



DIRECTORS GENERAL OF CIVIL AVIATION-MIDDLE EAST REGION

Third Meeting (DGCA-MID/3) (Doha, Qatar, 27-29 April 2015)

Agenda Item 9: Air Transport

CONSUMER PROTECTION REGULATIONS IN AIR TRANSPORT

(Presented by AACO)

SUMMARY

This Working Paper highlights the latest developments in individual/regional consumer protection regulations applicable to air transport, the estimated cost and inconvenience such regulations bring to the consumer, some comments on the work conducted by ICAO's ATRP so far and suggestions for the way forward.

1. OVERVIEW AND DEVELOPMENTS

1.1 Work is underway at ICAO's ATRP to bring more harmony to the different regulations developed by various states following the organization's 2013 assembly that requested the Council to develop, in the short term, a set of high-level, non-binding, non-prescriptive core principles on consumer protection, for use of policy guidance, which strike an appropriate balance between protection of consumers and industry competitiveness and which take into account the needs of states for flexibility, given different state social, political and economic characteristics; these core principles should be consistent with existing instruments, in particular that of the Convention for the Unification of Certain Rules for International Carriage by Air, adopted in Montreal on 28 May 1999.

1.2 In the meantime, we witness a proliferation of passenger rights regulations that puts burdens and results in confusion to airlines and passengers alike. More than 60 passenger rights regimes are currently in place. According to IATA figures, the potential liability to airlines resulting from the expansion of these regulations could nearly triple in the next 5 years; from over USD 4 billion in 2012 to USD 12 billion in 2017.

1.3 Perhaps the most famous regulation on consumer protection is that of the EU which has resulted in a lot of inconvenience and confusion to passengers and airlines. This regulation is an example of very prescriptive regulations that go beyond setting guidance on consumer protection but rather dictates airlines on how to serve their customers and in a lot of areas interferes in what differentiates an airline from the other and i.e. the quality of the service these airlines provide to their customers. The ambiguities in this regulation have also resulted in many court cases that needed court ruling to clarify certain provisions and that has proven burdensome and costly to airlines involved in these cases.

1.4 The second most famous consumer protection regulation is the one adopted in the US which is also very prescriptive and even interferes in the relation between airlines and their partners such as GDSs and travel agents.

1.5 More attractive regulations have been adopted in countries like Singapore, Australia, Canada and Kuwait. Passenger rights in countries like Singapore, Australia and Canada are part of the general consumer protection regulations of the countries. Airlines in Australia for example have funded a dedicated independent body to take care of the rights of air passengers by handling their complaints. The passengers also have the right to retreat to court if they were not satisfied by the non-binding rule of that body. The same in Singapore; passengers can go to the Small Claims Tribunal, a Subordinate Court of Singapore, if their complaint was not handled properly by the airline. These regulations have proven to result in lower ticket prices and major reduction in complaints throughout the years as competition between airlines increased to provide the best service to the consumer. Another non-prescriptive regulation is in Kuwait where passenger rights are part of the general civil aviation regulation of the country where a dedicated body takes care of the complaints of passengers.

1.6 In the Arab region, the ACAC Air Transport Committee has developed a guiding regulation on consumer protection that Arab states can use when they want to develop their own regulations on passenger rights. This material is a work in progress and AACO is currently cooperating with ACAC through the ACAC Air Transport Committee to revise the material to bring it more in line with the principles being developed at ICAO.

2. OPINION AND RECOMMENDATIONS

2.1 In AACO's opinion, the ATRP principles are a good starting step towards more harmonization and compatibility of consumer protection regulations around the world. In particular AACO supports the below concepts from the ATRP principles:

- Regulations should strike an appropriate balance between protection of consumers and industry competitiveness.
- Should take into account States' different social, political, and economic characteristics, without prejudice to the security and safety of aviation.
- National and regional consumer protection regimes should:
 - reflect the principle of proportionality
 - allow for the consideration of the impact of massive disruptions,
 - be consistent with the international treaty regimes on air carrier liability established by the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Warsaw, 1929) and its amending instruments, and the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Montréal, 1999).
- The ATRP guidance on passenger rights before, during and after travel is also a good guidance for states to include in their regulations.
The ATRP principles though should ensure that application of any regulation should avoid extraterritoriality.

2.2 We also recommend that regulations such as the ones in the EU and the US be avoided by governments in the Arab world due to their complexities, ambiguities, burdens and track record of subsequent court cases. Such regulations have also increased the cost of tickets as airlines had to reflect the cost of abiding to these regulations in ticket prices. Alternatively, regulations such as the ones in Singapore, Australia and Kuwait have proven to secure the rights of passengers with a major reduction in passenger complaints while at the same time benefiting the consumer with reduced ticket prices.

3. ACTION BY THE MEETING

3.1 The meeting is invited to endorse the recommendations in para. 2.

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