

Air New Zealand drops opt-out pricing: what's that mean for suppliers?

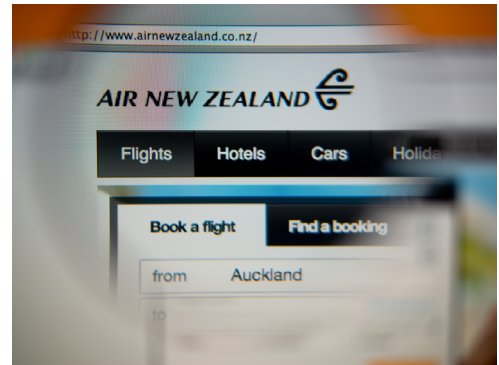
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Speed read

After Air New Zealand was told that the Commerce Commission had a view that their conduct was in breach of the Fair Trading Act, the airline has reversed its position and pulled the opt-out insurance strategy.

The Commission has signalled that it will look at other providers with opt-outs. While there are others who employ this practice, Air New Zealand is in the exceptional position that it has been convicted of the same sort of behaviour back in 2006.

Those with opt-out terms should usually remove them quickly, or change them to be compliant, to avoid the risk of prosecution. Many industries can be affected but carriers such as buses and airlines, insurers, online vendors, venue ticket suppliers, and so on, seem fairly obvious targets.



The Detail

Air New Zealand's reversed position

For the last few months Air New Zealand insisted it was not in breach, saying for example *"our customers are not misled and any inadvertent purchases of insurance brought to our attention are promptly refunded unless there has been a claim on the policy."*

So it did not pull its opt-out strategy which makes it substantial revenue.

Then as Commerce Commission chairman, Mark Berry, said on [TV3 News](#):

"We've issued a formal warning to the airline that we had a view that their conduct was in breach of the Fair Trading Act... Some consumers were getting trapped into buying insurance when they really didn't want it."

As a result, Air New Zealand has pulled the strategy.

What the Commission thinks of opt-out pricing

In its media release announcing the formal warning, the Commission didn't hold back on its view on opt-out pricing:

"The Commerce Commission is calling on New Zealand businesses to scrap the use of 'opt out' pricing after gaining agreement from Air New Zealand that it will end its practice of pre-selecting travel insurance for customers when selling tickets online. The Commission is concerned that companies may be misleading consumers into purchasing something they didn't intend to by requiring them to 'opt out' of buying additional goods or services during an online sales process..."

... the Commission's preference that all companies employ an 'opt in' approach when selling add-on products to consumers online, to avoid any possibility of breaching the Fair Trading Act."

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What will the Commission do about opt-out pricing if it continues?

A big role for the Commission is to educate. Publicity as to Air New Zealand educates other suppliers.

So, expect a firm approach by the Commission if a supplier continues to use opt-out. As the Commission said:

"We will be targeting other companies we are concerned about. We would encourage all businesses selling online to proactively change their behaviour or drop any consideration of introducing this practice.

We believe Air New Zealand made the right decision and other businesses should follow their example."

We expect the Commission will have a good idea as to which industries will tend to have problems in this area, and they should be super vigilant around sorting their positions.

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