



Claim No. FS-2018-000011

29 Nov 2018

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)
FINANCIAL SERVICES AND REGULATORY SUB-LIST
BEFORE: HON MR JUSTICE NUGEE
DATED: 27 NOVEMBER 2018

FS-2018-000011

IN THE MATTER OF PART 8 OF THE ENTERPRISE ACT 2002; THE CONSUMER RIGHTS ACT 2015; THE CONSUMER CONTRACTS (INFORMATION, CANCELLATION AND ADDITIONAL CHARGES) REGULATIONS 2013; THE CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS 2008 AND OF THE ELECTRONIC COMMERCE (EC DIRECTIVE) REGULATIONS 2002

B E T W E E N:

COMPETITION AND MARKETS AUTHORITY

Claimant

- and -

VIAGOGO AG

Defendant

ENFORCEMENT ORDER

IF YOU, VIAGOGO AG, DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND LIABLE TO BE FINED OR YOU MAY HAVE YOUR ASSETS SEIZED AND YOUR DIRECTORS MAY ALSO BE LIABLE TO IMPRISONMENT OR TO BE FINED OR TO HAVE THEIR ASSETS SEIZED.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE DEFENDANTS TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

UPON the Claimant bringing proceedings in respect of the matters set out in the Endorsement to the Claim Form ("the Conduct").

AND UPON hearing Rob Williams, Azeem Suterwalla and Jack Williams for the Claimant and Martin Howe QC and Malcolm Birdling for the Defendant

AND UPON the Defendant accepting the matters set out in Schedule 1 to this Order

AND UPON the parties having agreed on terms by which the differences between them may be resolved

AND UPON the Court being satisfied that the conditions in Sections 217 and 219B of the Enterprise Act 2002 are met for the purposes of this Order.

AND UPON the court being satisfied that it is appropriate to include paragraph 5 of this Order on the basis of section 223 of the Enterprise Act 2002.

AND UPON the Claimant agreeing not to take any steps to serve the claim form with claim number FS-2018-000012.

BY CONSENT IT IS ORDERED THAT:

1. The Defendant shall comply with Sections 217(6) and 217(10A) of the Enterprise Act 2002 in relation to the Conduct by complying with the terms of Section A, Section B1, Section B2, Section B3 and Section C of this Order.
2. The Defendant will comply with Paragraph 1 above by 17 January 2019 and thereafter.
3. The Claimant's application dated 17 September 2018 is withdrawn.
4. The Defendant's application dated 21 September 2018 is withdrawn.
5. This Order is binding upon all of the members of the group of interconnected bodies corporate (within the meaning of section 223 of the Enterprise Act 2002) of which the Defendant forms part or of which it may become part as if each of them were the body corporate against which this Order is made.
6. The Defendant shall pay the Claimant's reasonable costs of these proceedings, to be assessed on the standard basis if not agreed.

Section A - Requirements

Provision of Required Information to Consumers

1. The Defendant will ensure that Required Information about which it is Aware is disclosed to Consumers using the Website, prior to the purchase of a ticket. The Required Information will be disclosed in accordance with the provisions of Section B1 and satisfaction of the requirements of Section B1 will constitute compliance with the disclosure requirements of this paragraph.
2. The Defendant will ensure that Required Information disclosed to Consumers using the Website in accordance with paragraph 1 of this Section is also

Clearly and Prominently disclosed to Consumers in a Durable Medium within a reasonable time after the purchase of a ticket.

Provision of Information by Sellers

3. The Defendant will provide a Mandatory Facility which Sellers must complete before they are able to list a ticket for sale on the Website.
4. The Mandatory Facility will comply with the provisions of Section B2 of this Order.

Verifying and Updating Required Information

Event Set Up

5. Unless the Defendant is an Official Seller for the Event, the Defendant will carry out the Pre-Setup Checks before setting up an Event Page.
6. The Defendant will not set up an Event Page until tickets for the Event have been made officially available (which can include the release of tickets to specified groups before the tickets go on general sale to the public).
7. Where tickets have been released only to specified groups, only Sellers who the Defendant has determined have already been issued a specific ticket for the Event or have a right to purchase or be issued a specific identifiable ticket for the Event will be able to list tickets on the Website prior to tickets for the Event being made officially available.

Notice of Missing Information

8. If the Defendant is Notified that Required Information about the Seller may be missing or incorrect, the Defendant will notify the Seller within two (2) working days and the Seller may be given up to five (5) working days to demonstrate to the Defendant that the information they have previously provided is complete and correct. If the Seller fails to do so, the Defendant will remedy this by following the steps set out in paragraph 13 of this Section.
9. If the Defendant is Notified that Required Information about a ticket is missing or incorrect, the Defendant will remedy this by following the steps set out in paragraph 13 of this Section.

10. Subject to paragraph 7 of this Section, if the Defendant is Notified that a ticket listing relates to an Event that does not exist or for which tickets have not been officially made available, the Defendant will take down all affected ticket listings for that Event and, if applicable, the Event Page until such time as the Event does exist or tickets for that Event have officially been made available.

Database Verification

11. The Defendant will carry out Regular Checks to determine if:
 - (a) two or more Sellers are Associates; and
 - (b) any Sellers are Traders by reference to the Trader Criteria.
12. If, as a result of the Regular Checks, the Defendant determines that a Seller is a Trader by reference to the Trader Criteria, but the Required Information about the Seller and any Associates has not been disclosed on the Website or appears to be incorrect, the Defendant will notify the Seller within two (2) working days and the Seller may be given up to five (5) working days to demonstrate to the Defendant that the information they have previously provided is complete and correct. If the Seller fails to do so, the Defendant will remedy this by following the steps set out in paragraph 13 of this Section.

