillingness to comply with the ASR, or that there has been an intentional contempt of court.

It also needs to be clarified what is meant by the term 'from the date of commission of the offence' used in the consultation document.

Q3: Are you content with the proposal for both CAA and OFT to have enforcement powers and the proposed lead enforcement role for CAA?

Response:

No.

Consumer matters embracing air fares, ATOLs etc are distinctly in the remit of the Consumer Protection Group of the CAA, and should remain there.

It is understood that the CAA may well need to consult behind the scenes with the OFT but, for the sake of total clarity and understanding, the CAA should be defined as the Enforcement Body.

Q4: Are you content with the proposed arrangements for appeals against CAA's decisions on aircraft leasing?

Response:

No response offered.

Q5: Are you content with the proposed arrangements for appeal against the Secretary of State's decisions on aircraft leasing?

Response:

No response offered

Q6: Comments on any aspect of the draft SI are welcome, including the penalties proposed for criminal offences created by regulations 25.

Response:

No response offered except to say that it would be most useful if the Levels of penalty had been included.

Q7: Comments on the Impact Assessment including further information about potential costs and benefits to stakeholders under the two enforcement options are welcome.

Response:

No response offered