

Consumer ProtectionL Core Principles

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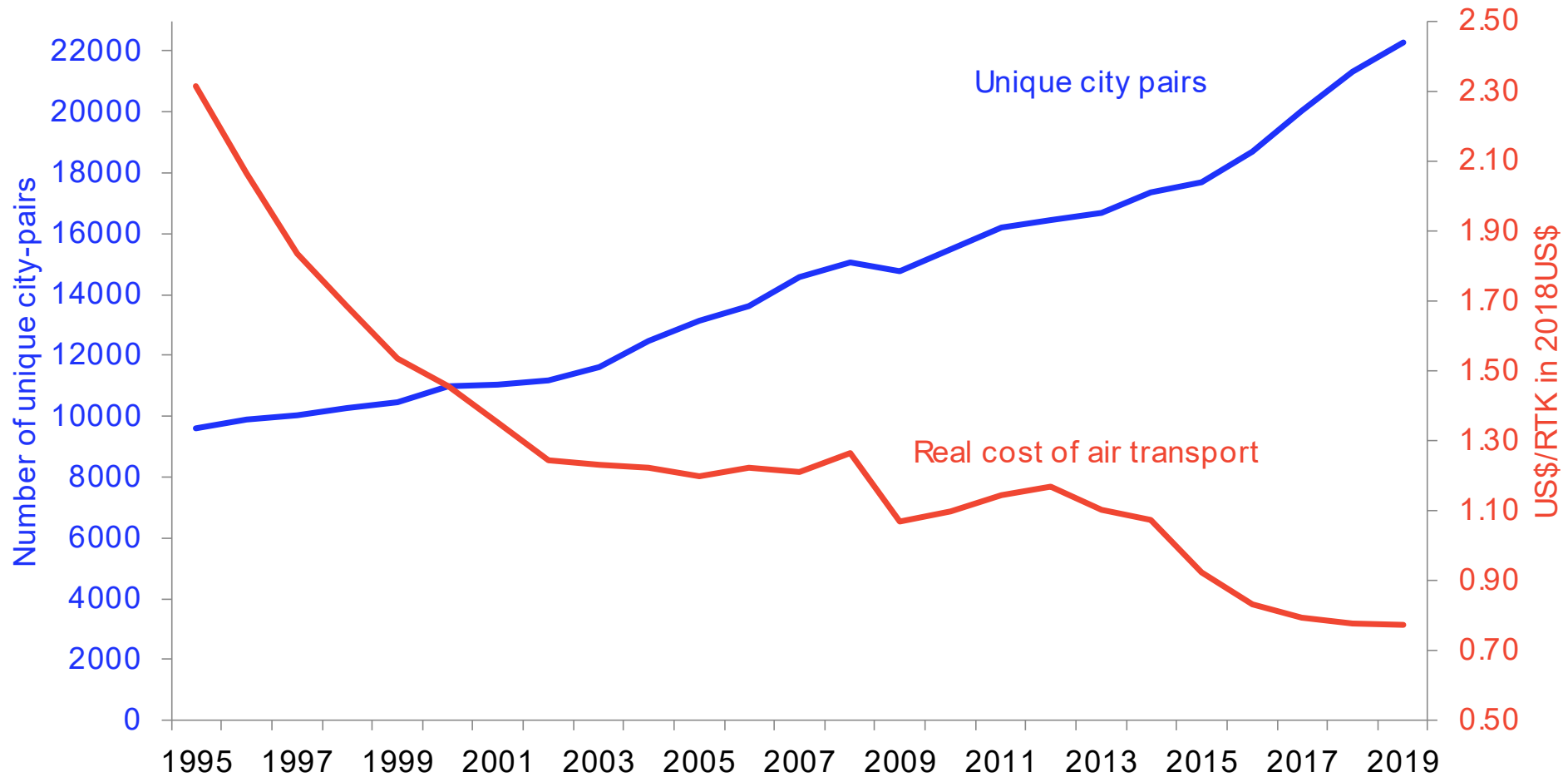
Yangon, Myanmar