Updating Required Information

13. Where the Defendant is required by paragraphs 8 to 12 inclusive, or paragraph 7 of this Section to update Required Information on the Website, the Defendant will within two (2) working days:
 - (a) either update the Website to display the relevant Required Information in accordance with the provisions of Section B1 of this Order or remove the affected ticket listings from the Website; and
 - (b) from that point onwards, be treated as being Aware of the relevant Required Information for the purposes of this Order.

Defendant's Guarantee

14. The Defendant will ensure that all statements about the Defendant's Guarantee that are presented on the Website to Consumers during the ticket

selection and purchasing process are consistent as to the substance of the Defendant's Guarantee and with each other.

15. The Defendant will amend the Defendant's terms and conditions to ensure consistency with the Defendant's Guarantee as it is presented to Consumers on the Website during the purchase process.
16. The Defendant will Clearly and Prominently display a notice to Consumers on the Website that the Defendant's Guarantee does not affect their statutory consumer rights.
17. The Defendant will ensure that all exceptions or qualifications which apply to the Defendant's Guarantee are Clearly and Prominently disclosed to Consumers prior to the Consumer purchasing a ticket on the Website.
18. The Defendant will not reject a claim by a Consumer under the Defendant's Guarantee if the reason for the rejection of the claim was not Clearly and Prominently displayed on the Website at the time of the purchase of the ticket
19. The Defendant will not refuse a claim under the Defendant's Guarantee if:
 - (a) The Consumer (or any person for whom the Consumer has purchased a ticket) making the claim has been refused entry to an Event (and the Consumer is able to substantiate that they were refused entry to that Event); or
 - (b) The Consumer making the claim was not informed by the Defendant about a Restriction on Use which applies to a ticket (and which should have been reasonably known to the Seller) prior to purchasing that ticket and that Restriction on Use could result in the Consumer (or any person for whom the Consumer has purchased a ticket) being refused entry to the Event. In particular, in these circumstances, the Defendant will not:
 - (i) Reject a claim when the Defendant has been Notified that a ticket or tickets for an Event are subject to a Restriction on Use which would make tickets purchased on the Website invalid for entry to that Event;
 - (ii) Reject a claim because the Consumer has contacted the Event Organiser or venue to ask whether the ticket will be valid; or

(iii) Require that the Consumer be refused entry to an Event at the venue before a refund or replacement ticket will be granted.

19A The Defendant will not require that a Consumer with a valid claim under the Defendant's Guarantee relist a ticket on the Website instead of granting the Consumer a refund or replacement ticket.

19B Where the Defendant is the Seller, the Defendant will Clearly and Prominently state on the ticket listing pages that the Defendant's Guarantee does not exclude or limit a Consumer's statutory rights.

Complaint and Claim Handling

20. The Defendant will establish a Complaint and Claim Handling Process. To comply with this requirement, the Defendant will:

- (a) at its own expense, provide for and maintain means for Consumers to contact the Defendant, including by telephone, email, internet and mail. For the avoidance of doubt, nothing in this sub-section precludes the Defendant the ability to block Consumers who can reasonably be stated to be abusive to the Defendant, or to be acting duplicitously;
- (b) impose fair and reasonable deadlines for Consumers to submit a claim under the Defendant's Guarantee. For example, the Defendant will amend the time limits currently contained in term 2.15 of the terms and conditions applicable to the Website to provide Consumers with a minimum of:
 - (i) ten (10) working days from the delivery of the ticket to report problems with the ticket;
 - (ii) five (5) working days from the day of the Event to report problems with a ticket arising on the day of the Event; and
 - (iii) ten (10) working days from the receipt of a dispute claim form to return the dispute claim form to the Defendant;
- (c) ensure that the deadlines for Consumers to submit a claim under the Defendant's Guarantee are Clearly and Prominently disclosed to Consumers at the time of purchase and in a Durable Medium with the confirmation of the purchase of a ticket;

- (d) acknowledge receipt of a claim or complaint within five (5) working days of receipt of a claim or complaint by confirming its understanding of the claim or complaint, the Consumer's expected redress and the next steps of the process, including an explanation of what is being done to address the claim or complaint, a realistic timetable for resolution of the claim or complaint and any information that it requires from the Consumer to resolve the claim or complaint;
- (e) respond to the Consumer within twenty (20) working days of a claim or complaint to set out its decision, explain how it came to its decision and explain the procedure if the Consumer is not satisfied with the decision;
- (f) provide appropriate redress in response to a valid claim or complaint within ten (10) working days of the decision. For the avoidance of doubt, the Defendant is not responsible for when redress is ultimately received by a Consumer in circumstances when it has been provided in accordance with this sub-paragraph;
- (g) maintain a record of the claim or complaint and its resolution for at least two (2) years from receipt of the claim or complaint;
- (h) ensure that the full Complaint and Claim Handling Process is available to view on the Website and provided to Consumers in a Durable Medium upon request and following the submission of a claim or complaint;
- (i) ensure that staff responsible for dealing with claims or complaints are made aware of the Complaint and Claim Handling Process and their role in it, and receive any training necessary to enable them to apply the Complaint and Claim Handling Process; and
- (j) keep the Complaint and Claim Handling Process under review to ensure that it remains effective.

