



International Civil Aviation Organization

WORKING PAPER

ATConf/6-WP/47

18/2/13

Revised

12/3/13

English and French only¹

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

AIR TRANSPORT AND THE PROTECTION OF THE CONSUMER

(Presented by 54 Member States², Members of
the African Civil Aviation Commission (AFCAC))

REVISED

EXECUTIVE SUMMARY

This working paper focuses on the importance of different aspects of consumer protection in the wake of air transport liberalization. It further highlights the importance of uniform application of consumer protection principles to respond to airline networking.

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 Most consumers of air transport services are either unaware or inadequately protected against poor services by the various service providers.

1.2 Even where there is sufficient protection, consumers are, in an attempt at enforcing those rights, often confronted with institutional incapacities or inabilities.

¹ French version provided by AFCAC.

² Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cap Verde, Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Southern Sudan, Sudan, Swaziland, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

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1.3 Some countries regulate the protection of rights of air transport consumers through general consumer protection rules whilst others have specially developed civil aviation consumer protection regulatory frameworks to handle consumer protection issues.

1.4 The Yamoussoukro Decision (YD) is an important instrument in the protection of the rights of consumers of air services in the African continent.

1.5 Article 9.6 of the YD is perhaps the most important provision recognising the challenges faced by a large number of consumers, and the need to provide for some form of consumer protection.

1.6 Consumer Rights regulations are designed to ensure that services rendered to consumers are fit for the purpose. They ensure that suppliers are regulated to ensure quality, regularity and continuity of services, complaints handling mechanisms and most importantly, refunds and compensation schemes for consumers.

2. KEY PRINCIPLES OF AVIATION CONSUMER PROTECTION

2.1 The key principles of aviation consumer protection include resolving the following issues which are dealt with in draft regulations on African air transport consumer protection:

2.2 Insolvency

2.2.1 The draft Consumer Protection Regulations will enable authorities to establish sustainable systems to ensure protection of consumer rights in case of insolvency. That will include repatriation of passengers, refunds, compensation, etc.

2.3 Unfair and deceptive practices

2.3.1 The draft regulations impose general obligations on air services operators, tour operators, travel agents and airports. These obligations include, and are not limited to, insurance; non-discrimination; maintaining a contact point for consumers; complaints procedures; filing of advanced flight and passenger information; compliance with relevant international liability regimes; and remedies for denied boarding, delay and cancellation of flights.

2.4 Network carriers

2.4.1 Major cities are now mainly served by network carriers. These network carriers are either subject to different and fragmented consumer protection regimes or none at all. Consumers are therefore left with uncertainty as whether to enforce their rights against the operating carrier or the marketing carrier.

2.5 Protection of personal information

2.5.1 Personal information of passenger is an inherent requirement both before, and during the passengers' journey. This information is required for different purposes by different stakeholders. It is expected that the use of passenger information will help to better facilitate passenger flows, improve security and expedite legitimate travel. However, there is an added responsibility to ensure the protection of the consumer's privacy.

3. CONCLUSIONS

3.1 The airline industry argues that liberalization will further increase demand and ensure increased connectivity. Airline liberalization entails a degree of commercial freedom necessary for airlines to adjust capacity appropriately to meet changes in air travel demand. Affording the airline industry this flexibility requires effective and efficient consumer protection measures.

3.2 It is important that consumers of air services should have certainty with regard to the enforcement of their rights in case of curtailment of those rights. This certainty can be achieved by having uniform set of core principles dealing with the protection of rights of consumers of air services developed at a global level.

3.3 AFCAC therefore, calls on the Conference to request ICAO to lead the process of development of global principles through harmonization of existing regional principles.

4. RECOMMENDATIONS

4.1 The following recommendations are proposed for consideration by the Conference:

- a) ICAO should develop and promote global consumer protection policy framework;
and
- b) ICAO should work together with other relevant UN Bodies, Regional Economic Blocks, the industry and other stakeholders to develop guidelines to facilitate the harmonization of consumer protection policies to ensure adequate protection of consumers of air services.

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