



Protecting the Travel Consumer

**Holidaymakers Air Travel
Experiences**

The Consumer Perspective

**Report to the Transport Select
Committee**

22 April 2007

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INTRODUCTION TO HOLIDAYTRAVELWATCH

The House of Commons Transport Select Committee has ordered an enquiry into the experience of consumers insofar as it relates to air travel. This Organisation is grateful to the Committee for allowing the late submission of this report. We shall limit our report to the issues of flight delay, denied boarding, flight cancellation, baggage problems and general issues of safety.

HolidayTravelWatch (HTW) submits its opinions through this report, based upon the relevant consumer opinion, and its experience of The Package Travel, Package Holidays and Package Tours Regulations 1992 (PTR), EU Directive 261/2004 and the Montreal Convention

HolidayTravelWatch is British based consumers organisation founded in 1995. Through 11 years of operation, it has provided information, advice and assistance to over 130,000 holidaymakers, through its dedicated helpline and website. This should however, be put into context with the 65,000,000 individual trips taken by British Citizens in 2005¹. It suggests that HTW only receives a small proportion of all complaints, however, these holiday complaints tend to reflect the more serious element of contractual, illness and injury difficulties faced by the consumer.

The Organisation currently provides information and advice, facilitating some 43.5% of all travel consumers who contact HTW, to find a resolution to their travel complaint. The remaining complainants are then given the opportunity to progress toward litigation, through travel law specialists. It is estimated that approximately 65,000 holidaymakers have received such legal assistance, and have achieved in excess of £15,000,000 in compensation for their holiday complaints, holiday illness and injuries. This report will analyse and cite the relevant experience of this organisation and the travel consumer, in support of its conclusions.

¹ Lord Treisman – FCO Reception March 2006

SUMMARY OF AIR TRAVEL/CONSUMER LAW

For the purposes of this report, HTW will provide a brief summary of the relevant legal provisions. It is suggested that these summaries can be used to compare the officially stated rights, with those rights actually received by holidaymakers engaged in air travel.

Regulation (EC) No 261/2004 – Flight Delay, Denied Boarding and Flight Compensation Rules – In Force since 17 February 2005

Flight Delay Rights:

Article 6 states that if the delay is:

- (a) For 2 hours or more where the flight is for 1500 kms or less;
- (b) For 3 hours or more in all intra-community flights of more than 1500 kms, and of all other flights between 1500 & 3500 kms, or
- (c) For 4 hours or more in the case of flights not falling under a) or b),

A consumer who is so delayed should be offered the following rights under Article 8

- Where the delay is for at least 5 hours - reimbursement for the full cost of the ticket within 7 days (there are additional provisions where the flight is part of a greater transaction), and a return flight to the first point of departure at the 'earliest opportunity'.

Further, under Article 9:

Reasonable meals and refreshments (in all cases);

Hotel accommodation when a stay is necessary (delayed until the next day);

Transport between that hotel and the airport (where accommodation is provided);

2 telephone calls, telex, faxes or e mails (in all cases);

Particular attention must be paid to the needs of those with reduced mobility.

There is no general right to compensation.

Denied Boarding Rights:

Article 4

When an operating air carrier reasonably expects to deny boarding on a flight, it shall first call for volunteers to surrender their reservations in exchange for benefits under conditions to be agreed between the passenger concerned and the operating air carrier.

Volunteers shall be assisted in accordance with Article 8 (this is the right to reimbursement or rerouting and is stated above under the delay rights). There are further elements under Article 8 which require re-routing to be offered under 'comparable transport conditions', the rights are also extended to Package Holidaymakers, and if another airport is offered, then the airline must pay for transport costs.

If an insufficient number of volunteers come forward, then the airline may deny boarding to passengers against their will. If they are denied boarding against their will then shall immediately compensate them (Art 7) and assist them under Articles 8 & 9 (these are stated above under the flight delay rules summary).