13 October 2019



Aviation offers great value for consumers

Unique city-pairs and real transport costs

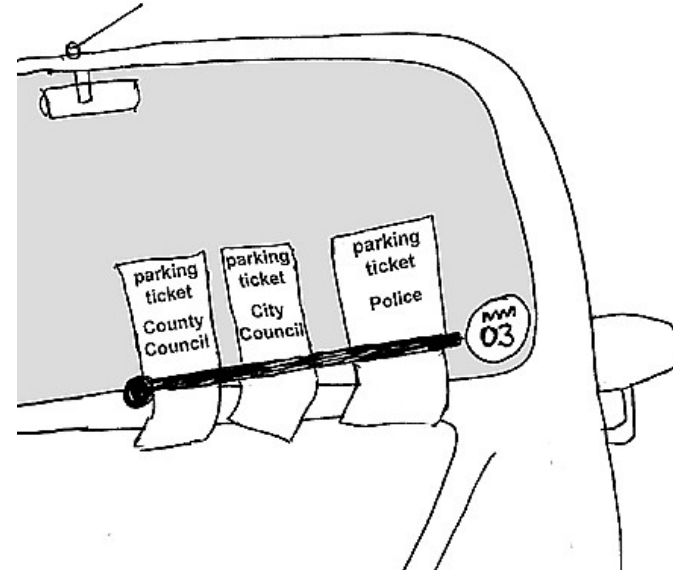
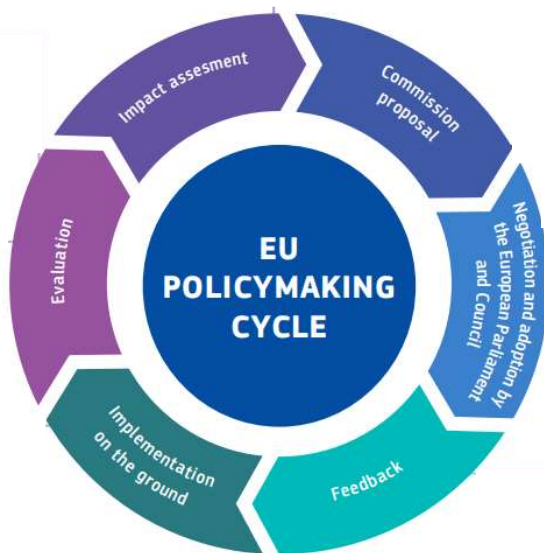


Source: IATA Economics using data from SRS Analyzer, ICAO, IATA statistics, IATA Economics forecast






Policy should be based on solid foundations

Process level: Smart Regulation should	Policy-design level: Regulations should
Address a clearly identified need	Be consistent and coherent
Be supported by an impact assessment	Be proportional
Be developed by transparent decision-making	Be targeted at risk
Be informed by stakeholder consultation	Be fair and non-distortive
Be subject to regular review	Be clearly drafted and provide legal certainty



The situation today: 65+ regimes and counting...



 Formal regime  Informal regime  Regime undefined

...but they are uncoordinated!

Montreal Convention 1999: A global instrument



Attempts at Harmonization: IATA Principles

- Recognizes airlines' obligations towards their passengers
- Strikes a balance between protecting passengers and ensuring sustainable connectivity
- Uses MC 99 as a basis
- Acknowledges the power of market forces in driving consumer choices
- Based on lessons learned from previous regimes
- Transparency



