

TRAVELER'S RIGHTS: IS THE U.S. CATCHING UP TO EUROPE?

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INTRODUCTION

Over the past decade, the European Union has become the world leader in air passenger rights, enacting a variety of laws to protect travelers. In stark contrast, the United States government actively avoided legislation like the proposed “Passenger Bill of Rights” and left it up to the airlines to provide for inconvenienced passengers. As a result of stiff competition and a lack of regulation, U.S. air carriers decreased capacity and slashed basic services to maintain profitability. Delays, cancellations and passenger overbooking increased in frequency, while consumer satisfaction plummeted. This left millions of American passengers stranded in airports and on the tarmac with little to no recourse. Until now....

Over the past year, the U.S. Department of Transportation has reversed course and implemented strategic policies like the tarmac delay rule to protect consumers under the title “Enhancing Airline Passenger Protections”. These changes seem to be having a marked influence upon carrier behavior and are helping to prevent “nightmare” scenarios for travelers. It is clear that the DOT is just getting warmed-up. On April 20th of 2011, the DOT issued a wide variety of new regulations on issues ranging from compensation for bumped passengers to proper disclosure of taxes and fees. The attached chart reflects the new state of American air passenger rights and puts these rights in perspective against similar ones in the E.U. This chart is meant to provide a quick and informative reference for practitioners, academics and, most importantly, travelers.

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ISSUE	U.S. Law	E.U. Law
Obligation to Inform Passengers About Their Rights	<p>Carriers must:</p> <ul style="list-style-type: none"> -Upon request, provide their Contract of Carriage¹ -Upon request, provide a written statement of denied boarding policies and rights² -Provide the rules and restrictions regarding disability and air travel³ <p>Advantage: Neither</p>	<p>Carriers must:</p> <ul style="list-style-type: none"> -Post notice of rights in case of a delayed and cancelled flight at check-in⁴ -Upon request, a written notice of these rights⁵ -Upon request, a description of safety rules and restrictions regarding passengers with a disability⁶ <p>Advantage: Neither</p>
Denied Boarding Compensation ("Bumping")	<p>When a flight is oversold, carriers must:</p> <ul style="list-style-type: none"> -Request volunteers⁷ -Volunteers may be offered any amount of compensation by the carrier⁸ <p>If denied boarding involuntarily, carrier must pay:</p> <ul style="list-style-type: none"> -Domestic:⁹ <ul style="list-style-type: none"> -No compensation if alternate transportation is provided with less than a 1 hour delay -200% of the one-way fare (max \$650) if alternate transportation is provided with a delay of 1-2 hours -400% of the one-way fare (max \$1,300) if alternate transportation is provided with a delay of 2+ hours or no alternate transport is provided -International:¹⁰ <ul style="list-style-type: none"> -No compensation if alternate transportation is provided with less than a 1 hour delay -200% of the one-way fare (max \$650) if alternate transportation is provided with a delay of 1-4 hours -400% of the one-way fare (max \$1,300) if alternate transportation is provided with a delay of 4+ hours no alternate transport is provided 	<p>When a flight is oversold, carriers must:</p> <ul style="list-style-type: none"> -Request volunteers¹¹ -Reimburse volunteers for the full cost of the ticket and provide a return flight to the first point of departure at the earliest opportunity¹² <p>If denied boarding involuntarily, carrier must:</p> <ul style="list-style-type: none"> -Treat passengers as though their flight was cancelled, which entitles them to reimbursement of the ticket price, rerouting, meals/refreshments, and monetary compensation (see below)¹³ <p>Advantage: E.U.</p>
Involuntary Downgrading / Upgrading	<p>Downgrade: Carrier must reimburse the passenger the difference between the fare paid and the fare for the seat provided¹⁴</p> <p>Upgrade: There is no on-point law, however it is likely that the DOT would consider a request for additional compensation for an involuntary upgrade to be an unfair business practice</p>	<p>Downgrade: Carriers must reimburse a percentage of original ticket price within 7 days¹⁵</p> <p>Short Haul ($x < 1,500$ km) – 30% Medium Haul ($1,500 \text{ km} < x < 3,500$ km) – 50% Long Haul ($x \geq 3,500$ km) – 75%</p> <p>Upgrade: Carriers cannot request additional compensation from a passenger for an involuntary upgrade¹⁶</p> <p>Advantage: E.U.</p>
Flight Delays	<p>In general, there are no laws entitling passengers to any compensation or benefits if their flight is delayed (exception: Tarmac Delays discussed below). Instead, the carrier's Contract of Carriage will specify any rights in the event of a delay (see Flight Cancellations below)</p>	<p>Passengers are entitled to reimbursement for reasonable meals and refreshments and two free telephone calls, emails or faxes where there is a sufficient delay²⁰</p> <p>Short Haul - 2 hours Medium Haul - 3 hours Long Haul - 4 hours</p>

