

# European Low Fares Airline Association



Priorities for the revision of Air Passenger Rights

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# Revision of EC Reg 261/2004

## Air Passenger Rights

- ELFAA supports the joint airline Industry Position Paper on the revision of Regulation 261, as covered in the IATA presentation
- we welcome the opportunity, however, to make the case for some amendment to the Regulation, of particular importance to Low Fares Airlines
- to seek more balance between:
  - providing adequate rights to air passengers
  - a more reasonable financial burden on airlines

# Revision of EC Reg 261/2004

## Air Passenger Rights

- ELFAA's priorities:
  - proportional financial compensation
  - extraordinary circumstances / reactionary delays
  - rerouteing
  - more equitable burden-sharing

# ELFAA's priorities:

## Proportional Financial Compensation (1)

- ELFAA accepts need to discourage overbooking and cancellations for airline's commercial benefit, which merit a punitive approach in terms of penalty
- however, there are other operational realities, which penalise the airline, as much, or more than the passenger, which may entitle passengers to compensation, despite being outside the direct control of the airline
- in such cases, financial compensation should be proportional to the fare paid

# ELFAA's priorities:

## Proportional Financial Compensation (2)

- passengers can choose between
  - affordable, low-fare airline CDG-MXP-CDG € 59.00
  - business-class fare on traditional airline CDG-MXP-CDG € 1447.00
- as per current proposal, flat-rate financial compensation of €250 payable, which represents 424% of fare paid to LFA but only 17.3% of business class fare paid to traditional airline
- Principle of proportionality already inherent in Passenger Rights Regulations (e.g. in cases of downgrading in Air Passenger Rights (article 10.2) and for delays/ cancellations for other transport modes)
- ELFAA proposes for journeys up to 3500km financial compensation be proportional to fare paid, subject to a minimum of €100 and maximum of €250

# ELFAA's priorities:

## Extraordinary circumstances - Reactionary delays

- current proposal limits the use of extraordinary circumstances only to the flight concerned and to the previous flight
- disruptions tend to have a wider impact on an air carrier's flight programme than just the flight concerned and the previous or subsequent one. Limiting the exemption of extraordinary circumstances to the affected flight plus one other sector, as proposed, would not only be an unjust burden on airlines but have the perverse effect of incentivising them to cancel the disrupted flight, to contain the problem
- Industry believes extraordinary circumstances should be able to be invoked on any flight in that day's flying programme for the affected aircraft, as long as a direct causal link can be demonstrated

# ELFAA's priorities:

## Rerouteing

- obligation on airlines to reroute passengers on other carriers/modes after 12 hours needs to be extended to 24 hours, to provide sufficient time for airlines to plan an alternative operation, which will get more passengers to their destination
- 12 hours insufficient for this purpose and will incentivise airlines to cancel the flight, to the detriment of passengers
- to prevent abusive fare levels being opportunistically charged by receiving carrier in cases of re-routeing, Regulation should mandate that fare payable by rerouteing airline should not exceed twice the fare paid to the original carrier

# ELFAA's priorities:

## More equitable burden-sharing (1)

- objective of Air Passenger Rights legislation as always been to incentivise good behaviour by airlines to consumers and penalise bad
- consistent with this intent, the original Regulation was entitled “Denied Boarding and cancellation” Regulation
- ELFAA fully supports this intent and effect on the airline, where disruption to passengers is caused by the airline for its own commercial reasons
- ELFAA also supports airlines being responsible for arranging care and assistance to passengers, whatever the reason for the disruption

BUT

- where a third party provider is responsible for the disruption e.g. illegal strikes with ANSPs or ground handling agents, airports' lack of preparedness for winter weather etc, airlines should have explicit right of recovery from the third party responsible
- if the third party disputes such recovery action by the airline, it can seek redress from the airline

# ELFAA's priorities:

## More equitable burden-sharing (2)

- burden of process switches to the party responsible for the disruption, rather than the airline, which provided care to mitigate the effect of the disruption for consumers
- no airline has ever successfully recovered cost of care from third party provider
- yet ANSPs have right of recovery from airlines for lost revenue during strikes, as airlines share the risk of traffic shortfalls
- airports also seek higher charges from airlines to offset revenue shortfalls
- ELFAA requests Art 13 be amended to substitute “right of recovery” for “right of redress”