



WORKING PAPER

WORLDWIDE AIR TRANSPORT CONFERENCE (ATCONF)

SIXTH MEETING

Montréal, 18 to 22 March 2013

Agenda Item 2: Examination of key issues and related regulatory framework

Agenda Item 2.3: Consumer protection

BASIC PRINCIPLES FOR CONSUMER PROTECTION

(Presented by Ireland on behalf of the European Union (EU) and its Member States¹ and by the other Member States of the European Civil Aviation Conference² (ECAC))

EXECUTIVE SUMMARY

This working paper highlights the importance of striking the right balance when establishing a regulatory framework for aviation, between the need of the air transport industry to remain competitive and the needs of passengers. It also proposes basic principles for consumer protection. Their adoption at ICAO level would benefit the international air transport community.

Action: The Conference is invited to agree to the recommendations presented in paragraph 4:

References: ATConf/6 reference material is available at www.icao.int/meetings/atconf6.

1. INTRODUCTION

1.1 Despite the continued slowdown in the rate of air traffic growth in recent years, there are some positive signs of improvement in the market such as the recent announcement by the International Air Transport Association (IATA) of passenger traffic showing an average growth rate of 6% throughout the first half of 2012. However, signs of recovery are not universal, with certain countries and regions (such as China, Latin America and the Middle East) performing better than others. However the mid to long-term outlook shows an increase in the number of passengers and potential growth across the sector worldwide.

¹ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

² Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Iceland, the Republic of Moldova, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland, The former Yugoslav Republic of Macedonia, Turkey and Ukraine.

1.2 In the establishment of a regulatory framework it is essential to strike the right balance between allowing sustainable air transport to grow and meeting passenger needs whilst managing their expectations. Establishing regulations on consumer protection or passenger rights therefore warrants a careful approach, so as to maintain the balance in the relationship between air carriers, airports and passengers.

1.3 The broad spectrum of passenger rights introduced in Europe during the last ten years – for example providing greater access to air travel for persons with disabilities, improved price transparency in respect of fares paid, and the provision of assistance in situations where passengers are denied boarding, or subjected to short-notice cancellation or long delay – has improved the relationship between passengers and the air transport industry. Europe's experience has shown that fostering a more equal relationship between the parties can lead to an improvement in the services on offer, growth in consumer confidence and an increase in consumer choice. In Europe this has, in part, also delivered improvements in industry efficiency.

2. REGULATORY DEVELOPMENTS

2.1 Today, most States and groups of States have enacted legislation to protect passengers; either through the adoption of specific legislation (e.g. in the European Union, India), the adoption of government administrative rules (e.g. United States, where the Department of Transportation has enacted rules on passenger rights) or as part of the minimum requirements an air carrier must meet in order to be given a licence to operate (e.g. Canada).

2.2 There would evidently be benefits for all passengers in ensuring that as far as practicable such legislation is compatible internationally and that areas of divergence, for example due to differing legal regimes, should be minimised where they cannot be eliminated.

3. KEY PRINCIPLES OF CONSUMER PROTECTION

3.1 The following basic principles are offered for consideration by the Conference to form the basis of an ICAO consumer protection policy in air transport in order to harmonize existing regulation and encourage States without legislation to protect passengers by adopting appropriate rules:

- a) non-discrimination in access to air transport: this should include preventing air carriers from discriminating during ticketing by nationality, residence or disability. For persons with disabilities the provision of access and assistance has to be granted without any additional charges. Such persons should not be refused carriage on board an aircraft except on reasons of safety, which air carriers would have to justify;
- b) transparency: this should include the right for the passengers to have accurate, timely and accessible information-in particular to:
 - 1) be able to obtain information on what is included within the price of their ticket. Passengers should have access to all relevant information (e.g. on price and charges applicable) in order to make a reasoned decision before buying an air ticket. Such information will enable them to fairly compare ticket prices and provides a level competitive playing field for industry. This approach would also ensure that air carriers detail the conditions and restrictions on any fare offered and that tickets are sold inclusive of all taxes, fees and charges, together with any

"optional" charges – such as the carriage of luggage. This would prevent air carriers from advertising "tax-free" prices where charges that passengers have to pay are only added during the process of payment;

- 2) be advised before departure on which air carrier they will be flying;
 - 3) receive appropriate information before the purchase of their flight ticket and at appropriate stages of travel, particularly when disruption occurs; and
 - 4) renounce travelling and obtain a full refund when the trip is not undertaken as planned due to the actions of the air carrier.
- c) immediate and proportionate compensation and assistance: This includes compensation to be offered to the passengers under special circumstances, such as denial of boarding, short-notice cancellation of flights and under certain conditions long delays. It also includes the right for passengers to have assistance at departure or at connecting points in the form of, for example:
- 1) right to care, especially meals, refreshments, telephone calls, hotel accommodation and transport between the airport and place of accommodation; and
 - 2) right to rerouting or reimbursement and rebooking.

4. **RECOMMENDATIONS**

4.1 The Conference is invited to:

- a) recognize the potential benefits of harmonising the basic principles applied to consumer protection at an international level;
- b) consider and endorse basic principles for the protection of consumers, on the basis of the proposals included in this paper; and
- c) encourage ICAO Member States to adopt national legislation on consumer protection, either specifically for air transport or which would also apply to air transport.

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