Ticket Selection and Purchasing

- 21. The Defendant will remove and not replace any Ticket Selection and Purchasing Messages that are Misleading.
- 22. Without prejudice to the generality of paragraph 21:
 - (a) the Defendant will disclose Clearly and Prominently that the tickets available on the Website represent the tickets available for sale on the

Website and does not represent the totality of tickets available for the Event;

- (b) the Defendant will not suggest that Website traffic or demand for tickets is affecting Website performance unless this is actually the case at the time the message is displayed;
- (c) the Defendant will not suggest to Consumers that tickets that have been previously purchased are being sold in real time while the Consumer is using the Website;
- (d) the Defendant will not display any Website loading bar or slow down navigation of the Website, unless this is caused by technological constraints on the Website server's ability to load the page due to volume of traffic; and
- (e) the Defendant will not display any Ticket Selection and Purchasing Messages on the pages where the Consumer enters their delivery details, their payment details and/or reviews all the details of the ticket(s) selected and confirms their purchase, save for a timer setting out the time the Consumer has to complete the transaction, together with a message accurately describing the meaning of the timer and the continuing risk the Consumer may have of not securing the ticket.

Statements About the Buying and Selling of Tickets

23. The Defendant will remove and not replace any statements on its Website that say, imply, or could be taken to imply, that the Defendant does not:
- (a) buy tickets;
 - (b) sell tickets; or
 - (c) set ticket prices.

For the avoidance of doubt, this includes but is not limited to, statements made in Website banners, the Defendant's terms and conditions and Media FAQs contained on the Website.

24. Nothing in paragraph 23 precludes the Defendant from stating that:
- (a) it is a "secondary ticketing platform" or any similar wording; or

- (b) Sellers set ticket prices, which may be above or below face value, or any similar wording.

Measures to Remedy the Non-Disclosure of Required Information

- 25. If the Defendant receives a complaint or other communication from a Consumer raising concerns about a ticket that:
 - (a) was purchased on the Website from a Seller who should have been classed as a Trader at the time the ticket was purchased; and
 - (b) Required Information about the Seller was not disclosed to the Consumer (including for the avoidance of doubt in a Durable Medium post purchase) or was incorrect,

the Defendant will Clearly and Prominently notify the Required Information about the Trader to such Consumer in a Durable Medium at the same time that it responds to that Consumer's complaint or concern.

- 26. If the Defendant is Notified that a Restriction on Use applies to tickets for an Event and this would include a ticket which has been purchased on the Website for the Event where;
 - (a) the Seller listed the ticket for sale on the Website after the date by which the changes required by this Order must be implemented;
 - (b) the Defendant was or should have been Aware of the Restriction on Use in question prior to the time of purchase by the Consumer;
 - (c) the Restriction on Use was not disclosed to the Consumer prior to their purchase; and
 - (d) the Event has not yet taken place,

the Defendant will Clearly and Prominently notify the purchasing Consumer in a Durable Medium about the restriction within two (2) working days, and Clearly and Prominently inform that Consumer of the Defendant's Guarantee and how they may make a claim under the Defendant's Guarantee if applicable.

Addressing previous breaches of the Defendant's Guarantee

- 27. The Defendant will:

- (a) identify all claims submitted by Consumers to the Defendant under the Defendant's Guarantee, on the basis that the Consumers were denied entry to an Event or had specific evidence from the Event Organiser that their tickets were invalid between 1 January 2016 and the date of this Order; and
 - (b) reassess any claims which did not result in the Consumers identified in paragraph 27(a) receiving compensation against the terms of the Defendant's Guarantee, as it was at the time of the Consumer's claim.
- 28. The Defendant will produce a report detailing all those cases where it is satisfied that there was sufficient evidence to refuse a Consumer's claim in accordance with the terms of the Defendant's Guarantee as it was presented to Consumers as at the time of their claim under the Defendant's Guarantee.
- 29. In all other cases the Defendant will make payments to the Consumers in accordance with the terms of the Defendant's Guarantee and within fourteen (14) days of the report produced in accordance with paragraph 28.
- 30. The Defendant will, at its own expense, appoint a Monitoring Trustee to review the methodology employed in relation to paragraph 27(b) and the report produced in accordance with paragraph 28.
- 31. If the Monitoring Trustee decides that the methodology employed in relation to paragraph 27(b) was deficient, then the Defendant will repeat the exercise in accordance with the Monitoring Trustee's instructions.
- 32. If the Monitoring Trustee decides that a Consumer identified under paragraph 28 should have received compensation on the basis of what a Consumer could reasonably have expected at the time of the transaction – informed by the way that the Guarantee was presented to Consumers at that time and paragraph 19 of this Section, the Defendant will make the necessary payment within fourteen (14) days.

Compliance Policies

- 33. The Defendant will introduce internal company policies and put in place training, monitoring and auditing procedures to ensure that this Order is complied with.
- 34. The Defendant will apply appropriate disciplinary measures, up to and including suspending a Seller from listing tickets on the Website for such period as the Defendant considers appropriate, if:

- (a) the Seller is found by the Defendant to have repeatedly listed tickets on the Website with incorrect or incomplete Required Information; or
- (b) the Defendant is provided with a written statement from an Enforcement Authority notifying the Defendant that the Seller has repeatedly failed to disclose Required Information (including without limitation that they are a trader for the purposes of consumer protection law), on the Website.

Recording and Reviewing Compliance with this Order

35. The Defendant will comply with the requirements of Section B3 of this Order.

Supplemental

36. Nothing in this Order:

- (a) limits or restricts Consumers' existing statutory or contractual rights (or the Defendant's obligations in respect of these rights) in any way;
- (b) constitutes approval or certification of the Website as complying with consumer protection laws; or
- (c) precludes the Defendant from making further changes to the Website:
 - (i) if required by law;
 - (ii) to provide a higher standard of consumer protection; or
 - (iii) subject to (i). above provided that such changes are consistent with the terms of this Order,

and the Defendant will not make any statement or claim, either publicly or to any Person, which says, implies or could be taken to imply the opposite.