CORE PRINCIPLES ON CONSUMER PROTECTION

- National and regional legislation should be consistent and in accordance with the international treaty regimes on air carrier liability, established by the Warsaw Convention 1929 (and its amending instruments) and the Montreal Convention 1999;
- National and regional legislation should not interfere with another State's ability to make legitimate policy choices. Passenger rights legislation, in accordance with the Chicago Convention 1944, should only apply to events occurring within the territory of the legislating State, or outside that territory with respect to aircraft registered there.
- Passenger rights legislation should allow airlines the ability to differentiate themselves through individual customer service offerings, thereby giving consumers the freedom to choose an airline that corresponds with their desired price and service standards. Governments should consider acknowledging voluntary industry commitments; government regulations should form the "lowest common denominator" and market forces should be allowed to determine additional standards of service levels.
- Passengers should have access to information on their legal and contractual rights and clear guidance on which regime applies in their specific situation;
- Passengers should have clear, transparent access to the following information:
 - > fare information, including taxes and charges, prior to purchasing a ticket;
 - > The airline actually operating the flight in case of a codeshare service;
- Airlines should employ their best efforts to keep passengers regularly informed in the event of a service disruption;
- Airlines will establish and maintain efficient complaint handling procedures that are clearly communicated to passengers;
- Airlines should assist passengers with reduced mobility in a manner compatible with the relevant safety regulations and operational considerations;
- Passenger entitlements enshrined in regulations should reflect the principle of proportionality and the impact of extraordinary circumstances;
 - > There should be no compromise between safety and passenger rights protection
 - Safety-related delays or cancellations, such as those resulting from technical issues with an aircraft, should always be considered as extraordinary circumstances such as to exonerate air carriers from liability for such delays and cancellations;
 - > The industry recognizes the right to re-routing, refunds or compensation in cases of denied boarding and cancellations, where circumstances are within the carrier's control;
 - > The industry recognizes the right to re-routing, refunds or care and assistance to passengers affected by delays where circumstances are within the carrier's control;
 - > In cases where delays or disruptions are outside an airline's control, governments should allow market forces to determine the care and assistance available to passengers;
 - > The responsibilities imposed by the regulator, related to both care and assistance as well as compensation, must be fairly and clearly allocated between the different service providers involved and should not impact on the contractual freedom of all service providers.
- Passengers should be treated comparably across transport modes, taking into account the particularities of each;
- Legislation should be clear and unambiguous.



Attempts at Harmonization: ICAO Principles

- Drafted by ATRP May 2014; endorsed by ICAO Council June 2015; upheld at ICAO Assembly in 2016
- Key elements:
 - Consistency with MC99
 - Principle of proportionality
 - Balance of market forces and consumer protection
 - Recognition of multi-stakeholder mechanisms
 - Pre-eminence of safety and security
 - Complaint handling procedures
 - Price and operational transparency
 - PRMs and pre-notification

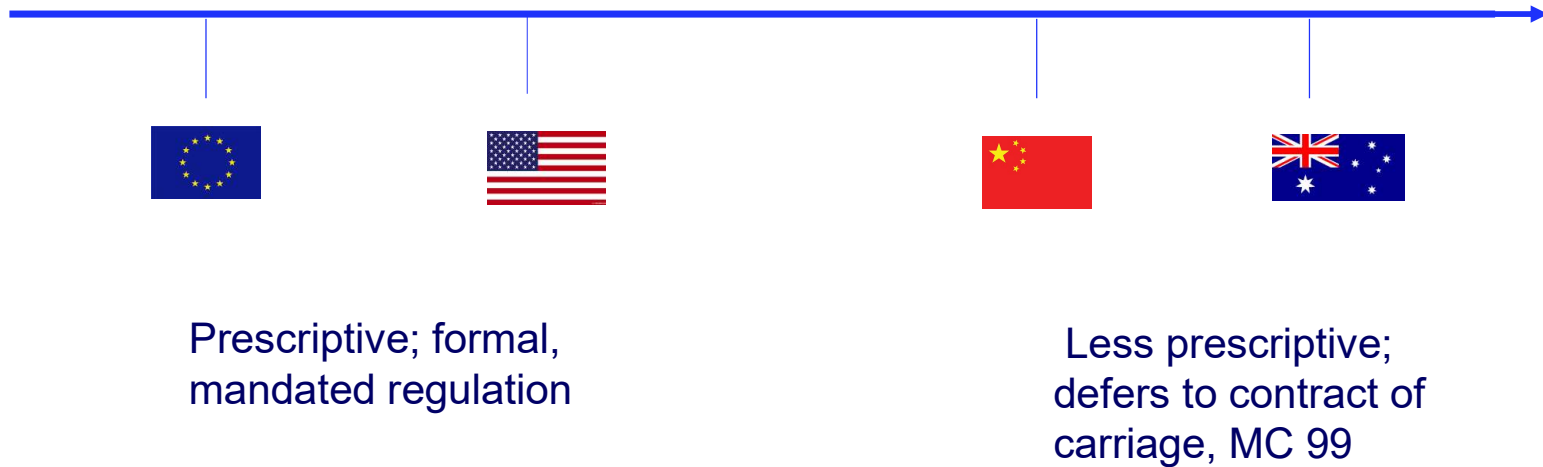


Attempts at Harmonization: IATA Model Regulation

- Version 1 Finalized in 2018
- A regulatory template based on:
 - IATA Principles
 - ICAO Guidance
 - Lessons learned

