

**WORLDWIDE AIR TRANSPORT CONFERENCE: CHALLENGES AND  
OPPORTUNITIES OF LIBERALIZATION**

**Montreal, 24 to 29 March 2003**

**DRAFT REPORT ON AGENDA ITEM 2.4**

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**Agenda Item 2: Examination of key regulatory issues in liberalization****2.4: Consumer interests****2.4.1 Documentation**

**Secretariat** (WP/13) reviewed recent developments in consumer interest issues, particularly as regards air passenger rights, and discussed various options available for States and the airline industry in responding to these issues, i.e. competitive responses, voluntary commitments and regulatory measures. The paper also raised issues associated with varying regulatory regimes (including the contract regime applying to airlines), and concluded that ICAO's monitoring role and dissemination of information on this subject could facilitate the broader harmonization process.

**Georgia** (WP/41) called for a development of "Convention on the Rights of the Passenger", where the basic rights of the passenger would be reflected in a unified form.

**Cuba** (WP/53) recognized that air transport has the nature of a public service and thus it is necessary to protect the interests of passengers within the context of liberalization, and recommended measures for the protection of passengers related, *inter alia*, to airline tickets, computer reservation systems, codesharing, insurance and airport activities.

**Pakistan** (WP/57) recognized that ICAO had developed guidance material for condition of carriage, which could be extended globally for use as required by States for their airlines and service provider.

**Members of ACAC** (WP/63) emphasized the need for standardized regulations in all Contracting States so that consumer interests are protected on the basis of ICAO provisions. The paper also described a number of negative aspects, which have an adverse effect on passengers and require more attention.

**Members of LACAC** (WP/99) highlighted its Recommendation A14-2 "User rights" and A15-7 "Customer service and total quality criteria and guidelines", which were adopted by the member States in order to offer the necessary protection of the user rights and to obtain an optimum air transport and airport services.

**ACI** (WP/95) described its main policies and actions aimed to protect the interests of passengers, and urged States to implement ICAO Annex 9 - Facilitation Standards and Recommended Practices (SARPs) concerning passenger facilitation as soon as possible, protect passengers' interests and encourage air transport liberalization.

**IACA** (WP/33) urged States to be fully aware of the differences, both legally and operationally, between scheduled flights and charter flights, and act accordingly. The paper stressed the importance of enhancing competition, which creates opportunities for the consumers to make their own choice, rather than strengthen the consumer's position by burdening the airlines through an increase in costs. Any regulatory measures should be fully justified and proportionate.

**EU, ECAC and their Member States** (WP/69 - information paper) provided information on the Passenger Rights Commitments developed by airline and airport organizations under the auspices of ECAC and EU.

## 2.4.2 Discussion

2.4.2.1 It was noted that there were differences in approach to consumer rights and protection. For example, States which considered air transport as unquestionably a public service had a tendency to rely on regulatory measures; other States which considered air transport primarily a commercial activity tended to rely on competition and, at least initially, voluntary air carrier measures supplemented as necessary with regulatory measures to respect consumer rights.

2.4.2.2 A view was expressed that different products have different prices and corresponding benefits. Low fare airlines, for example, may not guarantee connections at hub airports, and it is important for information on terms and conditions to be clearly made available to the consumer.

2.4.2.3 There was support for the conclusions in the Secretariat paper. It was suggested that European rules to protect the consumer could prove useful in future work on this subject and that consideration could be given to extending globally ICAO's guidance material for condition of carriage. It was also suggested that ICAO prepare guidance material on air carrier obligations *vis-a-vis* the consumer.

2.4.2.4 The Conference noted the view that the implementation of SARPs concerning passenger facilitation would protect passengers' interests and encourage air transport liberalization.

## 2.4.3 Conclusions

2.4.3.1 From the documentation and ensuing discussion under Agenda Item 2.4 on consumer interests, the Conference concluded:

- a) As a premise in addressing consumer interests issues, States need to carefully examine what elements of consumer interests in service quality have adequately been dealt with by the current commercial practices of airlines (and service providers if applicable) and what elements need to be handled by the regulatory and/or voluntary commitment approaches.
- b) States need to strike the right balance between voluntary commitments and regulatory measures, whenever the government intervention is considered necessary to improve service quality. States should rely generally and initially on voluntary commitments undertaken by airlines (and service providers), and when voluntary commitments are not sufficient, consider regulatory measures.
- c) In implementing new regulatory measures, States should minimize the unnecessary differences in the content and application of regulations. Efforts to minimize differences would avoid any potential legal uncertainty that could arise from the extra-territorial application of national laws, without diminishing the scope for competition and hampering the operating standards and procedures for interlining.

- d) ICAO should continue to monitor developments regarding voluntary commitments to and government regulation of consumer interests with a view to providing useful information to States to assist in the harmonization process. Such monitoring should, in due course, enable ICAO to decide whether some form of action at multilateral level, such as the eventual development of a global code of conduct, is feasible or necessary to ensure harmonization of regulatory measures.

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