

Correspondence with Seatfrog regarding the transparency of online rail ticket fees

ORR has redacted all personal data

Correspondence type	Page number
ORR's initial letter to Seatfrog	2
Seatfrog's first response to ORR	7
ORR's second letter to Seatfrog	11
Seatfrog's second letter to ORR	14
ORR's response to Seatfrog	15

Jacqui Russell
Head of Consumer Policy



John Ritchie
Head of Enterprise Product, Seat Frog
[By email]

15 April 2024

Dear John,

Transparency of fees charged by online ticket retailers

In December 2023 we published a [report](#) on the transparency of fees charged by online ticket retailers. This report and the underlying review were conducted as part of our powers to monitor, investigate and enforce compliance with consumer law in the rail sector.

During our review we noted that Seatfrog did not charge booking fees for traditional ticket purchases. However, we now have concerns about the transparency of fees charged by Seatfrog in relation to the auction and train swapping services you provide. We write to request further information and clarifications about your current approach and to invite you to make changes in view of the points raised. We would be grateful for your response by 3 May 2024.

Background to the legal framework

The consumer law framework aims to ensure that businesses are fair and open in their dealings with consumers. The Office of Rail and Road (ORR) has consumer enforcement powers for the rail sector, concurrent with the Competition and Markets Authority (CMA). We are a Designated Enforcer under Part 8 of the Enterprise Act 2002 (EA02) and have the power, where there is evidence of harm to the collective interests of consumers, to take enforcement action.

The two key pieces of legislation are:

- Consumer Protection from Unfair Trading Regulations 2008 – These prohibit unfair commercial practices, including misleading actions and omissions. They prohibit failing to provide material information in an invitation to purchase, that are likely to impact a consumer's transactional decision. A misleading action can include providing a consumer with false information about the price of a product, or the way

the price is calculated, or presenting the pricing information in a way that is likely to mislead the consumer, even if the facts themselves are accurate.

- Consumer Rights Act 2015 – The two key principles of this legislation are that contractual terms should be transparent and fair. For a contractual term to be transparent, it should be written in plain and intelligible language and be legible. In terms of fairness, a contract term is understood to be unfair if it causes a significant imbalance in the parties' rights to the detriment of the consumer.

Consumer law principles: fees charged to customers

We are looking to improve compliance with this consumer protection legislative framework. Informed by this framework, we have identified a set of core principles relating to the application of fees (see Annex), which we are looking to uphold through this work. These principles seek to reduce various risks consumers face when they are presented with particular commercial practices. For example, paying more for their purchase than they had expected to pay because of drip pricing; or paying fees that they have not made an informed decision to accept, as they were not aware of the charges up front.

In order to improve industry practice we are looking at two specific areas, the presentation of fees during the purchase process and information provision for customers about the terms and conditions of the service they are using.

In our review, we developed core principles relating to the application of fees associated with purchasing a rail ticket online. In our view, these principles extend to any services offered by a retailer operating in the rail retail space, including auction and train swapping services.

Seatfrog review

We have noted that Seatfrog charges fees for the use of your auction and train swapping services. We have conducted a similar exercise to our review of booking fees, gathering information on the use of fees for these services. We reviewed information you provide and simulated purchases of these services both on your website and app.

Our findings – Seatfrog

Consumer principle A: Fees

We observed that Seatfrog charges fees for purchases made using your auction service. We found that Seatfrog does not incorporate its mandatory platform fee in the upfront minimum auction price. Therefore, this does not provide consumers with

a clear indication of the minimum cost of the auction at the earliest opportunity. The mandatory platform fee was included in the price at the final stage of the purchase process.

We welcome that when first shown, the breakdown of the total price is displayed in a clear format, but this is not provided at the earliest opportunity in the booking process.

We also observed that Seatfrog charges consumers for use of your train swap service. We found that the price of this service is shown to consumers at the earliest opportunity in the purchase process. We note at this time you do not charge a booking fee for this train swap service, but we would expect that if a fee was to be introduced it would be included in the headline price.