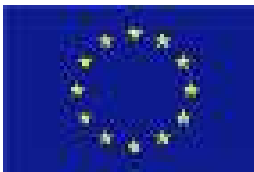
CONSUMER PROTECTION:
MODEL REGULATION PROVISIONS
FOR DISCUSSION

Different regulatory approaches

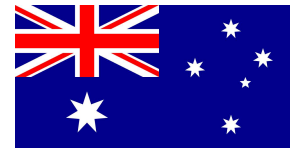


To regulate or not to regulate?



- Airlines already highly incentivized to avoid / minimize delays
- So, does regulation work?



Prescriptive approach with mandated compensation



Light approach focused on MC 99 and transparency

Industry metrics		
Flight on-time performance	82%	82%
Cancellation rate	1.6%	1.3%

- EU261 has not reduced airline-controlled delays

Flight delays and cancellations: control and liability

- Delays and cancellations frequently reflect issues beyond airline's control:
 - Weather
 - ATC
 - Airport congestion
 - Safety first!
- ICAO's massive disruption clause reflects this reality
- Key to define when a carrier is liable for care and compensation:
 - Lesson learned: Europe – Icelandic volcano; courts rewriting regulation
- Above all, must preserve the carefully built safety culture

Flight delays and cancellations: liability

- IATA Model Regulation offers a clear and exhaustive list

Item	Event or circumstance
(1)	Immediate political instability, riots or acts of military intervention.
(2)	Terrorist activity.
(3)	Strikes or other industrial action by employees of the Airline or any other third party upon which the Airline is dependent for the provision of air transport services.
(4)	Meteorological conditions incompatible with the safe operation of a Flight.
(5)	Airport or airspace closures.
(6)	Congestion or failure of airport or air traffic navigation infrastructure.
(7)	Any decision of an air traffic management body or other regulatory authority.
(8)	Damage to the aircraft structure.
(9)	A bird strike sustained during a Flight or the flight immediately preceding the Flight.
(10)	In-flight damage to an aircraft sustained during the Flight immediately preceding the subject Flight that has given rise to a claim under this Regulation.
(11)	Any technical defect or difficulty causing the aircraft to make an unscheduled diversion or return to the original airport of departure.
(12)	A technical defect which becomes apparent – (a) immediately prior to the departure of a Flight; or (b) in-flight provided always that the defective component in question has been properly maintained in accordance with the manufacturer's guidance.