Section B1 - Disclosure of Information on the Website

- 1. From the time the Event Page is live, the existence and details of any Event Wide Restrictions of which the Defendant is Aware will be Clearly and Prominently displayed on at least the Event Page and the final check-out

page (or equivalent) where the Consumer clicks to confirm the purchase of the ticket on the Website. This requirement may be satisfied by displaying the Event Wide Restrictions in a pop-up display provided that the pop-up display:

- (a) is presented in an appropriate font, size, colour and position to enable the Consumer to easily identify, read and understand the information; and
 - (b) requires that the Consumer confirm they have read the information before they are able to proceed.
2. Where applicable, the following information of which the Defendant is Aware will be Clearly and Prominently displayed on each ticket listing on an Event Page (either in writing or indicated through a suitable label or icon):
- (a) the block/area and row (where applicable) for that ticket;
 - (b) whether there is a Restriction on Use which applies to that ticket (with the exception of an Event Wide Restriction displayed in accordance with paragraph 1 of this Section);
 - (c) whether the Seller of the ticket is a Trader;
 - (d) whether the Seller of the ticket is Connected; and
 - (e) the Face Value of the ticket,

provided that the information listed in b., c. and d. above need not be displayed on ticket listings on an Event Page on 'mobile' and 'App' based formats, due to limitations of space.

3. If the Defendant is Aware that Required Information is applicable to a ticket, all such Required Information (other than an Event Wide Restriction displayed in accordance with paragraph 1 of this Section and the Trader's postal address) will be Clearly and Prominently displayed on at least the following pages of each ticket listing on the Website:
- (a) the first individual ticket listing page (or equivalent) which shows the details of any specific ticket listing(s) selected by the Consumer; and
 - (b) the final check-out page (or equivalent) where the Consumer clicks to confirm the purchase of the ticket on the Website.
4. A Trader's postal address (as provided by the Trader) will be displayed on the final checkout page where the Consumer clicks to confirm the purchase of the

ticket on the Website, but may be displayed by clicking on a link or pop-up display (which will be Prominently displayed) to reveal the Trader's address (as provided by the Trader).

5. Wherever a Restriction on Resale is displayed on the Website, a message stating:

- (a) that the ticket may be invalid for entry to the Event; and

- (b) whether the Defendant's Guarantee will cover such a situation,

will also be Clearly and Prominently displayed (where applicable on the same pop-up as the Restriction on Resale itself is displayed). The Defendant is not required to display this message if the Restriction on Resale does not purport to prevent resale on the Website (for example if an Event Organiser has approved the resale of tickets for an Event through the Website). For the avoidance of doubt, this does not affect the requirement to display the details of the Restriction on Resale itself in accordance with this Section.

Section B2 Mandatory Facility

General

1. Fields in the Mandatory Facility must require the Seller to actively make a selection or enter the information specified.

Trader Information

2. Prior to listing a ticket for sale on the Website, a Seller will be required to have confirmed:
 - (a) whether or not they are a Trader and if so, their identity (which may for the avoidance of doubt be a trading name) and postal address; and
 - (b) whether or not they are Connected in relation to the Event for which they are listing tickets and, if so, how they are Connected.
3. Sellers will be able, but not required, to provide a VAT number and/or other company details such as a company registration number.
4. So long as the information required by paragraph 2 of this Section is linked to each relevant ticket listed for sale on the Website by a Seller, the Seller need

only provide the information once (for the avoidance of doubt the information must still be displayed in relation to each of those tickets).

5. An explanation about when a Seller is likely to be acting as a Trader will be Clearly and Prominently displayed to Sellers at the point at which the Seller is asked to confirm whether they are a Trader (provided that such explanation may be displayed in a pop-up or equivalent manner). Subject to any contrary ruling by a UK court of record specifically on when a person who lists or purports to list tickets for resale should be categorised as a trader, this explanation will include the following indicators of when a Seller is likely to be acting for the purposes of their trade, business, craft or profession:
 - (a) the Seller regularly sells tickets with the intention of making a profit (the sales do not have to be on www.viagogo.co.uk);
 - (b) the Seller sells tickets through a registered company, is a sole trader, has a VAT number or pays people to sell tickets on their behalf; or
 - (c) the Seller is paid to sell tickets.
6. An explanation of section 90(6) of the Consumer Rights Act 2015 (as in force at the time) will be Clearly and Prominently displayed to Sellers at the point at which the Seller is asked to confirm whether they are Connected (save that for 'mobile' and 'App' based formats the explanation may be displayed in a pop-up or equivalent manner).

Restrictions on Use

7. Prior to listing a ticket for sale on the Website, a Seller will be required to confirm whether the ticket is subject to any Restrictions on Use and, if so, be required to specify the Restrictions on Use applicable to the ticket either by:
 - (a) selecting the applicable restriction(s) from a list of common Restrictions on Use which may apply to tickets; or
 - (b) if the ticket is subject to a Restriction on Use which is not included in that list, submitting the applicable restriction(s) to the Defendant for disclosure, for example through a free text field or other contact method such as email.
8. The information required in paragraph 7 of this Section can be provided for multiple tickets at once so long as the same Restrictions on Use apply to all

the tickets (for the avoidance of doubt the information must still be displayed in relation to each of those tickets).

