

# Asian experience on air passenger protection

## – Selected issues and comparative analysis

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# Overview

- Delay is a compensable damage under WC and MC, BUT...
- Distress or disappointment are not “damage” under WC and MC.
- Delay vs. Non-performance (cancellation and denied boarding)
- Dissatisfaction with international conventions and contracts of carriage
- Rise of Consumer Protection

# International Trend

- EU Regulation 261/2004
- US Airline Passengers' Bill of Rights
- ***From a legality question to a policy question***
- Now, 60+ countries have some form of aviation-specific passenger right regime

## International Trend – ICAO 39<sup>th</sup> Assembly Resolution (2016)

- “Whereas consumer interest should be given due regard in the development of policy and regulation of international air transport”
- “Urges Member States and concerned stakeholders to give regard to, and apply, the ICAO high-level, non-binding, non-prescriptive core principles on consumer protection in policy-making and regulatory and operational practices, and to keep ICAO informed of the experiences gained or issues encountered in their application”

## International Trend – ICAO Air Transport Conference (2013)

- appropriate balance between consumers/industry competitiveness
- need for States' flexibility (different social, political and economic characteristics)
- consistency with Montréal Convention of 1999
- But, no consensus on new international convention for passenger protection

# Northeast Asia



## Northeast Asia - China

- Provisions on the Management of Flight Regularity (2017)
- Applies to both local and foreign carriers
- Cancellation – Carriers must provide assistance
- Tarmac Delay – no more than 3 hours without deboarding
- Foreign carriers must be able to deal with complaints in Mandarin
- Violation of the Regulation may be given a warning and/or face a fine up to RMB 100,000 (US 14,500)



# Northeast Asia - Japan

- Outstanding on-time performance
- No aviation-specific passenger right regime
- Airlines have own Customer Service Plan and Priority Guest Center Service Handbook
- Government's indirect intervention

## Northeast Asia - Korea

- 8 airlines + 3 airlines
- establishment of compensation procedures
- Assessment of service quality of aviation industry
- Air consumer report of aviation industry(airlines and airports)
- Detailed passenger protection law is under review at the National Parliament.

# Northeast Asia - Taiwan

- Uniqueness of Taiwan
- Role of its Civil Aviation Law
- Ministry of Transportation and Communications has published the Regulations Governing the Mediation of Disputes Arising from the Transportation between Civil Aviation Passengers and Aircraft Carriers in 2002.

## Northeast Asia – Hong Kong

- No specific passenger protection legislation
- The Civil Aviation Department (CAD) published a section called “Booking Tips for Air Passenger” on its website.
- The CAD has published the Guidance for Airline Operators in Hong Kong: Facilitation of Persons with Reduced Mobility in Air Travel in 2015 (not have a formal legal status but has a good practical effect)

# Passenger with Disabilities

- Underlying principle is non-discrimination.
- *Convention on the Rights of Persons with Disabilities* and its Optional Protocol, that had been adopted in December 2006 by the United Nations General Assembly.
- ICAO urges Member States to give due regard to *Doc 9984, Manual on Access to Air Transport by Persons with Disabilities*.

# Summary

- Transparency, consumer protection & non-discrimination
- No international law but transnational approach
- Focus on Implementation and effectiveness

Thank you! ຂອບໃຈ!

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