Flight Delays (Cont.)	<p>Upon request, a carrier must disclose the on-time performance of a specific flight¹⁷ Carriers must indicate on-time performance for each flight displayed on their website¹⁸</p> <p>Carriers can be fined or enjoined by the DOT from operating “chronically delayed” flights -Defined as more than 30 minutes late or cancelled more than 50% of the time¹⁹</p>	<p>Where the delay is 5 hours or more, passengers are entitled to reimbursement of the full cost of the flight ticket together with a return flight to the first point of departure at the earliest opportunity²¹</p> <p>Advantage: E.U.</p>
Flight Cancellations	<p>In general, there are no laws entitling passengers to any compensation or benefits if their flight is cancelled.</p> <p>Instead, the carrier’s Contract of Carriage will specify the passenger’s rights in the event of a cancellation. For example:</p> <p>United Airlines²² <u>Rule 240: Failure to Operate on Schedule or Failure to Carry</u> <u>C) Schedule irregularity</u> 1) When a passenger will be delayed because of a schedule irregularity involving... flight delays exceeding 2 hrs., or UA cancels the passenger’s reservation: A) UA will transport the passenger without stopover on its next flight on which space is available in the same class of service as the passenger’s original outbound flight at no additional cost... B) If UA is unable to provide onward transportation acceptable to the passenger, UA, with concurrence of the passenger, may Arrange for the transportation on another carrier... in the same class of service as the passenger’s original outbound flight at no additional cost to the passenger. C) If space is only available and used on a UA flight(s) of a lower class of service acceptable to the passenger, UA will provide a refund of the difference in fares... D) In the event passenger declines alternate transportation offered under (1)(b) above, UA shall refund the flight coupon(s) for the unflown portion(s) in accordance with rule 260</p> <p>Southwest²³ <u>9. Service Interruptions</u> <u>a. Failure to Operate as Scheduled</u> (1) Cancelled Flights or Irregular Operations. In the event Carrier cancels or fails to operate any flight according to Carrier’s published schedule, or changes the schedule of any flight, Carrier will, at the request of a Passenger..., take one of the following actions: (i) Transport the Passenger at no additional charge on Carrier’s next flight(s) on which space is available to the Passenger’s intended destination, in accordance with Carrier’s established reaccommodation practices; or (ii) Refund the unused portion of the Passenger’s fare in accordance with Section 4c above.</p>	<p>Passengers are entitled to reimbursement of the full cost of the flight ticket together with a return flight to the first point of departure at the earliest opportunity or re-routing to their final destination at the earliest opportunity or re-routing at the convenience of the passenger to the final destination²⁴</p> <p>In addition, passengers are entitled to reasonable meals and refreshments and two telephone calls or faxes or emails²⁵</p> <p>If the re-routing is the day after the planned flight, passengers are also entitled to hotel accommodation. Transport should be provided between the hotel and the airport.²⁶</p> <p>Passengers are also entitled to monetary compensation according to the distance of the flights²⁷ Short Haul – EUR 250 Medium Haul – EUR 400 Long Haul – EUR 600</p> <p>These amounts may be reduced by 50% where passengers are offered re-routing and the arrival time is no more than four hours than the scheduled arrival time²⁸</p> <p>Strangely, the statute does not specify when compensation must be paid (7 days?)</p> <p>Carriers are not obliged to pay monetary compensation if they can prove that the cancellation was caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.²⁹ However, the burden of proof is statutorily placed on the carrier.³⁰</p> <p>Advantage: E.U.</p>
Extended Tarmac Delays	<p>Extended delays on the tarmac are prohibited by federal law. The law requires that:</p> <ul style="list-style-type: none"> -Carriers to create a “Contingency Plan” outlining measures to prevent an extended tarmac delay³¹ -Flights must proceed to a gate after 3 hours (domestic)³² / 4 hours (international)³³ on the tarmac -Carriers must provide snacks and water to passengers after 2 hours on the tarmac³⁴ -Carriers must provide operable lavatories during tarmac delays³⁵ 	<p>No specific rule. See rules regarding Flight Delays</p>