9. The list of common Restrictions on Use referred to in paragraph 7.a. of this Section will include but not be limited to the following¹:
 - (a) A restriction or purported restriction on re-selling the ticket. For the avoidance of doubt, any restriction or purported restriction will only need to be listed in general terms (and not constitute a verbatim publication of the exact wording of the restriction or purported restriction);
 - (b) the requirement to hold documentation to show that they are the original purchaser (for example ID or a booking confirmation);
 - (c) the requirement to meet or attend the Event with the Seller or any Person determined by the Seller;
 - (d) the requirement that a ticket holder be of a certain age;
 - (e) the requirement that a ticket holder below a certain age be accompanied by someone of a certain age; or
 - (f) the requirement that a ticket holder possess specific characteristics to be able to use the ticket, and if so, what those characteristics are (such as student, disabled, membership). For the avoidance of doubt these may be presented as separate restrictions to be selected by the Seller.
10. So that it is clear to the Seller the types of restrictions they should be disclosing, sufficient explanation of what constitutes Restrictions on Use must be Clearly and Prominently provided to the Seller at the point at which the Seller is asked to confirm whether any Restrictions on Use apply (save that for 'mobile' and 'App' based formats such explanation may be displayed in a pop-up or equivalent manner). This explanation may take the form of either:
 - (a) appropriate guidance prepared by the Defendant; or
 - (b) the list of common Restrictions on Use described in paragraph 9 of this Section.

¹ Save that the Defendant will not be required to include a restriction in the list of common Restrictions on Use if the Defendant prohibits the listing of tickets for Events which are subject to such a restriction or prohibits the use of such a restriction by Sellers, and the Defendant's operational processes prevent any ticket to which such a restriction applies from being listed on the Website.

Seating and Related Details

11. Prior to listing a ticket for sale on the Website, a Seller will be required to confirm whether the ticket is a standing or seated ticket and, where applicable to the ticket:
 - (a) the block/area that has been specified for the ticket; or that no block/area has been specified for the ticket; and
 - (b) if the ticket is seated:
 - (i) the row that has been specified for the ticket; and
 - (ii) the seat that has been specified for the ticket.

12. The information required in paragraph 11 of this Section can be provided for multiple tickets at once to the extent that the same information applies to all the tickets (for the avoidance of doubt the information must still be displayed in relation to each of those tickets, as set out in this Order).

13. A Seller will only be able to enter alpha-numeric values for the seat details unless the Defendant determines that seat details in another format have been issued for that Event.

14. A Seller will not be able to list a seated ticket without providing row and seat details. If the Defendant determines that seated tickets for an Event have been sold by an Official Seller without a specified row and/or seat (and the Defendant has not been Notified that this information has been provided) the Defendant may dispense with this requirement for that Event.

15. A Seller will not be able to list a ticket with a block/area, row and seat that is the same:
 - (a) as any other ticket that has been listed by that Seller on the Website for that Event unless the ticket has previously been returned to the Defendant; or
 - (b) as any other ticket currently listed by another Seller on the Website for that Event unless the Defendant has determined, based on evidence from a ticket or booking confirmation issued by an Official Seller, that the details provided for the ticket are correct. If the Defendant

determines that the details for the ticket are correct, all other tickets listed with the same block/area, row and seat for that Event by other Sellers must be immediately removed from the Website.

Face Value

16. Prior to listing a ticket for sale on the Website, a Seller will be required to confirm the Face Value of the ticket.
17. The information required in paragraph 16 of this Section can be provided for multiple tickets at once to the extent that the same information applies to all tickets (for the avoidance of doubt the information must still be displayed in relation to each of those tickets).
18. A Seller must only be able to enter monetary values for the Face Value of the ticket, and must not be able to enter a range of values or give a null value entry (for example £0.00) for the Face Value of the ticket.

Speculative Selling

19. Prior to listing a ticket for sale on the Website, a Seller will be required to confirm that they have purchased or been issued the ticket or have a right to purchase or be issued the ticket.
20. The information required in paragraph 19 of this Section can be provided for multiple tickets at once to the extent that the same information applies to all tickets.

Section B3 - Recording and Reviewing Compliance

1. The Defendant must create and maintain sufficient records to allow it to demonstrate that it has complied with this Order. This will include but not be limited to maintaining a record of:
 - (a) all tickets listed for sale on the Website (such records must, as a minimum, record the Required Information as it applies to each ticket);
 - (b) all updates made to the Website in accordance with paragraph 13 of Section A;

- (c) all communications with Consumers in relation to matters arising from or related to this Order;
 - (d) the reasons for any refusal to provide the compensation or other remedy sought by a Consumer;
 - (e) all notifications or other communications with an Event Organiser or Enforcement Authority in relation to matters arising from or related to this Order and the action taken by the Defendant in response;
 - (f) each Seller who is subject to disciplinary action in accordance with paragraph 34 of Section A; and
 - (g) all determinations made by the Defendant in relation to each of paragraphs 6, 7, 8 and 11 of Section A and paragraphs 13, 14, and 15 of Section B2 and the reasons for each of the Defendant's determinations.
2. All records created in accordance with paragraph 1 of this Section must be kept by the Defendant for at least two (2) years.
3. The Defendant must, at its own expense, appoint a Reviewer to carry out:
- (a) the Initial Compliance Review; and
 - (b) the Annual Compliance Reviews.
4. The Initial Compliance Review and Annual Compliance Review should be carried out in accordance with the following requirements:
- (a) Each review should enable the Reviewer to determine whether:
 - (i) for the Initial Compliance Review, the Defendant has made the changes required to comply with this Order;
 - (ii) for the Annual Compliance Review, the Defendant has complied with this Order and has followed any recommendations made in the Initial Compliance Review or a previous Annual Compliance Review; and

(iii) the Defendant's relevant staff have been appropriately trained to ensure compliance with this Order.

