

## Safety Nets and Caveats Regarding Consumer Protection Measures

### Scope and Structure

- Core Principles on Consumer Protection (ICAO)
- Core Principles on Consumer Protection (IATA)
- Specific Safety Nets and Caveats developed by AACO AWG Consumer Protection Subgroup (AACO)

### Core Principles on Consumer Protection (ICAO) - Brief

- 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).
- Guidance on passenger rights before, during and after travel.

To view the full version of the core principles, please check the following link:

<http://www.icao.int/sustainability/Documents/ConsumerProtection/CorePrinciples.pdf>

### Core Principles on Consumer Protection (IATA) - Brief

- Consistency with international treaty regimes on air carrier liability, established by the Warsaw Convention 1929 (and its amending instruments) and the Montreal Convention 1999.
- National and regional legislation should not interfere with another States' ability to make legitimate policy choices.
- Legislations should allow airlines the ability to differentiate themselves and government regulations should form the "lowest common denominator".
- Passengers should have access to information on their legal and contractual rights and clear guidance on which regime applies in their specific situation.
- Passengers should have clear, transparent access to fare information (including taxes and charges – prior to purchase) and the actual operator of flight in case of codeshare.

- Airlines should employ their best efforts to keep passengers regularly informed in the event of a service disruption.
- Airlines will establish and maintain efficient complaint handling procedures that are clearly communicated to passengers.
- Airlines should assist passengers with reduced mobility.
- Regulations should reflect the principle of proportionality and the impact of extraordinary circumstances;
- There should be no compromise between safety & passenger rights protection
- Safety-related delays or cancellations should always be considered as extraordinary circumstances;
- Right to re-routing, refunds or compensation in cases of denied boarding and cancellations, where circumstances are within the carrier's control;
- Right to re-routing, refunds or care & assistance to passengers affected by delays where circumstances are within the carriers control;
- In cases where delays or disruptions are outside an airline's control, governments should allow market forces to determine the care & assistance
- The responsibilities imposed by the regulator, related to both care & assistance as well as compensation, must be fairly & clearly allocated between the different service providers involved & should not impact on the contractual freedom of all service providers.
- Passengers should be treated comparably across transport modes, taking into account the particularities of each;
- Legislation should be clear and unambiguous

To view the full version of the core principles, please check the following link:  
[https://www.iata.org/policy/Documents/consumer\\_protection\\_principles.pdf](https://www.iata.org/policy/Documents/consumer_protection_principles.pdf)

### **Specific Safety Nets and Caveats developed by AACO AWG Consumer Protection Subgroup (AACO)**

#### **Prerequisites for any Compensation: Who is the eligible passenger?**

- The passenger is a revenue passenger
- Passenger is in possession of a valid ticket with a confirmed reservation
- The passenger has presented himself at the check-in counter within the stipulated time limits prior to check-in closure
- The passenger is in possession of the necessary travel documents and complying with the company's travel rules and regulations
- The passenger has abided by the airline's lawful instructions and security checks
- The passenger has abided by government and immigration requirements
- The passenger has abided by the health requirements
- The airline could have taken all reasonable measures to avoid inconvenience caused to the passenger and did not do so.

- There should be proof of fault or damage i.e. to avoid automatic compensation
- Passenger needs to submit a written complaint to be eligible for compensation. Complaints are only acceptable if submitted within 2 years. (Based on MC99)
- Children are compensated 50% the amount allocated for adults
- Infants are not eligible for compensation

### **Denied Boarding & Downgrading**

- If a passenger was denied boarding and the airline did not provide an alternative transportation within (3 to 6)\* hours of the original departure time then compensation applies
- Compensations could be specified based on distance of the flight.
- Refreshments to be offered after (1 to 3)\* hours of the original departure time. Hot meals to be offered between 3 and 8 hours\*.
- Cost of hotel accommodation and transportation is offered if the passenger is booked for a flight departing (more than 8 hours\*) further to the original departure time.
- In case of downgrading, reimbursement should take place within (21 to 30 days\*) of the day of the departure of the flight.
- Denied boarding cannot be done to unaccompanied minors and passengers with special needs.

### **Delays**

- The carrier shall not be liable for damage occasioned by delay if the passenger wasn't able to prove that the airline and its servants and agents didn't take all measures to avoid the damage or if it was impossible for the airline and its servants and agents to take such measures.
- No financial compensation is offered in case of flight delays
- Care is provided to passengers
- Care could be translated into meals, snacks, hotel accommodation, transportation, telephone calls, internet, etc...) depending on the extent of delay.
- Airline should keep the passengers updated on the delay i.e. ETD
- If the delay was due to other stakeholders' faults (fault in navigation systems of the ATC, accident during towing the aircraft, etc...) the liability should be on the source of the fault.
- Flight diversions shall not be treated as delayed flights
- Flight diversions could be treated as a delayed flight in the following cases:
  - Commercial reasons (making a transit stop to load/ off-load passengers before continuing to the original destination)
  - Technical faults resulting from poor maintenance.

## **Cancellations**

- If passengers were notified of the cancellation (*more than 7 days\**) before departure then no compensation is required.
- If the passenger was re-protected to arrive at the final destination *within (6 to 8 hours\*)* of the original schedule arrival time, having departed the origin no earlier than one hour before the departure time of the cancelled flight then no compensation is required
- Compensation is only required when the flight is cancelled for commercial reasons (e.g. light load) or technical reasons (that are not included in the extraordinary circumstances)
- Compensation levels could be based on the distance of the flight
- In the case of force majeure incidents, industry stakeholders must work together to provide care and assistance to stranded passengers

## **Baggage Delayed/ Lost**

- Montreal Convention 1999 should apply.

## **Extraordinary Circumstances**

- In cases of extraordinary circumstances, compensation and care should have a limit/ ceiling and liability should be shared between all relevant stakeholders.
- Extraordinary circumstances are unpredictable, unavoidable and external.
- Extraordinary circumstances should include:
  - natural disasters
  - wars and political instability
  - Security reasons
  - Unlawful acts
  - Meteorological reasons
  - Airport Closure
  - Medical grounds
  - Bird strikes
  - Manufacturing defects
  - Unexpected flight safety shortcomings
  - Industrial Relations Issues
  - Air Traffic Management
  - labor and union strikes (be it airline's staff or other stakeholder's staff for example ground staff) that make it impossible for the carrier to carry on with its operations
  - Technical malfunctions that are out of the airline's control including but not limited to aircraft manufacturer's defect, technical malfunctions in the air navigation system, accidents during towing the aircraft, etc...

\* A range of what is applied by airlines.