Article 7 provides the level of compensation. For flights of ≤ 1500 kilometres €250; For intra-community flights > 1500 kilometres or other flights between 1500 and 3500 kilometres €400; For all other flights not falling into the aforementioned examples €600. If a passenger is offered re-routing, the airline 'may' reduce the levels of compensation by 50% if the arrival time does not exceed 2 hours beyond the original scheduled arrival time (flights of ≤ 1500 kilometres), does not exceed 3 hours beyond the original scheduled arrival time (intra-community flights > 1500 kilometres – all other flights between 1500 and 3500 kilometres), does not exceed 4 hours beyond the original scheduled arrival time in respect of all other flights. This implies that flights that exceed 3500 kilometres or arrive more than 4 hours beyond the scheduled arrival time, should not suffer the 50% reduction in compensation.

Flight Cancellation:

Article 5

Passengers suffering a flight cancellation are primarily offered rights under Article 8, these being the rights to reimbursement and rerouting (summarised within the previous paragraphs); rights under Article 9, these being the right to care (summarised within the previous paragraphs); rights to compensation under Article 7 (summarised above). However, in all circumstances, compensation will not be payable under the following conditions:

You are informed of the cancellation at least 2 weeks before the scheduled time of departure;

You are informed of the cancellation between 2 weeks and 7 days before your scheduled time of departure and you are offered re-routing where you depart no more than 2 hours before your scheduled time of departure and arriving at your final destination less than 4 hours after their scheduled time of arrival;

You are informed of the cancellation less than 7 days before your scheduled time of departure and are offered re-routing and you depart no more than 1 hour before the scheduled time of departure and you reach your final destination less than 2 hours after the scheduled time of arrival.

In addition, compensation under Article 7 will not be payable if the airline can prove that the cancellation was due to 'extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken'.

Subsidiary Provisions under 261/2004:

Article 14 (1) provides that on arrival at the check in desk, passengers should have seen a notice setting out their rights under the Directive.

Under Article 14 (2), where a flight has been cancelled or where there has been denied boarding, a full notice detailing their rights, should have been provided to the passenger.

The Montreal Convention

The Air Transport Users Council suggests that a further right exists under the Montreal Convention. Under Articles 19 & 22.1, where an 'airline is liable for damage occasioned by delay'. The argument follows that cancellation has the same effect as a delay because the Convention refers to a 'delay in the transportation by air'. They state that these rights could potentially attract compensation up to the level of 4150 Special Drawing Rights (SDR's) and on 25 June 2004, this was equivalent to £3,333.00p. It is interesting to note that they state that, "airlines generally do not accept any liability for inconvenience, stress or any consequential losses arising from the delay, unless they are required to do so as a result of court action".²

In cases where luggage is destroyed, lost or damaged, the Airline or 'Carrier' is liable for:

- o Registered bags;
- o During carriage by air;
- o It does not apply to unregistered baggage;
- o The consumer must complain within 7 days from the receipt of information that the baggage has been destroyed or damaged baggage, (14 for cargo);

If Luggage is delayed, then the complaint must be made within 21 days of the bags being placed at the disposal of the consumer;

- o The complaint must be made in writing
- o If the consumer fails to comply, no action can be taken against the carrier

The level of compensation that can be claimed is set by the Convention.

² www.caa.co.uk – Flight disruptions including cancellations and delays – 22.4.07

HOLIDAYMAKERS AIR TRAVEL EXPERIENCES

HTW will now present 12 case scenarios which illustrate the widespread experience of most holidaymakers. The airlines featured in these examples reflect a small proportion of all complaints. All major international scheduled and chartered airlines feature in complaints received by HTW. The selection referred to in this section, does not imply that the airlines featured, are positioned at the top of any 'league table'.

Client A³ - Relevant sections of client letter to Tour Operators concerning Air Jamaica and a lengthy Flight Delay

"I am writing to complain to you about our late departure from Heathrow to Montego Bay, Jamaica on the 5 April 2005. I also attach report complaint reportand information provided by the Air Jamaica check in desk dated 5 April 2005. On Tuesday 5 April my family and I were due to fly to Montego Bay, Jamaica..... Following a connecting flight from Newcastle upon Tyne we arrived at Heathrow Terminal 3 to check in for the Air Jamaica, JM002 16:25 flight to Montego Bay. As we arrived in the check in area we were greeted by a scene of absolute chaos! Following a wait of over two hours we were informed by the check in staff that our flight would not be departing on that day, no information was available as to when the flight would depart and following a frustrating conversation no reason was provided for the delay to departure. I have included a copy of the information provided by Air Jamaica at the time of check in. I must emphasis that whilst pleasant no apology or further information was forthcoming from the check in staff. We were informed that accommodation at the nearby Travel Inn would be provided and more information regarding expected departure would be provided via the hotel at 8:30 am on the 6 April 2005. At this point we were asked to check in our entire luggage with no option to withhold a small overnight case containing toiletries, fresh clothes and importantly nappies for my infant son. We were provided with vague information regarding the location of the H6 bus pick up point and asked to leave the check in area having checked in our entire luggage. As you can imagine our