(b) The Defendant must ensure that the Reviewer has access to all relevant sources of information which they require to carry out the review, including but not limited to:

- (i) records of all Events and tickets listed on the Website in the preceding two (2) years from the date of each review or any subset of these records (such records to include all information submitted by the Seller about the tickets or added to the relevant ticket listing by the Defendant);
- (ii) records of all Sellers who have listed tickets on the Website in the preceding two (2) years from the date of each review (such records to include all information provided by the Seller and the values and volumes of tickets listed and sold by the Seller);
- (iii) representative examples of the Website's Seller registration process, ticket listing process and ticket purchase process;
- (iv) the policies and procedures referred to in paragraph 33 of Section A; and
- (v) all other records referred to in paragraph 1 of this Section.

Notwithstanding paragraphs 4(b)(i) and 4(b)(ii), prior to the second Annual Compliance Review, the Reviewer must have access to such records dating from the date of entry into force of this Order.

- 5. Upon completion of each review, the reviewer must provide a Compliance Report to the Defendant.
- 6. Each Compliance Report must state:
 - (a) For the Initial Compliance Review:
 - (i) the information inspected by the Reviewer;

- (ii) whether the Defendant has made the changes required to comply with this Order;
- (iii) if further changes are still required to comply with this Order, the reasons for this and the steps which the Reviewer recommends should be taken to remedy this; and
- (iv) whether the Defendant's relevant staff have been appropriately trained to ensure compliance with this Order.

(b) For the Annual Compliance Review:

- (i) the information inspected by the Reviewer;
 - (ii) whether the Defendant has complied with this Order;
 - (iii) whether any recommendations made in the Initial Compliance Review or a previous Annual Compliance Review have been followed;
 - (iv) if the review finds that the Defendant has failed to comply with any requirement of this Order or any previous recommendation, why this has occurred;
 - (v) the recommendations required to remedy any breaches of this Order; and
 - (vi) whether the Defendant's relevant staff have been appropriately trained to ensure compliance with this Order.
7. Within one (1) month of receiving a Compliance Report, the Defendant must implement all changes recommended in the Compliance Report or if the changes cannot be implemented within one (1) month, explain to the Reviewer and the Claimant why this is the case.
8. The Reviewer must update the Compliance Report to reflect the changes made by the Defendant or to specify when the changes must be made by, and send the report to the Claimant for approval, such approval not to be unreasonably withheld.
9. The Defendant must provide the Claimant with any further information the Claimant requires to satisfy itself that the Defendant has complied with the requirements of this Order, including but not limited to:

- (a) analysis of Sellers, broken down by Seller category (including but not limited to Traders, Associates and any commercial partnerships in force). Such analysis should include:
 - (i) the number of active Sellers in each category;
 - (ii) listings volumes, listings values, sales volumes and sales values by category and/or histograms mapping the distribution of such variables by Seller volumes; and
 - (iii) analysis of the criteria by which each Seller classified as a Trader or Associate in the period as a result of Regular Checks was classified as such;
- (b) analysis of the proportion of Events, listings, tickets, sales volumes and/or sales values for which the required information was disclosed, by Seller or Seller category;
- (c) details (and supporting documentation) of the Seller registration process, ticket listing process and ticket purchase process on the Website, including details of relevant changes to such processes where these changes are relevant to this Order, the rationale for such changes and any available analysis of their effect;
- (d) details of any policies and procedures established to ensure compliance with this Order or with each Compliance Report;
- (e) details of any amendments to agreements with buyers or Sellers for the purposes of complying with this Order or for each Compliance Report;
- (f) details of all complaints received by the Defendant; and
- (g) all other records which the Defendant is required by this Order to keep.

Section C Definitions

1. Defined terms in this Order have the following meanings. Where applicable, the singular includes the plural and vice versa.

2. **Annual Compliance Review** means a review to be undertaken in accordance with this Order completed by 1 October each year for a period of five (5) years from date of this Order to determine whether the Defendant has complied with the Order and followed any recommendations made in the Initial Compliance Review or a previous Annual Compliance Review.
3. **Associate** means any Person who:
 - (a) uses the same postal address or contact details as the Seller;
 - (b) uses the same banking or payment details as the Seller; or
 - (c) the Defendant has been notified in writing by an Enforcement Authority, that the Enforcement Authority has reasonable grounds to believe, is, or is likely to be, co-operating with, assisting or being assisted by the Seller with the listing of tickets for sale on the Website.
4. **Aware** means Required Information:
 - (a) which a Seller has provided to the Defendant;
 - (b) which was identified by Pre-Setup Checks;
 - (c) about which the Defendant has been Notified;
 - (d) which was identified by Regular Checks; or
 - (e) which is applicable to the sale of tickets for the Event on the Primary Market and has been provided to the Defendant because the Defendant:
 - (i) is an Official Seller for the Event;
 - (ii) has entered into an official partnership for the Event; or
 - (iii) is otherwise a Seller.
5. **Clearly** means information must be displayed in plain English and, so far as the Defendant can determine from the information of which it is Aware, be:
 - (a) complete;
 - (b) correct; and
 - (c) not misleading.

