



#### 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 39th 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"

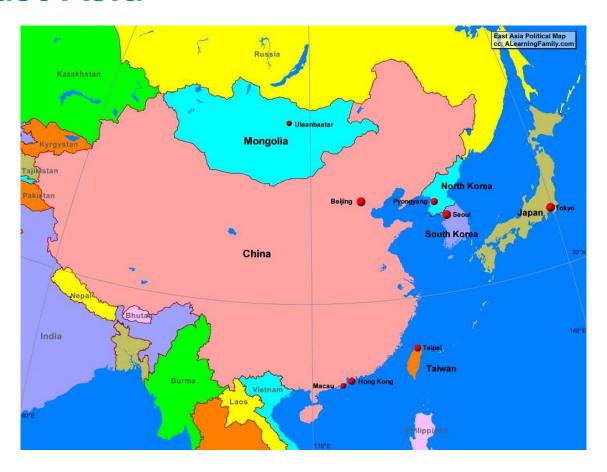


### International Trend – ICAO Air Transport Conference (2013)

- → 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**

- $\rightarrow$  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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