



CONSUMER PROTECTION ACT,
68 OF 2008

Industry response -

- Submitted comments on the Act and Regulations through AASA;
- Drafting an Industry Code of Conduct through AASA;
- Will take months to establish the Code and Ombud;
- Industry clear on the implications, but not so clear on how to address the issues.

Airlink's response –

- Participated in the AASA process;
- Review fare rules and conditions of carriage;
- Third party SLA, warranties and indemnities;
- Training, workshops, communication

Material provisions in the Act for Airlink –

- Clause 8 Protection against discriminatory marketing;
- Clause 11 Right to restrict unwanted marketing;
- Clause 12 Regulation of time for contacting consumers;
- Clause 13 Consumers' right to select suppliers;
- Clause 16 Cooling-off period after direct marketing;
- Clause 17 Right to cancel advance reservations;
- Clause 19 Rights with respect to delivery of goods or services
- Clause 22 Right to information in understandable language;
- Clause 23 Disclosure of price of goods or services;

Material provisions in the Act for Airlink to consider (cont.) –

- Clause 26 Sales records;
- Clause 30 Bait marketing;
- Clause 35 Customer loyalty programmes;
- Clause 47 Overselling and overbooking;
- Clause 48 Unfair, unreasonable or unjust contract terms;
- Clause 49 Notice required for certain terms and conditions;
- Clause 51 Prohibited terms and conditions;
- Clause 54 Consumers' right to demand quality service;
- Clause 58 Warning concerning fact and nature and risks; and
- Clause 65 Supplier to hold account for consumer's property.

Clause 8 – Protection against discriminatory marketing

A service provider should not on the basis of unfair discrimination unfairly exclude any category of persons from accessing its services or assign priority to any category of persons.

The Act does however provide for reasonable grounds for differential treatment in specific circumstances –

- Passengers with reduced mobility;
- Unaccompanied minors;
- Intoxicated passengers;
- Passengers who in the reasonable judgement may cause a threat to safety.

Clause 11 – Right to restrict unwanted direct marketing

Right to privacy include the rights to –

- Refuse to accept;
- Require another person to discontinue;
- To pre-emptively block

Any approach or communication for direct marketing.

- Does this affect Airlink materially?
- “Opt-out”, “unsubscribe” buttons?
- “Subscribe” buttons?

Clause 12 – Regulation of time for contacting customers

A service provider may not engage in direct marketing during the following prohibit periods –

- Saturday, Sunday or South African public holidays;
- All other days between 18h00 and 08h00 the following day

Clause 13 – Consumers right to select suppliers

A service provider may not require, as a condition of offering to supply a service, that the consumer –

- Purchase any other service from the service provider;
- Enter into an additional transaction with the service provider or third party;

Unless the service provider can evidence –

- The convenience and benefit of the “bundle” outweighs the limitation to the consumers’ right of choice;
- The “bundle” results in economic benefit to the consumer; and
- Offers services in bundled and at individual prices.

Clause 16 – Right to cooling-off after direct marketing

The consumer has the right to cancel a contract as a result of direct marketing within five (5) business days of the contract's conclusion (sms, fax, e-mail, flyer etc.)

The supplier obliged to refund within fifteen (15) business days of having received the cancellation notice.

Clause 17 – Right to cancel advance reservations

Irrespective of clause 16, the consumer has the right to cancel any advance reservation.

Airlink reserves the right to cancel the reservation if the Passenger has not paid the applicable fare for the Ticket according to the Ticket Time Limit as advised in the fare rules – *4Z CoC Clause 5.2.2 (Ticketing Time Limit)*

The service provider may however impose a reasonable cancellation charge, except for a cancellation as a result of death or hospitalisation.

Some Tickets are sold at special fares which may be partially or completely non-refundable. It is the Passenger's responsibility to choose the fare and applicable fare rules best suited to their travelling needs and ensure that they familiarise themselves with the fare rules and the terms and conditions of the Ticket – *4Z CoC Clause 3.1.6 (Tickets and Identification)*

Clause 19 – Rights with respect of supply of service

Implied condition of every transaction that the service provider will perform the service at a location and agreed date and time, or otherwise within a reasonable time after the originally agreed date and time.

If the service provider provides a service at a location, date and time other than agreed, the consumer may –

- Accept the performance;
- Require performance as originally agreed; or
- Cancel the agreement
- Accept the delay;
- Alternative service providers;
- Refunds *See 4Z CoC Clause 11 (Refunds)*

See 4Z CoC Clause 9 (Flight Schedules) and Clause 9.2 (Remedies for Cancellation, Rerouting or Operational Delays caused by Airlink.

Clause 23 – Disclosure of price of goods or services

A service provider may not require the consumer to pay a higher price for services than the price advertised.

Clause 26 – Sales records

Minimum disclosure requirements

- Airlink Revenue Accounting;
- Department of Transport (DOT);
- AASA

Clause 30 – Bait marketing

A service provider must categorically disclose the extent of limitation of availability of services advertised at special prices to avoid circumstances where the consumer is misled.