Extended Tarmac Delays (cont.)	<ul style="list-style-type: none"> -Carriers must report tarmac delay data to the DOT³⁶ -Requiring carriers to coordinate their Contingency Plans with airports³⁷ -Requiring updates to passengers delayed on the tarmac every 30 minutes³⁸ <p>The DOT considers violations of the Tarmac Delay rules to be an unfair and deceptive business practice and carriers may be penalized up to \$27,500 per passenger³⁹</p> <p>Advantage: U.S.</p>	
Lost, Damaged, or Delayed Luggage	<p>The DOT recently increased the federal maximum to \$3,300 per passenger and has a built-in mechanism for inflation increases⁴⁰</p> <p>Carriers may not place any limitations on liability for lost/damaged/delayed luggage (e.g. “not liable for laptops”, “\$25 maximum per day”, “only liable for necessities”), or it is void⁴¹</p> <p>Advantage: U.S.</p>	<p>The E.U. integrated the Montreal Convention’s provisions so the maximum liability of the carrier for lost, damaged or delayed luggage is limited to 1,000 Special Drawing Rights (SDRs) per passenger (1,016 € / \$1,518)⁴²</p> <p>Passenger must wait 21 days until baggage is considered lost⁴³</p>
Disability Travel	<p>The Air Carriage Access Act prohibits discrimination against disabled passengers.⁴⁴ This includes special treatment, like preference and pre-boarding when it is not requested⁴⁵</p> <p>Disability is broadly defined to include any physical or mental impairment that limits a “major life activity” (e.g. walking, seeing, hearing, speaking, breathing, learning, or working)⁴⁶</p> <p>Carrier can deny boarding or require an assistant: -If it compromises the safety of the flight -If it would violate the law⁴⁷</p> <p>If boarding is denied boarding, the passenger is entitled to written explanation within 10 days⁴⁸</p> <p>Service Animals: Carriers must allow service animals on board without charge and must allow them to remain next to their owner.⁴⁹ Passenger need not give notice to carrier to fly with a service animal⁵⁰</p> <p>Carriers must allow a service animal on board if it has an identification card, other written documentation, a harness, tags or the credible verbal assurances of the individual with a disability using the animal⁵¹</p> <p>Advantage: U.S.</p>	<p>Discrimination against disabled passengers is prohibited⁵²</p> <p>Disability is defined as “reduced mobility” due to physical or mental impairment or age⁵³</p> <p>Carrier can deny boarding or require an assistant when: -Carrying the passenger would violate safety laws⁵⁴ -It is impossible to carry the passenger⁵⁵</p> <p>If boarding is denied based on disability, passenger is entitled to written explanation within 5 days and reimbursement of ticket price or re-routing⁵⁶</p> <p>Disabled passengers get priority in cases of delay and re-routing⁵⁷</p> <p>There does not appear to be a private right of action for violations of the disability regulations</p> <p>Service Animals: Assistance dogs must be accommodated by carriers⁵⁸</p> <p>At least 48 hours notice must be given to a carrier to fly with a service dog⁵⁹ Passenger must prove to carrier that the dog is recognized as an assistance dog by an accredited body⁶⁰</p>
Disclosure of Code-Share Carriers	<p>Carriers must disclose the name of all transporting carriers if the flights are part of a code-share arrangement⁶¹</p> <p>Advantage: Neither</p>	<p>Carriers must disclose the name of all transporting carriers for the passenger’s itinerary⁶²</p> <p>Advantage: Neither</p>