We note that Seatfrog does not charge fees for the purchase of rail tickets directly.

Please explain (alongside supporting evidence) as to:

1. Why Seatfrog does not include the mandatory platform fee within the upfront price for use of your auction services; and your proposals for change in this respect;
2. Why Seatfrog does not provide a breakdown of the platform fee for use of your auction services earlier in the sales process; and your proposals for change in this respect;

Consumer principle B: Fulfilment fees

We note that Seatfrog does not offer any fulfilment options with fees.

Consumer principle C: Information provision

We note that both your app and website state that you do charge platform fees for the use of your auction feature and the exact fee charged. This information is not always easy to locate on your website or app. There is no information on your homepages that makes it clear you charge a platform fee. On both your website and app, we found information by clicking through to Help, then, Getting Started, then scrolling down to My Account. The information on platform fees was sixth in the list of topics. A search using the term 'fees' gave a direct link to the same information, presented at the top of the search results.

We also note that both your app and website state that there is a cost for use of your train swap service but only the minimum price that could be charged. The Seatfrog app and website includes a broad statement that you will show consumers a list of all the possible train services they can switch to, and this will be from as little as £2.50.

This statement does not provide further explanation of the maximum price and other variables. We note this information is accessible at the bottom of your train swap page on your website and app.

We noted that refund information during the sales process for train tickets did not specify the exact administration fees. We did note that Seatfrog provided accessible information on refunds and their associated fees on its information pages on the website and app.

Please explain (alongside any supporting information) as to:

3. Why Seatfrog's information about platform fees for auction services is not easily accessible to consumers, *and* your proposals for change to ensure improved access to this information with emphasis on transparency for consumers;
4. Why Seatfrog does not provide more comprehensive information to consumers on how costs are calculated and the price range of train swap services, *and* your proposals for change in this respect;
5. Why Seatfrog does not provide full and accurate refund and amendment information to consumers during the train ticket sales process *and* your proposals for change in this respect.

Next steps

We seek your responses to this correspondence and the queries raised by 3 May 2024 via email to Consumer@orr.gov.uk . In the meantime, if you have any questions, please contact me directly by email.

The information you provide will contribute to our decisions on next steps. We plan to publish this letter and your response on our website. Should you wish to provide us with information that you consider to be commercially confidential, please provide this in a separate document, and we will take your representations into account accordingly.

Yours sincerely

Jacqui Russell

Annex: Consumer law principles

Presentation of fees during the booking process

A. Where there is a mandatory fee for purchasing a rail ticket online:

A1. it should be included in the price at the earliest opportunity, which for rail ticket purchases is commonly the upfront price that is first displayed to the consumer.

A2. It should be clear to the consumer that a fee is being charged and how much it is throughout the booking process.

B. Where there is a ticket fulfilment option available for a fee:

B1. it should not be pre-selected.

B2. where an option with a fee is selected by the consumer, it should be immediately included in the total price displayed to the consumer.

Information provision for consumers

C. There should be readily available, transparent and accurate information online for consumers to read in advance of engaging with the booking process about:

C1. mandatory booking fees associated with ticket purchases. This should explain when fees apply, state the level of any fixed fees, and explain how variable fees are determined (for example whether fees vary with ticket price, timing of purchase or any difference in fees between website and app purchases).

C2. ticket delivery options and any fees associated with each option.

C3. eligibility for refunds and ticket amendments, and any associated costs.

Jacqui Russell
Head of consumer policy, ORR
25 Cabot square, London
E14 4QZ

9th May 2024

Dear Jacqui

We refer to your letter dated 15th April 2024, and subsequent follow up video call with myself on the 23rd April 2024.

In recent generations, rail has come to a standstill, burdened by bureaucracy, legacy technology and an experience far below what people expect and deserve. Consumers are constantly reminded that they are mere mortals when they catch a train. We're here to change that – it's long overdue.

