

## The obscure travel agent

The meaning of "authorised agent" in European (aviation) legislation.

Paper presented at the  
IFTTA 33<sup>rd</sup> Annual Conference  
Valetta, Malta

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## Legal challenges (or "gaps")



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## The authorised agent

1. EC: some kind of contractual relationship between airline and agent
2. Case law: labelling as “travel agent” > authorised is assumed almost automatically.
3. IATA-agent: authorised by all airlines participating in the local BSP.
4. Lowcost airlines: challenged authorisations.

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## The obscure agent

1. Double mandate of a travel agent: represent both parties.
2. Represents passenger, but airline is not aware of this.
3. Lacks transparency
  - Unclear role
  - Insufficient authorisations
  - Applies hidden fare markups

**Is the airline accountable?**

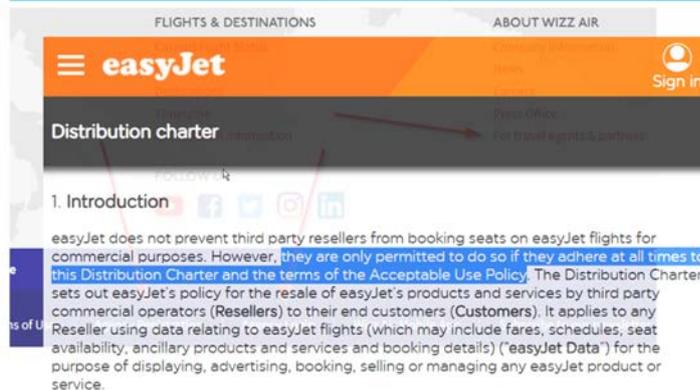
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## “some kind of contractual relationship”



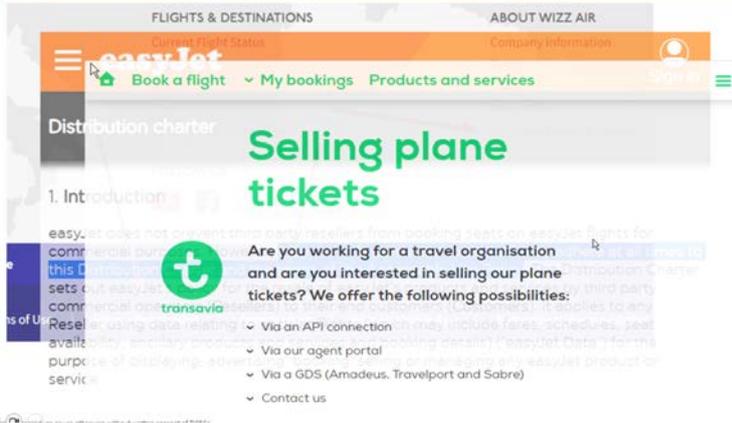
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## “some kind of contractual relationship”



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## “some kind of contractual relationship”



The screenshot shows the easyJet website's 'Distribution charter' page. The main heading is 'Selling plane tickets'. Below it, there is a section titled 'Are you working for a travel organisation and are you interested in selling our plane tickets? We offer the following possibilities:' followed by a list of options: 'Via an API connection', 'Via our agent portal', 'Via a GDS (Amadeus, Travelport and Sabre)', and 'Contact us'. The Transavia logo is also visible.

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## However...

*“When a reservation is made by a third party (including booking systems), the third party (e.g. travel agent) will act as the Reserver. Reserver means the individual above the age of consent and having full legal capacity or a legal entity who acts as agent for the Passenger and makes the booking in his/her own name and on his/her own behalf and/or in other Passenger's names and on their behalf, [...]”.*

Wizz Air Contract of Carriage art. 6.1.7.

*“Agent means a third party who provides a service to passengers to book easyJet flights on their behalf, such as travel agents, tour operators [...]”.*

Easyjet general conditions of carriage, art. 22.1

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## Other airlines: still unclear for a passenger

*“Authorized Agent means an individual or legal entity that is authorized by the Carrier to represent the Carrier in sale of Air Carriage tickets for its services or for the services of another Carrier if said agent is so authorized”.*

*“Authorised Agent means a passenger sales agent who has been appointed by us to represent us in the sale of air transportation on our services”.*

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## Refunds: airline ordered to pay a 2<sup>nd</sup> time

*The passengers have engaged the travel agent as a representative to book flights for them. However, it cannot be inferred from this that passengers also authorised the travel agent to act as a representative in order to obtain a refund of the ticket costs for them in the event of cancellation of the flights”.*

Court of Amsterdam, 26 August 2022, ECLI:EN:RBAMS:2022:5012.

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## Recommendations

1. EU legislator: not expected to clarify this in future legislation.
2. Airlines and agents: improve transparency and offer extended options for passengers to verify authorised agents.
3. Airlines: always require a power of attorney of the passengers in case of refunds.

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