6. **Complaint and Claim Handling Process** means a complaint and claim handling process that is effective and consistent with the Relevant Consumer Protection Legislation and ISO 10002:2014 Customer satisfaction – Guidelines for complaints handling in organisations.
7. **Compliance Report** means a report prepared by the Reviewer in accordance with Section B3 and provided to the Claimant in order to determine whether the Defendant has complied with the Order.
8. **Connected** means that the Seller is a person that falls within section 90(6) of the Consumer Rights Act 2015 in relation to a ticket.
9. **Consumer** means a natural person acting for purposes not related to his or her business or professional activities and, for the avoidance of doubt, not an Event Organiser.
10. **Defendant's Guarantee** means any guarantee, offer, promise or other commitment made by the Defendant in respect of a ticket purchased on the Website.
11. **Durable Medium** has the same meaning as in Regulation 5 of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.
12. **Enforcement Authority** means any trading standards body or other government body (including the Claimant) responsible for enforcing any UK or European Union law in respect of a consumer law matter affecting UK consumers.
13. **Event** means a specific performance, sporting fixture or equivalent scheduled for a specific venue on a specific date and time.
14. **Event Organiser** has the same meaning as "Organiser" in section 95(1) of the Consumer Rights Act 2015.
15. **Event Page** means any page on the Website which displays multiple ticket listings for an Event.
16. **Event Wide Restriction** means a Restriction on Use that applies or appears to apply to all tickets for an Event.
17. **Face Value** means the amount stated on the ticket as its price.
18. **Initial Compliance Review** means a review completed within three (3) months of the date the changes required by the Order are to be implemented

by to determine whether the Defendant has made the changes required in the Order to comply with the Order.

19. **Mandatory Facility** means a facility that requires a Seller to disclose information before they can list a ticket for sale on the Website. A Seller must use the facility to either: (a) disclose the Required Information; or (b) confirm that the Required Information is not applicable. For the avoidance of doubt, this applies whenever a ticket is listed, irrespective of whether the Seller uses the Website or other software applications or tools to do so.
20. **Misleading** means information that:
 - (a) is false;
 - (b) is unsubstantiated by data or information held by the Defendant;
 - (c) is based on assumptions, limitations or qualifications that are not disclosed in the text of the message and which contradict or change the meaning of the message (for the avoidance of doubt, this does not prevent the Defendant from providing further explanation via hover-text on the same page, as long as the hover-text does not contradict or change the meaning of the message it relates to); and
 - (d) is pre-set or pre-programed information (including within a pop-up or animation) which is presented as representing the real time situation on the Website when it does not.
21. **Monitoring Trustee** means a suitably qualified, independent professional, (including a professional from an audit, accounting or consulting firm, or an arbitrator, an appraiser or a legal professional) who is:
 - (a) approved in writing by the Claimant, such approval not to be unreasonably withheld;
 - (b) not employed by, or an officer of, the Defendant (although may have been or continue to be engaged by the Defendant); and
 - (c) appointed by the Defendant to set up and perform the consumer redress in relation to alleged breaches of the Defendant's Guarantee, as set out in paragraphs 27 to 32 of Section A above.

22. **Notified** means:

- (a) if tickets for the Event have not yet gone on sale to the general public on the Primary Market, that the Defendant is provided by the Event Organiser with one of the following:
 - (i) A written, correct, complete and not misleading statement:
 - 1. confirming that a Restriction on Use will apply to all tickets for the Event, to an identifiable category of tickets for the Event (for example general admission), or to a specific identifiable ticket for the Event;
 - 2. confirming (with an appropriate copy of, or link to, the relevant terms and conditions) the terms of that Restriction on Use; and
 - 3. confirming that the Restriction on Use will be publicised by all Official Sellers from the date on which tickets for the Event first go on sale;
 - (ii) A written, correct, complete and not misleading statement confirming that the block/area, row and seat details (as applicable) will be issued for all tickets or for all tickets within an identifiable category of ticket for an Event from the date on which tickets for the Event first go on sale; or
 - (iii) A written, correct, complete and not misleading statement confirming that tickets are being listed on the Website for an Event that does not exist or that tickets for the Event have not yet been officially made available.
- (b) if tickets for the Event have gone on sale to the general public on the Primary Market, that the Defendant is provided by the Event Organiser with one of the following:
 - (i) A written, correct, complete and not misleading statement:
 - 1. confirming that a Restriction on Use applies to all tickets for the Event, to an identifiable category of tickets for the Event (for example general admission), or a specific identifiable ticket for the Event;

2. confirming (with an appropriate copy of, or link to, the relevant terms and conditions) the terms of that Restriction on Use;
 3. confirming that the Restriction on Use was publicised by all Official Sellers from the date on which tickets for the Event first went on sale; and
 4. accompanied by a copy of, or a link to an Official Seller's website which discloses that the Restriction on Use applies to the Event, ticket or category of ticket;
- (ii) A written, correct, complete and not misleading statement confirming that block/area, row and seat details (as applicable) have been issued for all tickets or for all tickets within an identifiable category of ticket for an Event; or
- (iii) A written, correct, complete and not misleading statement, supported by appropriate evidence, confirming that incorrect block/area, row or seat details for an Event are being disclosed on the Website (for example that seat numbers have been provided which do not exist).
- (c) at any time, that the Defendant is provided with:
- (i) A written statement from an Enforcement Authority confirming that the Enforcement Authority has determined, based on evidence that would at least meet the information requirements set out at paragraphs 22 (a) and 22 (b) of this Section, that Required Information about an Event or ticket on the Website is missing or incorrect;
 - (ii) A written statement from an Enforcement Authority confirming that the Enforcement Authority has reasonable grounds to believe that Required Information about a Seller on the Website is missing or incorrect (where applicable, such a notification will not amount to a waiver of the Defendant's obligations under this Order and is without prejudice to the ability of the Claimant or any trading standards body to enforce a breach of this Order); or
 - (iii) A written statement from an Enforcement Authority confirming that the Enforcement Authority has determined, based on evidence that would at least meet the information

requirements set out at sub-paragraph 22 (a) iii of this Section that an Event does not exist or that tickets for the Event have not been officially made available.