Since launching in 2018, Seatfrog has reset the bar for buying a ticket, upgrading to first class and changing your train time for our 1.7 million customers. We have led the category on consumer product innovation to not only secure much better outcomes for UK rail passengers, but also deliver significant incremental revenue performance for operators, helping them fill their trains with happier passengers. Our customers have saved over £100M+, operators have realised £millions in untapped incremental revenue and our technology is demonstrating its ability to shift people from road to rail, with **73% of customers saying they would have never taken the train otherwise.**

Solving this problem is Rail's single biggest opportunity for growth and our aim is to accelerate the transition to rail. Focusing on the right problems to solve, that create impact for operators and give our 1.7 million tax paying customers the best journey for their money. This is our absolute priority.

A manifesto for change

It would be an understatement to say that Seatfrog is wholly committed to better outcomes for consumers, reinventing what a rail experience should be and leading the category on innovation. We are the passionate voice for a historically underloved passenger, and we are fighting in the corner of the 1.7 million taxpaying customers who use Seatfrog to get the best journey for their money.

So little has changed in rail over the past few decades. Whilst other legacy categories like banking and insurance have forged ahead and embraced change, Rail still has many of the same working practices, job roles and experience that existed 20 years ago. A glacial pace of change that stifles growth, when customer behaviour and expectations have changed dramatically.

We are relying on innovation to save us from all types of problems, from climate change to quality of life, as well as shifting people to rail as their first choice. To build a rail experience that passengers love and trust requires us to think entirely differently. We must move faster, utilise taxpayers money on the biggest opportunities for growth that will create new inflexion points, and build experiences and services people don't even know they need yet, to grow this category.

Seatfrog's progress and results in a very short period of time prove how faster decisions that keep pace with ever shifting consumer expectations works. The best companies on the planet embrace imperfections, unpredictability, and an environment that rewards innovation, something we see as a massive opportunity for progress that will and is making rail the first choice.

We are excited to share that we are in the middle of a manifesto which gives our 1.7 million and growing customers a collective voice for change, we look forward to sharing this with you.

Addressing your key points

As part of our internal product development process, we conducted a review on the 30th April 2024 to assess the relevant key points that you have raised. This was augmented alongside our up to date consumer research, which ensured that we took an informed and impartial view to any feedback and continue to keep focus on what is the priority for our 1.7 million customers. As per our standard release cycle, you will note that there have been 2 release cycles since your letter dated 15th April 2024, which have already optimised flows and UI design in our apps, this continues.

We appreciate the constructive call we had together on the 23rd April 2024 which gave us the chance to clarify specific points with each other as follows;

1. Seatfrog does not charge fees on rail tickets

It's important to note that whilst your study centred around fees charged by retailers on rail tickets, unlike other retailers, Seatfrog does **not charge fees** on rail tickets.

2. Trainswap is not a fee, nor do we charge fees

On our call on the 23rd April 2024, we highlighted to you that the Trainswap product is not a fee as you had originally interpreted, you agreed that your team had misinterpreted the Trainswap product and this was inaccurate. Given your report is focussed on "the presentation of fees during the purchase process and information provision for customers about the terms and conditions of the service they are using", we will therefore disregard any points referencing Trainswap in your report.

3. Upgrades

On our call on the 23rd April 2024, we highlighted that the information hierarchy currently present in the Seatfrog app is based on significant customer research and enables a customer to make the best decision at each step of the flow.

It is important to note that as with any best practice product experience design, especially on mobile, information must be prioritised in order to support the action a user needs to take.

Certain information is therefore much more important to the user at each stage of the flow and must be prioritised accordingly. 100% of Seatfrog transactional traffic is on mobile, therefore the website is not a consideration for this.

