



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2012)

Opinion

Title

DG MOVE - Impact Assessment on Measures to enhance the effectiveness of the current legal framework on passengers' rights in case of disruption of their travel plans

(draft version of 3 August 2012)*

(A) Context

The liberalisation of the European air transport market has generated significant benefits for consumers, including a wider choice of air services and intense price competition between air carriers leading to lower air fares. In order to limit any potential negative impacts on service quality, a number of accompanying measures have been taken at EU level to protect air passengers. In particular, Regulation 261/2004 (hereinafter "the Regulation") introduced new rules on compensation and assistance in the event of denied boarding, short-notice cancellation, long delay and involuntary downgrading. Moreover, Regulation 2027/97, which translates the Montreal Convention into EU law, contains provisions with regard to compensation where baggage has been mishandled.

(B) Overall assessment

The report provides an adequate overview of the main issues, but it should be improved on a number of points. First, the report should strengthen the problem definition especially with regard to the differences between bigger and smaller carriers with regard to the reasons for delays, the disincentives for compliance, faced by the airlines, and the drivers behind poor enforcement action. Second, it should broaden the analysis of policy options by including an option that would effectively strengthen passengers' rights, as suggested by the European Parliament**. Third, the report should explain in more detail how the expected costs and benefits of the various options have been calculated. Fourth, the report should set out more detailed arrangements for future monitoring and evaluation including appropriate progress indicators. Finally, it should more explicitly refer to stakeholders' views throughout the main sections of the impact assessment.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

** During the discussions with the IAB DG MOVE agreed to include such an additional option.

(C) Main recommendations for improvements

(1) Strengthen the problem definition. The report should present more detailed data on, and analysis of the differences between the categories of carriers with regard to the reasons for delays (weather, technical problems etc.) and of passengers' recourse to rights (rerouting, missed connecting flight, advance rescheduling, no show, booking errors, flight diversion). It should give a clearer explanation of the role that disincentives for carriers play in motivating non-compliance with the requirements under existing legislation, and provide factual evidence to support this. The report should analyse in more detail why it remains difficult for affected passengers to exercise their rights, and discuss the specific issues related to the national enforcement bodies and the ineffectiveness of possible sanctions. The report should also indicate more clearly who is affected by the problems identified (passengers on flights performed by EU carriers, or passengers on flights to the EU, flights within the EU, just EU carriers or also of non-EU carriers). It should also better explain how this initiative complements the requirements of the Montreal convention, and to what extent the two elements have different implications for the passengers concerned. The report should provide more precise references to the evidence supporting the problem analysis.

(2) Broaden the range of options. The analysis in the report should be made more balanced by exploring further options, including one that would effectively strengthen passengers' rights, as suggested by the Parliament, and in line with ECJ rulings (i.e. better definition of passengers' rights, more adequate information, better assistance for people with reduced mobility, and better handling of complaints). The report should be more transparent about the benefits and costs that such an extension of rights would entail. Also alternative options of establishing an industry fund and of better spreading the compensation costs across all actors involved in the aviation value chain, or more direct passenger compensation mechanisms, should be considered in more detail. On various issues the options should be formulated more precisely, for example "most technical defaults would be covered" (page 26), "NEBs to check on compliance with Montreal on baggage issues" (p. 28) or "Involve airports in the provision of information and care" (p. 30). The scope of the different options (including the baseline) should be clear with regard to the flights covered (EU or non-EU carrier, flight from EU or non-EU airport etc). The report should indicate more precisely whether the stakeholder consultation specifically addressed the options as presented in this impact assessment and provide more references to the different views expressed by different stakeholder groups on these options.

(3) Better explain the calculation of costs and benefits. The report should more clearly explain the methodology used for the assessment of costs and benefits. It should include the costs and benefits of the different options on passengers under social impacts and provide more clarity about the assumptions used for the calculation of these impacts. The calculation of employment impacts should also be clarified and broken down across the different aviation sectors concerned. The report should provide a proper summary overview of all the quantified impacts as calculated in the background study, on which it bases its comparison of options, and provide precise references to the underlying analysis in the previous chapters and the different Annexes throughout. This way, the report should clearly show that the aim is to find a balanced solution between passengers' rights on the one hand and compliance costs for airlines on the other hand.

(4) Strengthen the section on future monitoring and evaluation. The report should present appropriate indicators for progress monitoring, in line with the operational objectives, and explicitly set out the future evaluation arrangements with regard to

passenger rights in air travel.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation

The report should provide a link and precise references to the ex post evaluation that has been carried out.

(E) IAB scrutiny process

Reference number	2011/MOVE/010
External expertise used	No
Date of IAB meeting	19 September 2012