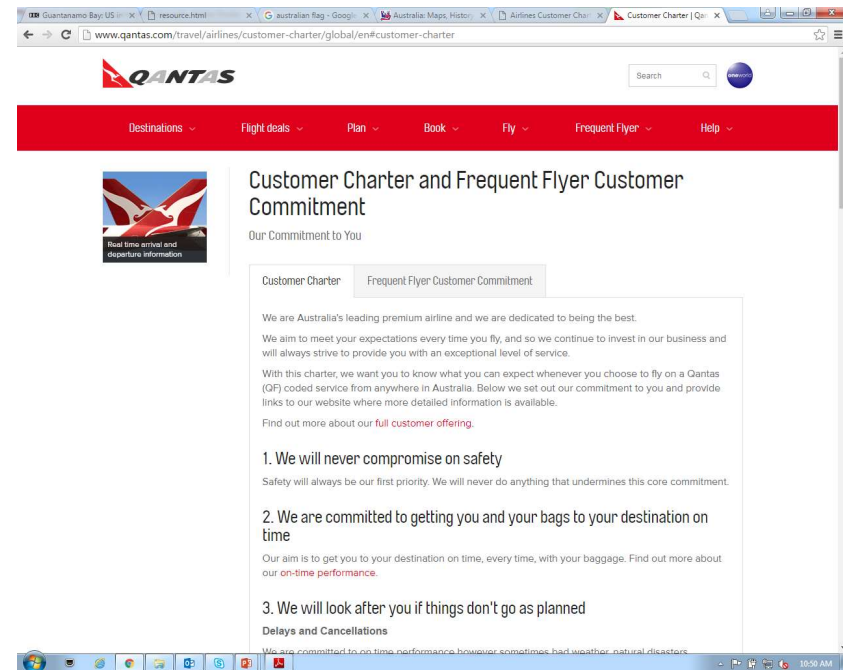


Flight delays and cancellations: Comparing regimes

				
Does the regulation offer clear provisions exempting carriers from liability?	Y	N	Y	Y
Does the local regulation mandate set compensation for delays?	N	Y	N	N
Is there immediate payment of compensation required?	N	N	N	N
Does the local regulation mandate re-routing in case of delays?	N	N	N	N
Does the local regulation mandate reimbursement for delays?	N	Y	N	N
Does the local regulation mandate care and assistance for delays under 3 hours?	N	Y (2 hours)	N	N

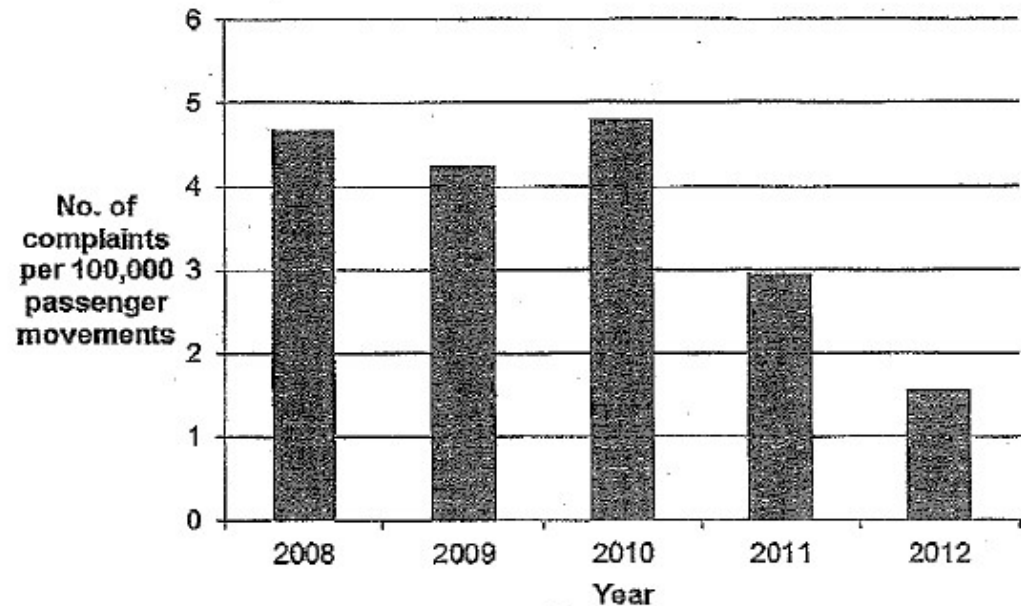
Communicating with Passengers: Terms and conditions of carriage

- Best practice = Australia:
 - Requires key elements of Conditions of Carriage (denied boarding, delays, etc) to be displayed prominently on the website
- Education and transparency key to allow passengers to make their own price/service trade-offs



Communicating with Passengers: Terms and conditions of carriage

Chart 1: No. of complaints lodged with CASE against the three largest LCCs at Singapore Changi Airport (2007-2012)⁶



- Best practice = Singapore:
 - CAA / CASE education program
 - Increased consumer awareness led to reduction in number of customer complaints

Communicating with Passengers: Irregular operations

- From IATA's model regulation:
 - The airline shall notify the passengers of delays or cancellations:
 - at the time when it occurs or as soon as reasonably practicable after it becomes known to the Airline;
 - of the reason, if known to the Airline;
 - of any material changes, at the time when they occur or as soon as reasonably practicable after they become known to the Airline.
 - The airline shall use the most expedient means available to make notifications. These may include email, text message, telephone, messages or notices communicated via the Airline's website, and announcements or notifications at the airport.

Questions / Discussion

Thank you!

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