The key action flow for upgrading your ticket on Seatfrog is as follows;

- a. **Action 1 - Add a trip** - at this stage the key action for the user is to add their journey into the app. The information that supports a user in finding the right train (time, date, origin, destination) for their journey is and must be prioritised in the limited space available.
- b. **Action 2 - Place a bid** - once a trip is added, a user needs to place a bid in the auction or buy an upgrade instantly. It is now at this stage that all pricing information is prioritised, including the platform fee and bid price which are both displayed clearly before a user places a bid. You will have noticed in your review that you cannot take any action without seeing this information first, and this is supported by clear information tagging in place to explain this further, which is linked to our helpdesk information page. It is important to note that information tagging is present wherever the fee is displayed in Seatfrog, to ensure the user has the path to find out more in the most relevant moment.

- c. **Action 3 - Purchase** - the final stage of the funnel is purchase. Here, we again surface all pricing information including the platform fee before a user transacts. Again, information tagging links to our help centre is present to educate the user should they want more information.

Based on our review conducted 30th April 2024, we are currently displaying the platform fee at 2 of the 3 key action stages of the flow, which is the earliest opportunity without interrupting the appropriate information hierarchy. Our customer research supports that the information hierarchy to aid in making the best decision is optimal throughout and not at all misleading.

We are of course open to feedback and welcome your opinion, but would value deeper insight from your process, as well as the data and insights gathered in order to take this opinion effectively and augment your research with our significant customer research to take an impartial and considered view, and deliver the best experience for our customers.

We appreciate your observation on our call on 30th April 2024 of our innovative and fast paced approach to customer feedback, rapid product iteration and release cycles, a point you observed was category leading.

To recap - our customer research is an always on, multi-channel approach to user insights based on thousands of real time data points where feedback informs regular product development. This includes real time in app surveys, large scale seatfrog customer research surveys and live product testing, in app tracking, heuristic reviews, Zendesk customer service channel feedback and more. This significant volume of qual and quant data is analysed in our data platform, driven by a team made from some of the leading experts in their field from fast growth, innovative consumer companies such as Skyscanner, LYST, Google and more ensures our product design team is building the best customer experience in the category to give our 1.7 million customers the best journey for their money.

Given the importance of impartiality, and data significance when conducting research, as well as for us to effectively consider your feedback as we we evolve our upgrade product into the future, we would like to request that you share;

1. The structure and approach to the research you conducted, including the roles involved, process, data points utilised and key steps taken.
2. All Seatfrog user account app IDs used to conduct any research (this is located at the base of the "account" page within the app) and the dates and times the research was conducted.
3. The raw research data as a CSV file, including any qual or quant data, questions asked and answers submitted from consumer feedback that you collated to inform this opinion.
4. The process put in place to derive insights from this data and come to impartial conclusions

You are welcome to share any data with us securely, anonymise any consumer data and all data will be handled by our team in line with GDPR.

Due to the nature of our fast moving business and the importance of understanding all market data points before we prioritise optimisations, UI experiments or features, we would appreciate a response within 7 days from this letter in order to fit this into the current cycle.

4. Refund and amendment information

On our call, you highlighted that Seatfrog does not show the fees charged for refunds on a ticket purchase. As I pointed out, we don't show fees entirely because **Seatfrog does not charge fees** for refunds, therefore there is no fee information to display.

Regarding amendments, as you will be aware, we are required by the rail industry to charge specific fees in the case of an exchange or for a particular ticket type, which is regulated and accredited. 100% of this fee goes to the industry, not Seatfrog. We agree this is a complex and confusing process for consumers, and it's important to note that our Trainswap product was grant funded by the DfT to solve this exact problem. Trainswap reinvents this with a faster (two taps), more affordable, zero fee way to change your train for all consumers and a huge reduction in unit operational costs to serve for operators (upwards of 68%).