³ HTW 3009

children were very upset by the delay, they had been confined within the chaotic check in area for over two hours only to be given the news that they would not be going on holiday today. How do you explain this situation to young children when in fact even as an adult I could not understand what was going on and when we would eventually depart on our holiday. On arrival at the hotel we had to ask the duty manager to arrange children's meals as it was still two hours until dinnertime and by this time our children had become hungry. On the morning of the 6 April we awaited with anticipation information from Air Jamaica on whether our flight would depart on that day. As stated in the passenger information and in my letter above Air Jamaica had committed to update passengers by 8:30 am. No information was forthcoming, the hotel duty manager attempted several times to contact Air Jamaica to seek information on behalf the passengers who were quite understandably becoming unhappy with the situation. The frustration was fuelled by lack of any representative of Air Jamaica at the hotel and reluctance to supply information to passengers or the hotel. By late morning I contacted yourselves and whilst at this time you were aware of the delay your Customer Service Representative was unable to gain any further information from Air Jamaica. I contacted the airline direct and was told by a very unhelpful representative that she worked in "post departures"; and could therefore provide no information. I explained that the check in desk had provided this contact number with the reply that I needed to speak to "pre departures"; not much help as I could not be transferred or provided with a contact number! Eventually the telephone representative informed me that an Air Jamaica representative was at the hotel, I assured the individual this was not the case and since the 5 April there had been no contact from the airline and contact with any representative had become increasingly difficult. Even the mobile number provided to the hotel duty manager remained unanswered. Whilst the lack of information was becoming annoying, the service, or lack of it from the Air Jamaica representative and in my opinion outright lies as to the whereabouts of the airport representative were unacceptable and contributed to increasing levels of annoyance and frustration amongst the 300 + passenger expecting to depart on this flight.....We were eventually transferred back to terminal three at about 2:00pm and our flight finally departed Heathrow for Montego Bay at 4:45pm. A delay of over 24 hours with still no acceptable explanation or apology from Air Jamaica.....On meeting your resort

representative....To my surprise, my story was not unfamiliar to [Representatives name] who outlined many similar incidents to other passengers and that my delay had been caused by a delay backlog from the previous Saturday”.

Client B⁴ - E Mail from client requesting advice concerning delayed baggage with British Airways

“Booked a five day business trip through Trailfinders to Hong Kong. The World Traveller Plus ticket was with British Airways. British Airways “lost” my luggage in transit from Edinburgh to Hong Kong. I have all of the appropriate paperwork and chased the suitcase three times a day for five days. Given that I only had the clothes that I had been sleeping in, I had to buy clothes for the business trip. I spent approximately £ [?], buying things as and when I needed them. I hoped that the suitcase would turn up but, after 72 hours, British Airways informed me that it was “lost”. It did not turn up for the entire duration of the trip. As a gesture of goodwill, British Airways upgraded me on the return leg. On my subsequent return to Edinburgh, I chased the suitcase one last time. It had apparently travelled without me with BMI to London Heathrow, which is a security risk, and had been sitting in London for the five days. It was delivered to me on day seven. I wrote to British Airways claiming.....and confirming that I would happily return the clothes, which I did not need or want. I was sent a letter offering me £ [?] and inviting me to accept it, which I have not done. I am aware that under the Montreal Convention, airlines have a limited liability.....However, I have suffered a genuine loss through no fault of my own. I rang British Airways and asked to speak to either a manager or the Chief Executive's Office. I was informed on two separate occasions that senior management do not speak to customers. Customers are clearly an inconvenience. I am proposing to write to Rod Eddington”.