23. **Official Seller** means a Person who is authorised by the Event Organiser to sell at least one ticket for that Event on the Primary Market (for the avoidance of doubt, this may include the Event Organiser themselves if they are selling tickets for the Event). Where the venue for that Event is allocated tickets for sale, the venue and/or any Person authorised by the venue to sell at least one ticket for that Event will also be an Official Seller.
24. **Person** includes a body of persons corporate or unincorporated.
25. **Pre-Setup Checks** means reviewing the Event home page and the first page of the purchase process on the website of at least one Official Seller for information which is clearly visible about:
 - (a) any Event Wide Restrictions that apply to tickets for that Event; and
 - (b) whether tickets for the Event have been made officially available, including the release of tickets to specified groups before the tickets go on general sale to the public.
26. **Primary Market** means the sale of tickets for an Event by Official Sellers.
27. **Prominently** means the information must be displayed so that it:
 - (a) is clearly visible in each location as required by this Order;
 - (b) is presented in an appropriate font, size, colour and position to enable the Consumer to easily identify, read and understand the information; and
 - (c) except as permitted by this Order, does not require the user to take any action to access the information.
28. **Regular Checks** means checks carried out at least monthly against the information held by the Defendant, without the need for regular human intervention.
29. **Required Information** means the following information:
 - (a) if the Seller of the ticket is a Trader, the identity of that Seller (which may for the avoidance of doubt be a trading name), their postal

address and a clear indicator that a Seller is acting as a business (for example, by labelling Required Information about the Seller as “Trader Information” or stating that the Seller is “Registered as a Business Seller”);

- (b) if the Seller of the ticket is Connected, the details of that Seller’s connection(s);
- (c) if the ticket is for a specific block/area, row and/or seat, the details of the block/area, row and seat (as applicable) for that ticket;
- (d) if the ticket is subject to a Restriction on Use, a description of that restriction; and
- (e) the Face Value of the ticket.

30. **Relevant Consumer Protection Legislation** means:

- (a) the Consumer Rights Act 2015;
- (b) the Consumer Protection from Unfair Trading Regulations 2008;
- (c) the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013; and
- (d) the E-Commerce (EC Directive) Regulations 2002.

31. **Restriction on Resale** means any restriction or requirement that:

- (a) prohibits or purports to prohibit the resale of a ticket; or
- (b) restricts or purports to restrict the use of the ticket to the original purchaser,

provided that such a Restriction on Use has not been adjudicated as unlawful by a UK court of record.

32. **Restriction on Use** means a Restriction on Resale or any other restriction or requirement (other than the requirement to produce a valid ticket) on the

ability of a Consumer to use a ticket, provided that such a Restriction on Use has not been adjudicated as unlawful by a UK court of record.

33. **Reviewer** means an individual who is:
- (a) approved in writing by the Claimant, such approval not to be unreasonably withheld;
 - (b) not employed by, or an officer of, the Defendant (but may have been or continue to be engaged by the Defendant);
 - (c) appointed by the Defendant to carry out the Annual Compliance Review and Initial Compliance Review;
 - (d) independent; and
 - (e) suitably qualified to carry out the Initial Compliance Review and the Annual Compliance Review (including a professional from an audit, accounting or consulting firm, or an arbitrator, an appraiser or a legal professional).
34. **Secondary Ticketing Facility** has the meaning given to it in section 95(1) of the Consumer Rights Act 2015.
35. **Seller** means any Person who lists or purports to list at least one ticket for resale on the Website. For the avoidance of doubt, this will, where applicable, include the Defendant, and any Person employed or engaged by the Defendant to sell tickets on its behalf.
36. **Ticket Selection and Purchasing Message** means any message provided by the Defendant to Consumers on the Website that provides information about the supply, demand, availability, price or value of tickets.
37. **Trader** means a Seller that falls within the definition of a “trader” for the purposes of the Relevant Consumer Protection Legislation. This generally means a person acting for the purposes of their trade, business, craft or profession. For the purposes of this Order, a Seller will be presumed to be a Trader if the Seller or any Associate of that Seller, either alone or together, satisfies one or more of the Trader Criteria.
38. **Trader Criteria** means the following criteria (subject to any contrary ruling by a UK court of record specifically on when a person who lists or purports to list tickets for resale should be categorised as a trader):

- (a) The Seller has confirmed to the Defendant that it is a business seller or trader when registering.
 - (b) The Seller has confirmed to the Defendant that it is a registered company and/or has a VAT registration number.
 - (c) The Defendant is Aware the Seller is an Event Organiser.
 - (d) The Seller has sold more than 100 tickets through the Website in any 12 month period.
39. **UK** means the United Kingdom of Great Britain and Northern Ireland.
40. **Website** means www.viagogo.co.uk and any other internet based site, platform or facility (in any form, including but not limited to 'mobile' and 'App' based formats) operated by the Defendant as a Secondary Ticketing Facility and which is directed to UK consumers. For the avoidance of doubt, and without prejudice to the Defendant's wider obligations under consumer protection law, any listings or other activity which is clearly in respect of the primary market via the Website will not be subject to this Order.

Service of the order

This order shall be served by the Claimant on the Defendant.

The Court has provided a sealed copy of this order to the serving party, the Competition and Markets Authority at Victoria House, 37 Southampton Row, London WC1B 4AD

SCHEDULE 1

In order to found the jurisdiction of the court to make an order under section 217 of the Enterprise Act 2002 ("EA02"), viagogo AG accepts for the purpose of this claim only:

(1) that it has engaged in certain conduct set out in the Endorsement to the claim form so that the Court has the power under section 217 EA02 to make the agreed form of order; and

(2) that in so far as the agreed order contains Enhanced Consumer Measures within the meaning of section 219A EA02, those measures are just, reasonable and proportionate for the purposes of section 219B.