Unfortunately, Seatfrog has no control over the existing amendment fees set by the industry for legacy amendment flows. Currently, our experts in customer support and our support centre details any industry mandated fees that are required, to ensure consumers are completely clear before proceeding with any changes. Consumer feedback on this is consistently very high, with reviews like this yesterday, May 8th 2024 ;



16 hours ago

Really recommend!

Really recommend if you are looking to save some serious amounts of money for travel. Special thanks to Vanessa H for going out of her way in helping me rectify a mistake I made whilst booking. Will definitely be using again.

Based on your feedback on our call on the 23rd April 2024, you would like us to surface the specific refund fees charged in the ticket purchase flow as mandated by the industry. We can of course consider this within the accredited process and work with industry to understand how best we show fees set by the industry in future.

This concludes our review, we hope this has been helpful clarification and we look forward to hearing from you shortly on receipt of our information request.

Best regards

John Ritchie

Head of Product
Seatfrog

Jacqui Russell
Head of Consumer Policy



John Ritchie
Head of Enterprise Product, Seat Frog
[By email]

24 May 2024

Dear John,

Transparency of fees charged by online ticket retailers

Thank you for responding to our questions and confirming the changes you have made. We wanted to provide further information on your points raised and invite you to make further changes.

As a reminder, we have been looking at the transparency of your fees in the context of our role as an enforcer of Consumer Law in the rail sector.

1. Auction upgrades

We note that you have upgraded your auction feature and now show the mandatory auction fee earlier in the booking process, as well as a link to further information. This is a welcome interim improvement. However, the mandatory fee should be incorporated into the upfront minimum price of the upgrade, when the customer first sees the bid price, and it should also be clear how much this fee is.

This is in line with current Consumer Law principles (see Annex) and the [recent announcement](#) made by the Department of Business and Trade. The DMCC Bill will clarify that mandatory/unavoidable fees must be included in the headline price at the start of the purchase process.

2. Train swap

As we set out previously, we would like you to provide clearer information to passengers about how the costs for these tickets are calculated. We can find no information on your website or app about this.

3. Refund and amendment information

As we would expect, we understand that Seatfrog only charges industry-standard refund and amendment fees, in line with the National Rail Conditions of Travel.

We require all retailers to provide clear information about these fees during the ticket sales process. For example, you note a refund admin fee may be charged per ticket but do not state the cost of this refund fee. We would like to see this information provided.

Please write back to us by 14 June 2024 setting out your plans for addressing the issues numbered above. We are happy to have another call to clarify any questions or discuss any proposals.

As before, we plan to publish this letter and your response on our website. Should you wish to provide us with information that you consider to be commercially confidential, please provide this in a separate document, and we will take your representations into account accordingly.

Yours sincerely

Jacqui Russell

Annex: Consumer law principles

Presentation of fees during the booking process

A. Where there is a mandatory fee for purchasing a rail ticket online:

A1. it should be included in the price at the earliest opportunity, which for rail ticket purchases is commonly the upfront price that is first displayed to the consumer.

A2. it should be clear to the consumer that a fee is being charged and how much it is throughout the booking process.

B. Where there is a ticket fulfilment option available for a fee:

B1. it should not be pre-selected.

B2. where an option with a fee is selected by the consumer, it should be immediately included in the total price displayed to the consumer.

Information provision for consumers

C. There should be readily available, transparent and accurate information online for consumers to read in advance of engaging with the booking process about:

C1. mandatory booking fees associated with ticket purchases. This should explain when fees apply, state the level of any fixed fees, and explain how variable fees are determined (for example whether fees vary with ticket price, timing of purchase or any difference in fees between website and app purchases).

C2. ticket delivery options and any fees associated with each option.

C3. eligibility for refunds and ticket amendments, and any associated costs.