Client C⁵ - E Mail from Client requesting advice on cancellation/delay with Excel Airways

⁴ HTW - 3140

⁵ HTW - 3509

“We were booked on a flight at 9am on 27/08/05. 2 days before they wrote to us saying that the plane had been damaged and could not travel. An alternative flight was offered for 16.40. On the day we saw that the 9am flight took off. Freedom flights sent us £163.25 per person compensation which we refused after reading EU laws. After writing to them they replied that as it is a charter flight it is subject to change and under their terms and conditions they have given us the correct compensation. Is this correct? Do they not have to abide by directive 261/2004?”

Client D⁶ - E Mail from Client requesting advice on cancellation/delay with Air Jamaica

“On 28th June 2005 our flight JM002 16.25pm by Air Jamaica was delayed from London Heathrow to Kingston Jamaica from 16.25pm to 01.15am next day 29th June 2005 Our flight time was thus delayed by 6 hours 50 minutes. The circumstances of the delay are unfair and unreasonable Main points Before check-in we where informed that the flight might be delayed. At check-in our flight was delay from 16.25pm to a boarding time of 17.00pm. After passing passport control.....Checking the screen we discovered two flights to Jamaica. We tried to check with Air Jamaica why there are two planes and which one are we travelling on. Nobody available in Departure Lounge or any information We when to the gate as stated on our boarding card and were denied boarding. Statement from the gate steward. The first flight is for passengers who did not travel yesterday due to cancellation. At this point we where confused and upset that Air Jamaica did not inform as at check-in. Other passengers inform us that they knew before arriving from the hotel (overnight stay) that the first flight was for them. Flight was delayed until 9.30pm. We received voucher for food.....After boarding and ready to go we where informed after one hour that there was technical difficulties. Air Conditioning not working. We where given the option to come out and wait in departure gate lounge once the plane was fixed. On waiting we discovered that they did not fuel the plane for take off or have any refreshments on the plane. I have pictures via my mobile. We left after delay to storm over London and the backlog of plane on the runway /in the airport. On arriving in Montego Bay 04.30am (Jamaica time) on route to Kingston they inform us

⁶ HTW - 3591

that the plane was not travelling onto Kingston due to the pilot working over there scheduled hours. After speaking to the head steward on the plane she knew from London that the plane was not to travel to Kingston.....The delay part (cancelled) portion of the flight was not to go until 11am. We decided to travel to Kingston by coach provided by the airplane. We arrived at 11.30am. The plane arrived at 11.45am..... I have tried to get compensation from Air Jamaica but they refuse to pay. Now I am taking them and my credit card copy to the small claims Court for Denied Boarding, Delay, cancellation and Damage by Delay Under the Montreal Convention + Under the Unfair Contract Terms Act and Regulations + Consumer Credit Act for Breach of Contract I have spoken to a lawyer who states I have a Case Do you think I have a reasonable case to get compensation? I have a detailed 8 page report on our flight to and from Jamaica”

Client E⁷ - E Mail from Client Requesting advice on cancellation with Ryanair

“This will probably be a familiar story. On 30 Dec 2005 my partner and I were due to fly Ryanair Bratislava to Stansted but the incoming plane was diverted due to snow leaving us stranded. We were told we could fly in the next 5 days if we could get a seat but all flights were fully booked. Luckily 10 hours later a plane was available, but Ryanair demanded 340GBP to let us on. We were also told we could claim it back later. On our return I wrote to Ryanair refunds requesting the refund and compensation in line with the Denied Boarding Regulations (a very similar letter to your template). Ryanair's response was simply to treat it as an unused flight and they refunded part of my original fare, leaving us 340GBP out of pocket. What can I do if Ryanair refuse to pay? Can I go to court?”

Client F⁸ - E Mail from client requesting advice concerning flight delay with Ryanair

“My son and girlfriend were booked on a Ryan Air flight from Luton on Fri 03/03 [2006] @ 07.10 when he checked in @ 05.00 he was told that there was to be a flight delay until 13.10 He asked if he would be getting any meal [or] drink vouchers and was told no by Ryan Air staff as the delay was beyond their control (the flight

⁷ HTW - 3707

⁸ HTW - 3806

went technical). On boarding the flight @ 13.10 they discovered that it was not the delayed flight but in actual fact was the regular 13.10 flight. Is there anything we can do to get compensation as Ryan Air have been arrogant beyond belief regarding this delay”.

