

## ADVERTISING CODE FOR TRAVEL AND WATERSPORTS SERVICES

### I **Applicable to**

1. *Dutch market*  
This Code applies to advertising communications and invitations to purchase directed at the Dutch market for travel services.
2. *Nederlandse Reclame Code (Dutch Advertising Code hereinafter called NRC)*  
In addition to the provisions from this Code, all other provisions of the Dutch Advertising Code are applicable.

### II **Definitions**

1. *Participating branch organizations*  
These are ANVR, BARIN, HISWA Vereniging and KNV Busvervoer; these industry organizations are representative of the various sub-industries, i.e.: the travel industry, aviation, water recreation and the touring industry. Rail transporter NS International B.V., using the brand name NS Hispeed, also complies with this Code.
2. *Travel service (not limitative)*  
transport, accommodation or other touring service unrelated to transport or accommodation that constitutes a significant part of the travel, or a combination of these (also collectively referred to in this Code as: services).
3. *Advertising messages*  
Every public and/or systematic, direct or indirect commendation of travel services (also see Article 1 of the Dutch Advertising Code).
4. *Invitation to purchase* A commercial message  
A commercial message that communicates the characteristics and the price of the travel service in a manner made suitable for the medium used and thus enables the consumer to make a purchase (also see Article 8.4 of the Dutch Advertising Code).  
Explanation  
If the advertising contains a response or ordering mechanism, it always constitutes an invitation to purchase. If no such mechanism exists, whether the communication is an invitation to purchase will depend on the circumstances of the case. Decisive is whether the consumer can make a decision about a transaction based on the information. If the advertising mentions a travel service with a (starting from) price, the consumer will normally have sufficient information to decide about a transaction.
5. *Provider*  
The person that, in the course of its business or professional activity, provides travel services to consumers, as well as any person acting in his name or for his account.
6. *Party*  
One or more travelers who conclude a travel, transport or accommodation agreement simultaneously by means of one booking or booking form.

### III **Quoting price in an advertising message**

1. *General requirements*

Providers are required to use correct and clear prices in their advertising communications. They publish their prices, whether or not specified, including the fixed, unavoidable costs (i.e. additional and inseparable from the service) known at the time of publication that must be paid for the service offered. With regard to unavoidable costs, the level of which cannot be calculated in advance because they depend on the consumer's choice, the advertising communication must specify immediately beside or under the price advertised, in a transparent manner, the additional costs per booking and their amount or, if the amount cannot be indicated in advance, how the consumer can calculate the amount of those costs.

Explanation

*a) The foregoing entails that at the time of the publication, known fixed, unavoidable costs should be included in the price itself. With regard to the variable and unavoidable costs, the consumer must be able to see the extra costs and their amount at a single glance. If the amount of the variable, unavoidable costs cannot be specified with the price, how these costs can be calculated must be stated in any event.*

*b) Here, depending on the medium used (advertisement, banner, radio or TV commercial, poster, etc.), a specification of the total price is usually not possible or useful. Specification is only required (see Article IV, paragraph 2) if the communication is a purchase invitation (see Article II, paragraph 4). At that time it will be possible to consult the terms and conditions before concluding the agreement.*

*c) A non-exhaustive summary of fixed and unavoidable (additional) costs is:*

- Transport costs (to destination and back)
- Airport tax
- GIS (Noise Insulation Schiphol) charge
- Air passenger tax
- Fuel charge
- Security charges
- Cost of accommodation (for the entire period)
- Cost of food and/or beverages (breakfast only, half or full board, all-inclusive, depending on what is being offered)
- Charges related to the payment method, if prescribed (e.g. credit card)
- Tourist tax or accommodation tax (unless this cannot be calculated in advance; in that event, the communication must state that these must be paid on location)
- Cost of mandatory excursions.
- Mandatory costs per accommodation unit, for example for cleaning and/or linens

*The aforementioned costs must always be included in the price itself and cannot be made dependent on certain choices made by the consumer.*

*d) There may also be unavoidable costs, the amount of which is dependent on the choices made by the consumer in the invitation to purchase phase. These are costs such as booking fees if these vary per sales channel, for example. Either these costs will not be fixed or they cannot be determined at the time of publication.*

## 2. Branch-specific stipulations concerning misleading

In addition to the general provisions in Articles 7 and 8 of the Dutch Advertising Code regarding misleading, it is in any event misleading when:

- 2.1 The term "tax" is used for costs that the provider does not have to pay to the government, either directly or through the airport / harbour / camping / owner of the accommodation.
- 2.2 A discount is initially given on the price of a travel service and that discount is undone in part or in full later by charging costs that are not fixed, but unavoidable.
- 2.3 Starting-from prices are offered per person for accommodations such as hotels,

apartments and bungalows without stating the number of persons beside the price if that number deviates from the standard of two persons.

2.4 Flights are offered based on one-way travel while the flight may only be booked as a round trip.

2.5 Costs for correcting errors made by the consumer in the booking are not clearly stated if costs are charged for this.

3. *Special offers*

Special promotional prices and promotional offers must be recognizable as such in the advertising communication, stating the applicable terms and conditions.

**IV Stating prices in an invitation to purchase**

1. Providers required to use correct and clear prices in their invitations to purchase in the same manner as in advertising communications pursuant to Article III paragraph 1 of this Code. An invitation to purchase must contain the information stated in Article 8.4 of the Dutch Advertising Code.

2. Simultaneously with the final price of the flight, providers must also specify the cost elements of which that price is comprised, i.e. taxes, airport fees and other charges for security or fuel, as well as the applicable terms and conditions.

Optional surcharges on the price must be stated in a clear, transparent and unambiguous manner at the beginning of every booking process, and must be accepted on an opt-in basis.

Explanation

Articles 2 and 3 reflect Article 23 of the Regulation (EC) no. 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) and (the implementation of) Article 22 of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.

**V Availability**

1. Providers must ensure reasonable availability of the services offered in their advertising communications at the price stated.

Explanation

Providers must refrain from offering services if there is a sound suspicion that they cannot provide those services or cause them to be provided during a period and in a quantity that is reasonable, taking the service, the scope of the advertising made for the service and price offered into account (no loss leaders).

2. Advertising communications for services that are no longer available must be discontinued immediately.

**VI Burden of proof**

1. If contested, providers must plausibly demonstrate the accuracy and availability of their offer. They must plausibly demonstrate, for example, whether or not certain costs (and their amount) were known at the time of the booking.

**VII Effectiveness**

1. This Code entered into force on 1 April 2007 and was revised for the last time on 1 January 2014. This Code applies to communications made public after 1 January 2014.
2. For travel guides printed under the previous Code that are valid for a period running beyond 1 January 2014, the following transitional arrangement applies: the old Code applies until 1 November 2014 only for those guides, it being understood that the travel offers must satisfy the applicable statutory requirements (Unfair Commercial Practices Act, EU Regulation 1008/2008).
3. No transitional arrangement applies for (print) advertisements, posters/billboards, offers via radio or TV and/or Internet.
4. This Code will be evaluated every two years.

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