Jacqui Russell
Head of consumer policy, ORR
25 Cabot square, London
E14 4QZ

14th June 2024

Dear Jacqui

We refer to your letter dated 24th May 2024, please find our answers to your questions below;

1. Upgrades

We have already answered this comprehensively in our previous correspondence, pointing to exactly how this is achieved, how the auction flow operates as well as the fact that we first and foremost listen to the significant feedback data from our 1.7 million users, where this has never surfaced. To repeat, the information hierarchy currently present in the Seatfrog app is based on significant and ongoing customer research and enables a customer to make the best, and most informed decision at each step of the flow. We see no reason to change this.

However, we are always open to include feedback if it is based on user research and holds significance, and in our letter dated 9th May 2024, we requested more comprehensive details and user research from the ORR in order to take this into account. This unfortunately has still not been provided to us, nor acknowledged. We detailed the importance of this information as it ensures an informed and impartial approach vs an opinion of one data point which can be subjective. We look forward to receiving the full set of requested information in order to take this into account with our existing customer feedback and research loops.

2. Trainswap

On our call on the 23rd April 2024, we highlighted to you that the Trainswap product is not a fee as you had originally interpreted, you agreed that your team had misinterpreted the Trainswap product and this was inaccurate.

To reiterate, this product is priced in the exact same way that UK train tickets are priced, this is not a fee, it is a ticket and is entirely dynamic, based on 1000's of data points. For the same reason UK ticket prices are not presented with detailed information on how each ticket is priced, Trainswap will remain presented in its current form.

3. Upgrades

Given Seatfrog is operating an industry accredited ticketing flow, we will raise your feedback with the accreditation team to ensure we are following industry standards on items such as refund admin fees.

Best regards

John Ritchie

Head of Product
Seatfrog

Jacqui Russell
Head of Consumer Policy



John Ritchie
Head of Enterprise Product
[By email]

6 November 2024

Dear John,

Transparency of fees charged by online rail ticket retailers

Thank you for your response to the issues we raised in our letter of 15 April 2024. In our letter, we identified questions with respect to the transparency of the fees that Seatfrog charges for its auction services. We invited you to make changes in view of the concerns raised. I am now writing to acknowledge the positive steps that you have taken. These actions address our concerns.

The consumer law framework aims to ensure that businesses are fair and open in their dealings with consumers. We published a report on the transparency of fees charged by online rail ticket retailers in December 2023. Our report and the underlying review were conducted under our powers to monitor, investigate and enforce compliance with this legal framework. In order to improve industry practice we looked at two specific areas, the presentation of fees during the booking process and information provision for customers about the terms and conditions of the service they are engaging.

Informed by the consumer law framework, we identified a set of core principles relating to the application of fees. These principles seek to reduce various risks consumers face when they are presented with particular commercial practices. For example, paying more for their purchase than they had expected to pay because of drip pricing; or paying fees that they have not made an informed decision to accept, as they were not aware of the charges up front.

We wrote to Seatfrog setting out our concerns in relation to your practices and the risk of harm being caused to consumers.



Consumer principle A: Fees

We asked why Seatfrog did not include the mandatory platform fee in the upfront minimum auction price, and why a breakdown of the total price was not shown earlier in the sales process. We acknowledge you have now amended your app to alert passengers to the platform fee by clearly displaying the fee at the top of your search results page as well as on your edit bids page. You now also include the platform fee in the price of your fixed price upgrade when it is first shown to customers. These changes were available on your app by the end of October 2024. The breakdown of the total price, when it is shown, remains clear.

We did not raise concerns with the respect to the way the price is displayed for your train swap service. You have explained to us that the train swap price is for a product (an amended ticket) and is not a service fee to customers.

Consumer principle C: Information provision

We asked why Seatfrog's information about the mandatory platform fee for your auction service was not easily accessible to consumers.

We note that a direct link to information about your platform fee is now provided on the homepage of your app and that a direct link to information about your platform fee is provided during the auction process.

Next Steps

Seatfrog has implemented the actions necessary to address our concerns. As your systems and processes evolve over time, we expect you to continue to provide appropriate transparency about fees to your customers.

Yours sincerely

Jacqui Russell