Client G⁹ - E Mail from Client requesting advice on cancellation with First Choice Airways

“I booked a return flight for 4 people in January [2006] with First Choice Airways. The flight was paid in full by credit card. We were due to fly from Manchester to Ibiza on 24th May, then return to Manchester on 24th August. A few days ago I called First Choice to ask for confirmation to be sent to my home, so I could take it to the airport with me. I was informed that our flights had been cancelled, and we now had to fly from Gatwick, then return to Gatwick in August. Seen as I live in Liverpool, I was not very happy with this, they did not even bother to inform us about this, we could have just turned up at Manchester on the day, only to discover our flight had been cancelled. So we were told to contact the customer service department, I have been ringing for 4 days constantly, it is impossible to get through. Yet when I ring the sales dept, it doesn't even ring, I get through immediately. But I am told by sales they can not help, and told to ring customer service again. I ask for a manager and I am told nobody can help, that I should keep trying customer service. My flight is in 3 weeks time, are first choice allowed to do this? can you suggest anything I could do because I simply can't get through. I am disgusted at how I have been treated by this airline”.

Client H¹⁰ E Mail from Client requesting advice on lost luggage with British Airways

“We went on holiday to San Francisco partly for sight seeing and partly for golf (for my partner) in March [2006]. When we arrived my partners golf clubs were missing however we were assured they would delivered to our hotel the following evening as they hadn't made the connecting flight from London. We waited in the following evening and they didn't arrive. I have enclosed a letter that we sent to British

⁹ HTW - 3905

¹⁰ HTW - 3960

Airways indicating the lengths we went to get the clubs back. After 5 days, numerous calls to BA - only because they didn't return our calls and refused to call on our mobiles due to cost, we decided to hire a car, drive to SFO airport and demand that someone (BA member of staff) at the airport look for the clubs. Within 15 minutes of arriving at the airport the clubs were found and returned to us. Our holiday was for eight days and we spent 5 days planning our holiday around BA telephone calls etc. For our hassle, we have been rewarded the basic costs of expenses incurred attempting to retrieve the clubs which I feel is wholly inappropriate not to mention derisory. Furthermore, they have apologised for 'the difficulty with our luggage' but have made no attempt to apologise in writing for ruining our holiday. can you advise what level of compensation to which we are entitled to over and above the expenses incurred given the running around we had (as detailed in my enclosed letter). The service we received was totally appalling. I fully intend to pursue this matter to a satisfactory end. I look forward to hearing from you”.

Client I¹¹ - Copy of client complaint of delayed baggage with My Travel Airways and initial views of HTW (2006)

“Client discovered his luggage was damaged on arrival in Tenerife. He was taken to Baggage claim and completed a form. It was not pointed out to him that he had to write to the UK office within 7 days although it is on the sheet given to him. He was also advised by the rep to complete the CCF (Customer Complaints Form) at the end of the holiday. Since his return home both the TO (Tour Operator) and the airline are digging their heels in. FB has advised as to rights under PTR (Package Travel Regulations) and the Montreal Convention pointing to deficiencies in their documentation and the practicalities on arrival in a strange resort”.

Client J¹² - E Mail from Client requesting advice on cancellation with Easyjet

“I am writing to query about my flight that was cancelled on 27th May 2006 with Easyjet. We were meant to be flying from Alicante to Newcastle upon Tyne at 23.45 but at 21.45 we were told it had been cancelled. We weren't offered any

¹¹ HTW - 4156

¹² HTW - 4336

refreshments etc and were told the next available flight for us would be 18.10 on 28th May 2006. We luckily ended up getting Thomson flight booked for 2.55 am on 28th May 2006 so we didn't have to wait around the airport. Easyjet had said we could go to hotel but we had to pay for ourselves and they would refund us but we did not have the money to pay for this as it was then end of our holiday. I have wrote to them 3 times, sent them e-mails and tried calling but everytime I call I'm stuck on hold for up to 30 minutes. We had to pay for the Thomson flights separately so we're wanting refund and compensation for all the bother they are causing us".

