

## Position Paper

### Bullets for PSE seminar on 'Passenger Rights', 4<sup>th</sup> March 2009

#### General remarks:

- Thank you Chairman, and thank you for providing AEA with the opportunity to speak here this afternoon and share with you some of the views we have on consumer rights and consumer protection legislation.
- I represent an association of airlines which are dedicated to providing passengers not only with seats on board an aircraft, but with service. It is our view that passenger rights are of key importance, not only to the Commission and the European Parliament, but mostly to the industry itself. The legislator must define what "passenger rights" mean, ensure that passengers are aware of their rights, and ensure implementation of the measures designed to protect those rights. Passengers and airlines need to know the "rules of the game".
- We operate in a highly competitive market, passengers have a choice. Because airlines depend on passengers for their survival, airlines have a natural inclination to do their utmost to ensure that passengers will continue to buy their services. For an airline, it is therefore counter-intuitive to take passenger rights for granted.

#### AEA's view on the current situation:

- My first observation on the current situation is that "passenger rights" have been well defined and accepted by the interested parties. Passenger rights have become a commonly shared interest.
- Legislation has been adopted; the Member States, the National Enforcement Bodies and the airlines themselves have adapted structures to protect passenger rights.
- Currently applicable legislation creates transparency by imposing, upon airlines, obligations which affect the manner in

which they conduct business with their passengers. The various consumer protection provisions are well publicised throughout Europe. Airline passengers are familiar with – and becoming increasingly aware of - their rights.

- Through National Enforcement Bodies, committees and other platforms, Member States monitor and have introduced, or are introducing mechanisms to effectively deal with breaches of EU consumer protection legislation. I submit that it is incorrect to claim that consumers are subjected to long and complex procedures, as well as legal expenses; in general, the system developed by Member States is *designed* to be simple and practicable.
- In addition, many airlines have made significant and cost-intense efforts to establish a customer relations management which deals with the customers directly. Direct contact with customers is of high importance to the airline industry, as I said, dissatisfied customers do not return to use one’s service again. Airlines will therefore do their utmost to placate irate customers, by offering remedies which the concrete situation and, of course, the legal requirements, dictate.

AEA’s view with regard to new initiatives:

- My second observation is that the general public is unaware about the basic fact that the legislator and the industry are united in their effort to protect consumer rights.
- Airlines have demonstrably undertaken very much to promote passenger interests; this is an issue the European Parliament has consistently remained focused upon. Europe has a tradition of promoting environmental and social issues. This is definitely true for the aviation sector. But it needs to be communicated broadly and consistently by *all* stakeholders.
- We do take issue with biased and misleading media coverage of individual cases of abuse. Clear breaches of consumer protection legislation should be penalized. But sensationalist media coverage feeds the false impression that not one incident involving one airline is highlighted, but an entire sector.
- We also believe that it is not helpful if the services of the Commission publish, on the Commission’s website, erroneous information about passenger rights in the context of Denied

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Boarding Compensation. This gave rise to unrealistic expectations. These in turn nourish frustration. Although the Commission later revised the contents of its publication, the damage was done. More recently, Commissioner Kuneva announced that the Commission would name, blame and shame airlines that did not comply with legislation on transparency of prices. Associations were effectively asked to act as police force in assisting the Commission. In an exchange of letters with the Commissioners for Transport and Consumer Rights, AEA has already clarified that the role of an airline association cannot be, and should not be, to act as police. AEA has, and will continue to inform its members that they must comply with EU legislation. The Commission on various occasions referred to a sweep of airline websites in 2007 and 2008, and indicated its intention to ensure full compliance with legislation covering consumer rights. Further sweeps have been announced for 2009. But the manner it was announced had the intended side effect of strengthening the perception of airlines as the “bad guys”.

- My third observation: We do not need further regulation, but implementation of current legislation.
- In Europe, we are confronted by an extremely complex set of legislation which encompasses at least four Regulations specific to air transport, and seven Directives governing generic consumer rights issues.
- There are Regulations and Directives which deal with aspects related to advertising, transparency of pricing, denied boarding, travel for disabled people, permissible contract terms, etc. If the overriding issue is consumer interests, then those can best be served by developing legislation to improve the efficiency of the aviation value chain, not by over-regulating the passenger-airline relationship which is already determined by market forces and a comprehensive set of norms.
- The issue is thus not further legislation, but non-discriminatory implementation of current legislation. Most, if not all MEPs receive letters of complaint from constituents. Airlines also take receive such complaints and of course take them seriously. But this does not by definition mean that further legislation is required. If in one and the same Member State, passengers flying into a regional airport are granted compensation by the *airport*, but when flying into a hub are asked to complain to the *airline* concerned, then the problem is not insufficient legislation, but bad implementation. If National Enforcement Bodies from

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different States treat the same type of incidents differently, then that is unacceptable from an EU perspective. Creating new legislative tools at this stage could render the legal context and enforcement even more complex and ineffective. The biggest problem today is lack of coherent implementation, application and interpretation at Member States' level.

The 'Alitalia case':

- Just a small sidestep if I may Chairman. The media covered the European Court of Justice's ruling on DBC in the 'Alitalia' case, as follows: "even technical problems with engines no longer are 'exceptional circumstances' and therefore do not preclude payment of compensation for cancellation of flight". In all candour, that is misleading. For instance, it still leaves the case of bird strike, or other anomalies for which the carrier cannot be held liable because they are not inherent to the operation of an airline, and which are deliberately excluded from the Court's conclusions.
- In substance, the ruling confirmed the Court's past interpretation, but the public perception now is that airlines will have far greater difficulties in exonerating themselves when a technical incident arises. But they will hopefully have already undertaken all necessary diligence to avoid the technical incident, and they will do everything to resolve the incident once it occurs, because they don't want the aircraft on the ground. But that was not explained publicly!

The future: more cooperation:

- At present, the Commission have indicated that their role is to name, shame and punish airlines found to be in breach of legislation rather than to assist airlines to meet their obligations. We remain disappointed that the Commissioner has chosen to target airlines instead of Member States.
- This leads me to my conclusion: Industry, Legislators and EU Commission have developed a common understanding in principle about the importance of consumer rights. The National Enforcement Bodies must now enforce. We are of the opinion that it is more prudent at this stage to await until enough elements could provide with an assessment of the adequacy of the current set of tools.

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- A confrontational approach based upon misleading polemics against airlines in general does nothing to improve consumer rights, and merely increases the administrative burdens on airlines. We share European values, and we believe that the way forward can only be ensured as a joint undertaking. We call for joint task forces of the EU institutions and industry stakeholders to achieve full implementation of consumer rights legislation. We look forward to such a co-operation.