Not sufficient to state “seats are limited” or “only while stocks lasts”.

“300 return tickets available between Johannesburg and Nelspruit between 1 April 2020 and 30 June 2020 at ZAR850 per ticket, special price tickets limited to 5 per flight”

Clause 35 – Customer loyalty programmes

Where a service provider sponsors accepts loyalty programme credits in exchange for services, it must –

- Ensure availability of supplies of services at any time is sufficient to accommodate all reasonably anticipated demand for services in exchange for credits;
- Not limit or restrict capacity to supply the service in exchange for credits;
- Accept any tender of sufficient credits as consideration for the price of the services if the service provider has the capacity to supply the services for cash (credit = cash);
- A loyalty scheme can be closed for 90 days in any year, but service provider must provide loyalty programme member 20 days notice of such exclusion).

Airlink 4Z/749 does not participate in any Frequent Flyer Programme

Clause 47 – Overselling and overbooking

Service providers may not accept tender for services where they have no reasonable intention to provide the service.

As a matter of policy, Airlink does not oversell its flights. There are however times when the Passenger will be denied boarded on a flight in the event that the Airline experiences:

- a) Changes in the weather
- b) An aircraft gauge change
- c) A payload restriction

In the unlikely event that the Airlink is not able to provide the Passenger a seat for which they have a confirmed reservation, the Airline will carry the Passenger on another Airlink flight. The Airline shall provide compensation to those Passengers denied boarding in accordance with our denied boarding policy in terms of *Clause 9.5 (Denied Boarding Compensation)*. 4Z CoC *Clause 9.4 (Denied Boarding)*.

Clause 48 – Unfair, unreasonable or unjust contract terms

A service provider should not –

- Provide services at unreasonable or unfair prices or terms;
- Market services in unreasonable manner;
- Consumers to waive rights or assume liabilities of the supplier in an unreasonable manner.

Airlink Domestic Fare Families:

Economy Saver, Economy Plus, Economy Select You get the best deal with Airlink's Economy Saver Fare. You get value-for-money family fares with Airlink's Economy Plus Fare, which also offers limited flexibility. You get the freedom of a flexible economy class ticket with Airlink's Economy Select Fare. You get extra space at an economy class fare with Airlink's Premium Economy Fare. Checked baggage Free allowance of 20kg per passenger is included in the fare.

Airlink Domestic Business Fare Families Priority Business Business Description You get value-for-money business class fare with Airlink's Priority Fare, which also offers limited flexibility. You get the freedom of a flexible business class ticket with Airlink's Business Fare. Checked baggage Free allowance of 30kg per passenger is included in the fare.

Clause 49 – Notice required for certain terms and conditions

Where a provision in an agreement limits the service provider or another's risk or liability, the provision must be conspicuously drawn to the attention of the customer.

Airlink Conditions of Carriage is available on www.flyairlink.com and on each E-ticket Itinerary receipt issued to Passengers upon payment of an E-ticket

Clause 51 – Prohibited transactions

A service provider may not contract out of any obligation placed on it by the Act or deprive the consumer of any right it has in terms of the Act in the event of gross negligence or reckless behaviour on the part of the service provider.

Clause 54 – Right to demand quality service

- On time performance and completion of the service;
- Reasonable notice of unavoidable delay;
- Performance in a manner and quality that consumer is generally entitled to;
- Return of property in as good a condition as was presented

Clause 58 – Warning concerning fact and nature of risks

Service provider of any activity that is subject to any risk of unusual nature or risk that can result in injury or death must draw the nature of the risk and potential effect to the attention of the consumer in plain language and conspicuously.

The Airline's liability will be determined by the applicable Law and the Airlink Conditions of Carriage. *4Z CoC Clause 16 (Liability for Damage)*

In the event that the Passenger fails to present themselves at the prescribed times at either the check-in counter for the check-in procedure or at the boarding gate for the boarding procedure, Airlink reserves the right to consider that Passenger as a “no-show” and the Passenger will forfeit the coupon for that applicable segment of travel without the right to a refund. *4Z CoC Clause 3.3.3 (Non use of Ticket)*

Clause 65 – Hold and account for consumers' property

Service provider must exercise degree of skill, care and diligence that can reasonably be expected from one managing the property of another. The service provider will be liable for any loss resulting from a failure to comply with this clause even if the service is outsourced to a third party.

It is the Passenger's responsibility to ensure that their Baggage is adequately secured, insured and that all valuable items or important documentation are removed from Checked or Skycheck Baggage prior to the check-in procedure and/or departure.

The Airline will make every attempt to ensure that Passenger's Baggage is handled with care. The Airline's liability for loss, delay or damage to baggage is limited in terms of the applicable convention, unless the Passenger declares a higher value for the Checked Baggage in advance and the additional charges are duly paid to the Airline.

The Airline recommends that the Passenger obtain adequate travel insurance cover prior to the journey. *4Z CoC Clause 10 (Baggage)*