Client K¹³ - E Mail from Client (enclosing script to airline) requesting advice on flight safety, delay and 261/2004 with ThomsonFly (Gatwick to Malta June 2006)

My wife, 3 children (aged 2, 5 and 7) and I smelt smoke on your aircraft during a period of turbulence c. 1.15mins after take off. None of your flight crew said anything and we were all left wondering what was happening....c. 30mins later the captain announced that "as I am sure some of you have noticed there was a smell of smoke in the plane" "we need to land at the nearest airport to check this out. Do not be concerned that there will be fire engines following the plane when we land, as a precaution". We landed at airport [Marseille] (at the time nobody knew which one) and spent 30 mins sitting in the plane! Buses then came to take us to the airport, where we waited in a queue for another 30 mins (we were at the back of the plane and the last off and thus last in the queue) whilst all passengers hand luggage went through another x-ray machine. Nobody met us in the airport and we were just left, still not knowing what was happening. The time now was c. 21:00 gmt. We had no money to purchase any beverages or food and there where no facilities within the airport where money could be obtained (i.e cash machine, bureau exchange). After another hour c. 20:00 gmt, the captain and flight crew arrived in the airport to make a statement. This was along the lines of 1) We don't know what is wrong with the plane but are trying to get an engineer flown out from the UK 2) We don't know what time we will be able to depart....After another half an hour vouchers (if they could be called that) were issued enabling us to get refreshments

¹³ HTW - 4351

from a bar, which consisted of water and no food....We were then informed that Thomsonfly was trying to establish whether there was any accommodation available as clearly we weren't going to be going anywhere that evening (although Thomsonfly didn't actually say this)....I asked for our 2 year olds push chair as she might at least be able to go to sleep in it. Several other parents with small children also asked for their child's push chairs at this time....Some blankets were then handed out, although because of the dispersed nature of the passengers throughout the airport by the time it came to us, there weren't enough (even for my children). See picture of my 2 year old sleeping on the airport floor....I asked one of your flight attendants what was happening and she said "that they didn't know but the engineer was inspecting the plane and they would know soon, whether we would be flying out that night." At c. 00:30 gmt the pilot announced that there was no accommodation available for passengers and that the best case scenario was that a plane would be coming c. 8-9 hours later to take us on to Malta. The worse case scenario was that a plane couldn't come and we would have to wait for the engineer to inspect our original flight but that the captain wouldn't be able to fly for 12 hours from when he went to bed). The captain then said that the engineer would be coming out on a flight with some food at c. 03:00 gmt (so clearly the engineer couldn't have been inspecting the plane earlier as stated by the cabin crew). At c. 03:15 gmt I spotted some passengers with sandwiches. I asked them where they had come from and they said that a flight had arrived with them. By the time I got down to where the sandwiches were there were none left. There was also a note then handed out that said there was an anticipated flight departure time of 10:30 gmt...c. 07:30 gmt I met a woman wondering around the other end of the airport distributing flight transfer cards (who also said that there was breakfast for passengers at one of the departure gates). Breakfast (and the only meal provided for 19 hours) consisted of (see picture)... At c. 10:00 gmt our flight was boarded. c. 10:15 gmt the pilot announced that we couldn't depart as one passenger had chosen to fly back to the UK and they weren't sure whether his luggage was on the plane or not. We sat in the plane for a further 50 mins and were at last then able to take off....We finally arrived in Malta c. 14:00 gmt....I understand under the EU passenger air transport rights that we were entitled to (due to the length of the delay and the time of the delay)....We received none of the above (other than 1 x bottle of water per person) and 1 x roll, 1 x

muffin, 1 x Orange juice, which I do not believe during a 20 hour period constitutes proper meals/refreshments). We were NOT OFFERED the choice of a free flight back to the UK and a refund on our ticket. No consideration was given to families travelling with children”.

Client L¹⁴ - Extensive E Mails and Documentation concerning lengthy flight delay (outward/return) with Air Slovakia (December 2006/January 2007)

“60 hour delay - Outward flight was 15th Dec, did not fly until 16th Dec - Home flight was 6th Jan did not fly until 9th Jan. Few rights given under 261/2004. Both clients lost time from work”.

HTW receives a consistent flow of complaints, some from individuals, some from groups. Most complaints relate to flight delay, denied boarding and flight cancellation. HTW also receives complaints concerning lost or damaged luggage, illness resulting from aircraft meals, some resulting in confirmed illness, such as Salmonella

HTW has also received recent complaints on aircraft safety.

