

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street
San Francisco, CA 94105

NOTICE TO ALL INSURERS SELLING TRAVEL INSURANCE IN CALIFORNIA, INCLUDING LIMITED LINES TRAVEL INSURANCE AGENT LICENSEES, TRAVEL RETAILERS, AND OTHER INTERESTED PERSONS

This Notice reminds all interested persons of California’s pre-disclosure requirements for the sale of travel insurance¹ on travel websites. Specifically, an “opt-out” provision for the purchase of travel insurance on an online travel website per se violates California law.

I. Background

Webites offering travel products or services sometimes also steer consumers to travel insurance. For example, some travel websites require consumers to “opt out” of purchasing travel insurance by de-selecting an already pre-checked box. Other travel websites automatically include travel insurance as part of the final price quote for the travel product purchase and do not allow consumers any opportunity to decline the purchase of travel insurance.²

These travel websites are often operated by travel retailers authorized to sell travel insurance in California by a limited lines travel insurance agent. California Insurance Code sections 1752-1756 set forth provisions of California law relating to the sale of

¹ “Travel insurance” means insurance coverage for personal risks incidental to planned travel, including the following risks: (1) interruption or cancellation of a trip; (2) loss of personal belongings; (3) damages to accommodations or rental vehicles; and (4) sickness, accident, disability, or death occurring during travel. Travel insurance does not include major medical plans or damage waiver contracts. (Ins. Code § 1753(c).)

² Several states have concluded that this practice constitutes unfair competition and a deceptive trade practice: Maine Bureau of Insurance, Bulletin 143, “Roll-on Coverages” (Mar. 25, 1985); Minnesota Commissioner of Commerce, Consent Order in *In the Matter of the Certificate of Authority of National Union Fire Insurance Company of Pittsburgh, PA (“NUFIC”) and Travel Guard Group, Inc.* (Feb. 6, 2012); Missouri Director of Insurance, Consent Order in *In the Matter of the Certificate of Authority of NUFIC* (Mar. 15, 2013).

travel insurance pursuant to a limited lines travel insurance agent³ license and travel retailer⁴ designation.

II. Pre-Sale Required Disclosures

A limited lines travel insurance agent must use all reasonable means to ensure the travel retailer and the travel retailer's employees comply with their obligations under California law. (Ins. Code § 1754(a)(6).)

This includes the obligation to make several required pre-sale disclosures to the prospective purchaser of travel insurance. Specifically, prior to selling travel insurance, the limited lines travel insurance agent or the travel retailer must clearly and conspicuously disclose in writing that purchasing travel insurance is not required for the consumer to buy any other product or service offered by the travel retailer. (Ins. Code § 1754(a)(8)(A).)

A limited lines travel insurance agent or travel retailer who automatically enrolls its customers in travel insurance without receiving informed affirmative consent per se violates California Insurance Code section 1754(a)(8)(A). Requiring consumers to “opt out” of the travel insurance – rather than “opt in” by affirmatively consenting to purchase the travel insurance – means that the agent or retailer has not provided the required clear and conspicuous pre-sale written disclosure that the purchase of travel insurance is not required in order to buy other products or services offered by the travel retailer. Again, this is a per se violation of California law.

III. Enforcement

California Insurance Code section 1754 authorizes the Commissioner to enforce these pre-sale travel insurance disclosure requirements, including by imposing fines and suspending or revoking the license of any limited lines travel insurance agent.

Any questions or comments concerning this Notice should be sent to California Department of Insurance, 45 Fremont Street, San Francisco, CA 94105, Attention: Nikki McKenedy.

³ A “limited lines travel insurance agent” means an insurer designee that is licensed to transact travel insurance. (Ins. Code § 1753(a).) The Insurance Commissioner may issue a limited lines travel insurance agent license to any organization engaged in transacting travel insurance through travel retailers. (*Id.* §1752.) Insurance Code section 1755 sets forth the requirements for an application for a limited lines travel insurance license.

⁴ A “travel retailer” means a business organization that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance agent. (Ins. Code § 1753(d).)