



**WORKING PAPER**

**ASSEMBLY — 40TH SESSION**

**ECONOMIC COMMISSION**

**Agenda Item 32: Economic Regulation of International Air Transport — Policy**

**EXAMINATION OF KEY ISSUES RELATED TO THE GLOBAL CONSUMER PROTECTION  
REGULATORY FRAMEWORK**

(Presented by the Cooperative Republic of Guyana)

**EXECUTIVE SUMMARY**

The importance of consumer protection has been repeatedly highlighted by instances of major travel disruptions. In response to recommendations made at the Sixth Worldwide Air Transport Conference (ATConf/6) in 2013, ICAO developed Core Principles on Consumer Protection, which aim to provide guidance to passengers during the phases of travel that can be adopted by regulatory authorities and industry operatives. However, prior to this, regulatory development in the field of consumer protection manifested via multiple channels: through the adoption of specific legislation, prescriptive government rules from authoritative bodies, or as part of minimum requirements for airlines to operate within a particular State. Hence, there exists a global patchwork of regulatory regimes creating consternation for both airlines and passengers.

**Action:** The Assembly is invited to:

- a) note the information provided in this working paper; and
- b) approve the recommendations proposed in paragraph 4.1

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective – <i>Economic Development of Air Transport</i>
<i>Financial implications:</i>	Not applicable
<i>References:</i>	Sixth Worldwide Air Transport Conference (ATConf/6), 2013 ICAO Core Principles on Consumer Protection

## 1. INTRODUCTION

1.1 The Cooperative Republic of Guyana recognizes and commends the efforts of ICAO in the field of consumer protection in the air transport sector. Guyana is in the process of upgrading its air transport regulations with the aim of improving the aviation consumer protection regulatory framework. In doing so, Guyana has grown more cognizant of the necessity for the harmonization of the disparate sets of consumer protection laws existent globally.

## 2. BACKGROUND

2.1 ICAO Secretariat preliminary figures show that 4.3 billion passengers were transported by scheduled services in 2018, a 6.4% increase over 2017. Additionally, more than half of all international tourists travelled by air.

2.2 The increasing global demand for air travel, driven by leisure travellers and e-commerce, has been propelled by liberalization. Liberalized air transport policies operationalized through Open-Skies air services agreements (ASAs) has stimulated competitive growth, traffic growth, the expansion of airline networks and partnerships, and has resulted in increased choice for customers. Consequently, the global aviation consumer protection regulatory framework is of growing importance.

2.3 Therefore, this working paper seeks to examine some of the key issues affecting both airlines and aviation consumers given the lack of uniformity in the application of consumer protection principles.

## 3. DISCUSSION

3.1 ICAO has exerted commendable efforts in the area of passenger rights. According to ICAO's *Manual on Regulation of International Air Transport – Doc 9626*, passenger rights may be broadly referred to as “the entitlements of passengers to protection from or compensation for certain actions by airlines and/or airports that are adverse to their interests...” This is often times broadly looked at in the context of consumer protection.

3.2 The importance of consumer protection has been repeatedly highlighted by instances of major travel disruptions. A recent example was the sudden cessation of operations by Icelandic air carrier WOW Air in March of this year. WOW Air operated flights to North American and European destinations from its hub in Iceland. Scores of its passengers were left in limbo regarding rerouting and issuance of refunds for their cancelled flights. A similar situation occurred in Guyana when Dynamic Airways, a US-based carrier, abruptly ceased its operations to and from the country. These two specific cases highlighted regulatory gaps regarding the repatriation of the global passenger and the issuance of refunds in the case of insolvency of airlines.

3.3 In their work, ICAO has developed Core Principles on Consumer Protection, following recommendations made at the Sixth Worldwide Air Transport Conference (ATConf/6) in 2013, which aim to provide guidance to regulatory authorities and air transport operators to deal with air passengers before, during and after their travel.

3.4 Additionally, States have created their own local consumer protection regimes, such as national legislation, which have varied scope; the legislation range from being applicable to all consumer-related transactions to being aviation-specific. These local regimes aim to address misleading advertising and business conduct, unfair contract terms in the conditions of carriage, full declaration of airfares, and

redress in the case of undelivered services. Enforcement by way of civil and/or criminal penalties, orders and individual legal action have been established to increase compliance with these systems.

3.5 Some States have opted to take the additional national regulatory approach as the Warsaw-Hague and Montreal Conventions did not contain specifics related to the modalities of accommodating and rerouting passengers affected by significant delays and cancellations; these aspects of the consumer-airline relationships were not clearly defined. Further, there are currently 136 Parties to the Montreal Convention, which represents less than three quarters of ICAO Member States.

3.6 Accordingly, regulatory development in the field of consumer protection manifested via multiple channels: through the adoption of specific legislation, prescriptive government rules from authoritative bodies, or as part of minimum requirements for airlines to operate within a particular State.

3.7 Consequently, there exists a global patchwork of regulatory regimes creating some amount of consternation for both airlines and passengers. Airlines operating in large networks encounter conflicting regulatory and contractual requirements. This type of fragmentation may also increase operating costs and complexity. Extraterritorial application of national legislation is another major consideration faced by international carriers.

3.8 It has also been posited by the industry that such a spread of liability regimes may consequentially increase passenger inconvenience rather than solving it through incentivizing airlines to cancel flights, rather than delay them.

3.9 Given the current proliferation of differing systems, it is our position that regulatory convergence in the form of universally applicable ICAO designed template regulations should be pursued, inasmuch as is possible to do so. Emanating from this can be the creation of globally harmonized standards for customer rights. Normalization of this feature could result in increased transparency in customer/airline relationships, consumer knowledge and empowerment.

3.10 Reconciling the differing approaches into a unified and uniformed global system would serve to better facilitate consumer protection of the global air passenger through consensus and commonalities among States via a global regulatory framework.

3.11 Moreover, such a confluence of the consumer protection regimes should also take into account the need for balance between protecting passenger rights and facilitating sustainable air transport operations.

#### 4. **RECOMMENDATIONS**

4.1 The Assembly is invited to:

- a) invite Member States that are yet to be Parties to the Montreal Convention to sign on to and ratify the Convention; and
- b) request ICAO to develop standardized template regulations for unifying global aviation consumer protection regulatory framework to complement the Montreal Convention.