One complaint involves a serious mechanical fault, before departure, on a wide bodied charter aircraft, resulting in the engine bursting into flame on landing in Egypt. There are serious questions as to why the passengers were kept on board the aircraft whilst the fire was being extinguished by the local fire service. Many passengers suffered shock and soot damage to their possessions¹⁵.

The most recent complaint concerns a family and other holidaymakers who experienced ‘smells’ within the cabin en route to the USA. When they arrived, they and others were suffering with headaches and sickness, with the consequence that they were unable to enjoy the beginning of their holiday. One family continues to

¹⁴ HTW - 5378

¹⁵ HTW - FBXL

suffer with ongoing illness since their return to the UK. There is a suspicion that they may have been exposed to Carbon Monoxide or other Neurological Toxin¹⁶.

Both complaints are subject to further enquiries and legal assistance.

HTW endeavours to provide clients with sufficient information to resolve their complaints. Unfortunately, as is evidenced by some of the examples above, contact is often difficult or impossible, resulting in many complaints incapable of self resolution. Those complaints that are not resolved are then offered the option of legal assistance.

¹⁶ HTW - FBCO

OBSERVATIONS & CONCLUSION

Many holidaymakers complain (often when they are made aware of their rights by HTW), that they were unaware of their rights under 261/2004, at the time of their air travel problem. The principle of 261/2004 promotes a better consumer position, and it can be argued, a potentially better 'consumer friendly' profile for an airline.

Airlines often complain that 'regulation' prevents competition and could potentially affect their financial position in the market. If that were the case, why do we consistently hear that most airlines report profits?

The reality is that since the operation of 261/2004, many airlines do not promote an open consumer rights position. Many holidaymakers report that where a delay or cancellation takes place, the airline or the tour operator provides a 'letter for your insurance'. Given that the consumer has substantial rights under 261/2004, why are those rights not openly presented to the passenger, and why does the Insurance Industry not confront the airlines engaged in this practice?

We are of the view that 261/2004 is a starting point. The Regulations as currently drafted are difficult to understand, and require greater clarity. In addition, the travel consumer has difficulty in enforcing the rights under 261/2004, and we would recommend the creation of a simple and clear complaints system, and where airlines are shown to have failed to employ consumer rights, under 261/2004, they should be subject to some form of sanction by the governing authority.

With regard to the delay provisions of 261/2004, we query why no compensation is provided to a consumer. Where a delay lasts for 3 to 4 hours, the current rights may be sufficient. However, many complaints are often 10+ hours. When a holidaymaker is faced with such delays, a measure should be taken against the time of their delay/the length of their holiday and a determination of the period of their lost holiday. We would recommend that consideration should be given to import a provision for compensation for such delays.

The issue of lost or damaged baggage, raises issues of how information is given to passengers, and how airlines, or their handling agents, are structured to deal with such complaints. It is clear that complaints or the complaints process has an imbalance against the consumer. It is difficult for HTW to assess fully how such issues could be improved. We recommend that this issue is subject to a separate enquiry, with a further review of the provisions of the Montreal Convention.

We receive very few complaints on security issues. Most tend to circulate around poor information or understanding by airlines as to visa requirements. The main concern expressed by holidaymakers on security, is their own personal security whilst on board the aircraft. Complaints range from faulty seating, cramped conditions, mechanical incidents and toxic fumes within cabins. We would strongly recommend that the Civil Aviation Authority (CAA) employ a continuous public 'whistleblower' campaign. Whilst it is appreciated that the public can make such observations to the CAA, it is nonetheless not widely appreciated. The Committee should refer to the South African Civil Aviation Authority, who publicly encourage this process, and this in turn is promoted within in flight magazines.¹⁷

The airline industry is clearly vital to the economy of this country. As powerful a lobby it may be, it should nonetheless accept and promote a better 'consumer perspective', and support the attempts to improve passenger's rights. Poor service, poor recognition and enforcement of consumer rights, failure to provide a coherent aftercare/complaints service, leads to the conclusion that volume is the only important factor in the fight for customers.

Author:

Frank Brehany

MD – Holiday TravelWatch Ltd

22 April 2007

¹⁷ Nationwide Airlines – February 2006