



FACILITATION PANEL (FALP)

SIXTH MEETING

Montréal, 10-14 May 2010

Agenda Item 4: Report of the PWD Working Group

Draft Revision of Cir. 274 and Annex 9

(Presented by the United States)

SUMMARY

The Facilitation Panel designated the PWD Working Group to harmonize and consolidate ICAO guidelines relating to persons with disabilities, and the Working Group's report is now before the Panel along with the Secretary's draft revision of Cir. 274 along with a number of proposals for amendments to Annex 9. This working paper presents our proposals for changes to Cir. 274 and Annex 9, including changes for consistency with the revised U.S. Air Carrier Access Act Regulation, which became effective on May 13, 2009, and with EU Regulation (EC)1107/2006.

Action by the FAL Panel:

The Panel is invited to consider the proposals in this paper and adopt the changes to Cir. 274 and Annex 9 set forth in the Appendix.

1. INTRODUCTION

1.1 The Facilitation Panel designated the PWD WG to harmonize and consolidate ICAO guidelines relating to persons with disabilities, found in Cir. 274, with guidance materials on this subject developed by ACI and ECAC.

1.2 In addition to ACI and ECAC guidelines, the revision of Cir. 274 should also take into consideration other major rules and guidelines on airline passengers with disabilities, such as U.S. Air Carrier Access Act regulation (14 CFR Part 382) and EU Regulation 1107/2006 (EU 1107).

1.3 Certain provisions in Annex 9 should also be revised for consistency with 14 CFR Part 382 and EU 1107.

2. DISCUSSION

2.1 To highlight the non-discrimination principles regarding airline services contained in Cir. 274, which are shared by Part 382 and EU 1107, we propose that a general non-discrimination requirement be added to Cir. 274. (2 bis)

2.2 For clarity, Cir. 274 should include a provision stating that enplaning and deplaning assistance to persons with disabilities should be provided from the immediate terminal entrance at the departure airport to a similar location at the arrival airport. (2 ter)

2.3 An effective complaint resolution system implemented by aircraft operators is an important mechanism to improve communications between the operators and persons with disabilities, and ultimately improves operators' services provided to these persons. Therefore, we propose that a provision be added to Cir. 274, to require that operators respond to disability related complaints with substantive responses and in a timely manner. (6 bis)

2.4 Both Cir. 274 (in paragraph 29) and Annex 9 (in RP 8.37) state that operators' responsibility to ensure that persons with disabilities receive "services" (Cir 274), or "assistance or lifting" (RP 8.37) is contingent on the passengers providing advance notice. In contrast, Part 382 generally prohibits operators from requiring advance notice, although the U.S. Department of Transportation encourages passengers with disabilities to provide the airline advance notice of the assistance they require. EU Regulation 1107 does not hold an airport responsible for "ensuring" the provision of certain assistance if the passenger has not provided the airline of his/her specific needs 48 hours before the flight, but does require the airport to make all reasonable efforts to provide the assistance. Thus we believe that the spirit of the U.S. and EU regulations is quite compatible, and that Cir. 274 and Annex 9 can be redrafted in a way that is sufficiently flexible to accommodate both regulations. Our proposal in the Appendix would do this by deleting the advance-notice language in cir 274 and RP 8.37, and adding to RP 8.37 text adapted from para. 8 of Cir 274.

2.5 Cir. 274 paragraph 35 states that persons with disabilities and their escorts may choose any seating arrangements they prefer. In contrast, Part 382 requires that a person with a disability should sit next to his/her escort who acts as a safety attendant. We propose that paragraph 35 of Cir. 274 be amended so the operators may insist that a passenger with a disability and his/her escorts must sit next to each other, even if it is against the passengers' desire, when such arrangement is necessary for safety reasons.

2.6 Annex 9 RP 8.37 provides that if a passenger with a disability is not "self-reliant," the airline may require this passenger to travel with an escort. The "self-reliance" standard is considerably different from the Part 382 standard, by which passengers who cannot perform certain basic functions such as eating and drinking or using the lavatory facilities may still travel alone, as long as they can comprehend the safety briefings and assist in their own evacuations during an emergency. For this reason, we propose that the "self-reliance" standard in Annex 9 be revised accordingly.

3. **ACTION BY THE FAL PANEL**

3.1 The FAL Panel is invited to:

- a) note the contents of this paper; and
- b) consider and agree to the proposed amendments contained in the Appendix.

APPENDIX

A. **Add** the following provisions to Cir. 274, Subtitle I, **GENERAL ISSUES**

2 bis Operators should ensure that no persons with disabilities are denied transportation because of their disabilities except for safety or security reasons.

2 ter Enplaning and deplaning assistance to persons with disabilities should be provided, on request, from the immediate terminal entrance at the departure airport to a similar location at the arrival airport

6 bis Operators should provide substantive responses to disability related complains filed by persons with disabilities in a timely manner.

Amend paragraph 29 of Cir.274 as follows:

29. Operators should ensure that services are provided to persons with disabilities when a request for such services is made at least 48 hours prior to departure, and make reasonable efforts to accommodate requests not made within this time limit. Services to be provided as required include:

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Add the following new provision to Cir. 274, paragraph 35:

35. Persons with disabilities and their escorts should, at their request, be seated beside each other or in other seating arrangements of their choice. A passenger with a disability and his/her escort may be required to sit next to each other if such a seating arrangement is necessary for safety reasons.

B. **Amend** the provisions of Annex 9, Chapter 8 as follows:

8.37 Recommended Practices. – In principle, persons with disabilities should be permitted to determine whether or not they need an escort and to travel without the requirement for a medical clearance. ~~However, advance notice should be mandatory where assistance or lifting is required.~~ Aircraft operators should only be permitted to require passengers with disabilities to obtain a medical clearance in cases of medical condition where it is clear that their safety or well-being or that of other passengers cannot be guaranteed. Furthermore, airlines should only be permitted to require an escort when it is clear that the condition of a person with disabilities is ~~not self-reliant~~

~~and, as such, that without the escort,~~ the safety or well-being of that person or that of another passenger cannot be guaranteed.

Persons with disabilities requesting special assistance should be encouraged to inform the aircraft operator or the travel agent of their needs at the time of booking their flight. Aircraft operators and/or travel agents should be encouraged to complete an information checklist when taking bookings.

— END —