

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**CONSUMER CASE NO. 51 OF 2009**

1. SOCIETY OF CATALYSTS

N-130, Panchshila Park,  
New Delhi-110017

.....Complainant(s)

Versus

1. LUFTHANSA AIRLINES, THROUGH ITS MANAGER,  
PUBLIC RELATION

56, Janpath,  
New Delhi

.....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. JUSTICE V.K. JAIN, PRESIDING MEMBER**

**For the Complainant :** Mr. Omesh Saigal,  
President of the complainant society  
Mr. Y.N. Vidyarthi

**For the Opp.Party :** Mr. Sanjeev Kumar Sharma, Advocate  
Mr. Aayush Malhotra, Advocate

**Dated : 28 Apr 2015**

**ORDER**

**JUSTICE V.K. JAIN, PRESIDING MEMBER**

1. The complainant before this Commission is a voluntary consumer association, registered under the provisions of Societies Registration Act, 1860 and the objectives of the petitioner inter alia include safeguarding rights of consumers and take up their cases in various forums including consumer courts. The opposite party is a large airline, operating in 81 countries including India and also having a Branch Office in Delhi. For the purpose of incentivising the Business Class passengers on long journeys involving spending one or more nights in the aircraft, several airlines introduced the facility of flat-beds in their aircrafts. According to the complainant the lie-flat bedseats can be stretched upto 180 degree, so that the passengers can have a comfortable sleep on them during the course of the journey. The opposite party represented to the potential travellers that they would be providing lie-flat seats for the Business Class passengers on board their Boeing 737 aircrafts which could extend to almost 2 meters. According to the complainant, the beds in the Business Class in the aircrafts of the opposite party were in fact not flat where one could lie flat as if on a bed and in fact its tilt was only slightly more than what was earlier provided by the airlines even in its Economy Class.

2. It is alleged that one of the travellers namely Mr. Vivek Talwar flew from Mumbai to Dalas via Frankfurt on Flight LH751/LH7438 of the opposite party, in Business Class on 01-09-2008. Mr. Talwar was keen to travel by a flight in which the seat was entirely flat, so that he could sleep during the 20 hours journey. When he checked with the airlines before the ticket was re-issued, he was informed that they had flat beds in the Business Class which they had introduced in March 2007. However, Mr. Talwar later discovered that the seat on which he travelled was semi-reclined and not fully flat. As a result, he could not

have a comfortable sleep during the journey. When Mr. Talwar complained to the opposite party he was informed that their seats were 170 degree flat. Alleging deficiency in the service rendered by the opposite party and claiming the practice adopted by it to be unfair trade practice, the complainant is before this Commission seeking with the following prayer;

- (a) to refund of Rs.3.5 crores, including Rs.50,000/- to Sri Talwar, to all the consumers who have been taken in by the false claim and by the unfair trade practice. Since, except for Sri Talwar, it may not be able to identify the large number of consumers who have suffered the loss and are entitled to this compensation, the provisions of Section 14 (1)(hb) of the Act may be applied,
- (b) In addition for the mental harassment and agony an amount of Rs.1,00,000/- may be awarded to Sri Talwar. In addition the Hon'ble Commission may be pleased to order for the payment of punitive damages under the provisions of Section 14(d) of the CP Act, 1986 which the OP may be asked to deposit in the Consumer Welfare Fund.
- (c) The Hon'ble Commission may also direct the OP to put correct information on their website so that consumers are not deceived any further.

3. The complaint has been resisted by the opposite party inter alia on the ground that the complainant has no locus standi to institute this complaint. On merits, it is not disputed that Mr. Vivek Talwar had flown from Mumbai to Dalas via Frankfurt in Business Class on 01-09-2008 on an aircraft of the opposite party. It is stated in the reply that a lie-flat seat is different from a fully flat seat or lie-flat bed and a recline of near 180 degree would be a lie-flat seat as per Urban Online Dictionary, even when the angle of the seat is not parallel to the floor but has a slant towards it. It is also claimed in the reply that the lying area of their seat is about 2 meter long, whereas in the aircraft of some other airlines it is only 1.9 meter. The opposite party has also denied the statements attributed in the complaint to its officials including Manorama Bora. The opposite party, however, did not dispute that flat beds/lie-flat seats were introduced by certain airlines for the convenience of the passengers especially in long-haul flights.

4. The information available on the website of the opposite party at the relevant time inter alia reads as under:

*“You can discover, for example, how the ergonomically designed seats provide a high degree of comfort for sitting and sleeping. The seat pitch of up to 152 cm allows you plenty of leg room when seated. The “Private Bed” sleeper seat, which extends to two metres at the touch of a button, will ensure you have a relaxing sleep, whether you lie on your back or your side.”*

*“There are 48 Business Class seats on board the Airbus A319 and exclusively in the Boeing 737, 44 respectively 56 comfortable Lie-Flat-Seats which extend to almost two metres. Spacious storage areas, a power connection for your laptop and a reading lamp built into your seat help to create ideal working conditions on board.”*

*(emphasis supplied)*

5. The question which arises for consideration in this complaint is as to whether the Business Class seats provided in the aircrafts of the opposite party at the relevant time were 'lie-flat seats' or not. Admittedly, though the seats provided to the Business Class passengers in the aircrafts of the opposite party, at the relevant time were reclining seats, though did not recline upto 180 degree, the recline of the aforesaid seats being to the extent of 170 degree. The case of the opposite party in this regard is that a 'lie-flat seat' is different from a fully flat bed which some other airlines such as British Airways were providing at the relevant time and that is why they had chosen to describe them as 'lie-flat seats' instead of describing them

as fully flat seats/fully flat beds. In support of their contention that a 'lie-flat seat' need not recline to 180 degree and convert into a fully flat bed, the opposite party relies upon the following definition of 'lie-flat seat' given in Urban Online Dictionary:

*“An airline seat that offers a recline of at near 180 degrees, but the angle of the seat is not parallel to the floor, rather a slant towards the floor. These seats are offered by many airlines' long-haul Business Class flight.”*

6. In my view, a person seeking to travel in the Business Class of an airlines, on coming across an advertisement claiming that the aircraft will have 'lie-flat seats', is bound to presume that the seats will recline to 180 degree, thereby enabling him to lie flat on it while sleeping during the course of the journey. The passenger cannot lie flat unless the seat allocated to him reclines fully, upto 180 degree. By its very definition, a 'lie-flat seat' is expected to be a seat on which the passenger can lie fully flat while seeking to sleep and a person lying on a seat reclining upto 170 degree cannot be said to be lying flat on the said seat. The meaning given in Urban Online Dictionary can be of no help to the opposite parties since a passenger seeking to travel on an airlines will not consult a dictionary to ascertain the meaning of 'lie-flat seat' before making a booking. He, from the very expression 'lie-flat seat', would presume that the seat would recline fully so as to enable him to lie flat whenever he seeks to sleep during the course of his journey. A seat which has some angle even when fully reclined is called 'Angled Lie Flat Seat' and not a 'Lie-Flat Seat'. Since the seats provided for the Business Class passengers in the aircrafts of the opposite party were not such on which one could lie fully flat, they should have been described as 'Angled Lie Flat Seats' and not as 'Lie Flat Seats'. Had that been done the passengers booking tickets in the Business Class of the aircrafts of the opposite party would not form a false impression as regards the true nature of the seats which will be offered to him while travelling in the said aircraft. By using the expression 'Lie Flat Seats' in place of 'Angled Lie Flat Seats', the opposite party was obviously making a false representation to the potential travellers in the Business Class of its aircrafts, so that they pay a higher price believing that they would be able to have a very relaxing and comfortable sleep during the journey on account of their being able to lie flat on the seats provided to them. Though a person can lie on a seat which does not recline fully, such a seat cannot be termed as 'lie-flat seat'.

7. The complainant has filed the affidavit of Mr. Vivek Talwar who travelled from Mumbai to Frankfurt on Lufthansa Flight No.LH751/LH438 in Business Class on 1<sup>st</sup> September 2008. Mr. Talwar has stated on oath that when he re-checked with Lufthansa before getting the ticket issued, their employee Ms. Manorama Bora informed him that they had flat beds in Business Class but he discovered, on boarding the aircraft that it was not possible for him to sleep comfortably since the seat was semi reclined and not fully flat. The opposite party has not filed affidavit of Ms. Manorama Bora to controvert the aforesaid averment made by Vivek Talwar on oath. Therefore, the deposition of Mr. Talwar remains practically unrebutted. It would, thus, be seen that not only the opposite party was advertising its Business Class seats as lie flat seats its representatives were representing the said seats to be flat beds. Thus, the misrepresentation was not only in the advertisement but also in person, to the potential passengers.

8. The opposite party was clearly deficient in rendering services to Mr. Talwar by making him travel on a partially reclined seat, despite advertising that the seats in the Business Class of its aircraft were lie flat seats and its employees informing him that they had flat beds in the Business Class. Had it been disclosed to Mr. Talwar that the seats in the Business Class of their aircrafts were semi reclined and not fully reclined, Mr. Talwar might not have travelled on Lufthansa and might have chosen some other airlines providing seats which were fully reclined so as to qualify to be 'lie-flat seats'.

9. Section 2(r) of the Consumer Protection Act defines unfair trade practice to mean a trade practice which for the purpose of promoting the sale, use or supply of any goods or for the provision of any service adopt any unfair method or unfair or deceptive practice. The instances of 'unfair trade practice' given in the Act are, not exhaustive. As per clause (ii), the practice of making any statement whether orally or in writing or by visible representation, which falsely represents that the service are of a particular standard, quality or

grade, amounts to unfair trade practice. Since the opposite party falsely represented to the potential Business Class travellers such as Vivek Talwar that the seats offered in the Business Class of its aircrafts would be 'lie-flat seats', it indulged into unfair trade practice as defined in the said Act.

10. It is not known how many passengers travelled in the Business Class of Lufthansa, forming an impression, on the basis of false representation, that the seats in the Business Class are 'lie-flat seats'. However, considering that Lufthansa is a large airline and operates a number of flight from India to several international countries, the number of such passengers is bound to be substantial. In fact, according to Mr. Talwar, when he complained to the Flight Supervisor, Maria Kelhan, she told him that they get such complaints on a regular basis from the passengers who expect the seats to be flat but later discover that this was not really the case. According to Mr. Talwar she urged him to take this matter with the airlines, so that the misrepresentation is stopped. The opposite party has not filed the affidavit of Ms. Maria Kelhan to controvert the aforesaid deposition of Mr. Vivek Talwar and, therefore, the said representation remains un rebutted.

11. Considering all the facts and circumstances of the case, I direct the opposite party to pay a sum of Rs.50,000/- as compensation to Vivek Talwar. I also direct the opposite party to deposit Rs.20,00,000/- as compensation with the Consumer Welfare Fund set up by the Govt. of India, by way of a pay order/demand draft in the name of PAO, Ministry of Consumer Affairs, payable at New Delhi. I further direct the opposite party to pay a sum of Rs.10,000/- as the cost of litigation to the complainant. The aforesaid payment and deposit shall be made within six weeks from today.

The complaint stands disposed of.

.....J  
**V.K. JAIN**  
**PRESIDING MEMBER**