Tour Package Regulation	<p>Various State laws apply to non-air portion of trip.</p> <p>The federal “Unfair and Deceptive Practices and Unfair Methods of Competition” law applies to the air portion only⁶³</p> <p>However, the DOT has recently broadened their interpretation of this law to require that tour package retailers provide adequate and accurate disclosure of relevant terms and conditions, as well as total price of the tour package⁶⁴</p>	<p>There is a uniform set of rules in the E.U. regulating tour packages⁶⁵</p> <p>Prohibited:</p> <ul style="list-style-type: none"> -Misleading information and pricing⁶⁶ -Price changes 20 days prior to trip⁶⁷ <p>Travelers have the right to:</p> <ul style="list-style-type: none"> -A written contract specifying all relevant terms⁶⁸ -Cancel with full refund if significant change in price or services⁶⁹ -Substitute equal or better package if significant change in price or services⁷⁰ -Reschedule for any reason with deduction only for organizer’s documented expenses⁷¹ -Refund for the entire package (including flight and accommodation) if stranded unless due to force majeure⁷² -Organizer is required to assist travelers in a force majeure scenario⁷³ <p>Advantage: E.U.</p>
Seller of Travel Registration and Licensing	<p>Varies by State. Not regulated by federal government. Usually consists of registration and bonding in favor of consumers⁷⁴</p> <p>Advantage: Neither</p>	<p>Varies by member state. Not regulated by the E.U.⁷⁵</p> <p>Advantage: Neither</p>
Airfare Advertising Regulation	<p>The federal “Full Fare Advertising” rule requires that any airfare advertisement which quotes a price must state the full price to be charged to the consumer⁷⁶</p> <p>In the past, the DOT allowed certain government taxes and fees to be stated separately, or “broken-out” from the advertised price⁷⁷. As of January 24, 2012, this policy was reversed and all government taxes and fees must be included in advertised airfares. Taxes, and fees constitute, on average, 16% of the total price paid by U.S. consumers⁷⁸</p> <p>Baggage charges must be prominently disclosed to consumers on website, in print ads and during telephone bookings⁷⁹</p> <p>The DOT prohibits “opt-out” optional services. Now, consumers must opt-in to purchase optional services⁸⁰</p> <p>Advantage: Neither</p>	<p>The final price to be paid by the consumer, including all unavoidable taxes, fees and surcharges must be shown in advertised prices⁸¹</p> <p>Taxes, fees and charges constitute 20.5% of the total price paid by E.U. consumers⁸²</p> <p>A recent report found that the pricing of airline tickets has become increasingly opaque and complex as a result of various taxes, fees, charges and surcharges added to the basic air fare by airlines⁸³</p> <p>52% of people found airline ticket prices to be unclear⁸⁴</p> <p>Advantage: Neither</p>
Consumer Complaint System	<p>One central authority: U.S. Department of Transportation - Office of Aviation Consumer Protection and Enforcement</p> <p>Travelers can file a complaint with the DOT online, by mail, email or telephone. The DOT’s new consumer protection webpage is easy to locate via Google/Bing, easy to navigate and very</p>	<p>Each member state has its own body to receive complaints and take enforcement action⁸⁹</p> <p>The member states are working together on a standard E.U. complaint form to expedite the handling of consumer complaints⁹⁰</p>
Consumer	<p>There is no central collection service for complaint</p>	

Complaint System (Cont.)	<p>consumer friendly⁸⁵</p> <p>Number of Complaints Submitted to DOT: 2009: 6,675⁸⁶ 2008: 8,786⁸⁷ 2007: 10,420⁸⁸</p> <p>Advantage: U.S.</p>	reporting
Consumer Satisfaction with Air Travel	<p>Satisfied:⁹¹ 2007: 72% 2000: 69%</p> <p>Advantage: Neither</p>	<p>Satisfied (2009):⁹² Punctuality: 80% Comfort: 76% Delay and Cancellation Info: 63% Baggage Delay or Damage Info: 46% Inconvenience Compensation: 37%</p> <p>Advantage: Neither</p>
Penalties for Violations	<p>The DOT has established a dedicated office to receive consumer complaints, investigate them and enforce civil penalties against violators. This office has been very active in targeted enforcement over the past 3 years.</p> <p>The DOT can and will assess penalties of up to \$27,500 per violation.⁹³ Unfortunately, this money is <u>not</u> used to compensate consumers.</p> <p>There is no private right of action in the statute, so consumers cannot seek redress in the courts for carrier violations⁹⁴</p> <p>State law suits against airlines for violations are completely preempted by the federal Airline Deregulation Act and are subject to dismissal⁹⁵</p> <p>Advantage: U.S.</p>	<p>Individual member states have the authority to enforce violations of these rights. The national regulations do allow for injunctive relief and financial penalties, but do not specify a certain maximum or minimum penalty. “The sanctions laid down by Member States for infringements of this Regulation shall be effective, proportionate and dissuasive.”⁹⁶</p> <p>Probably no private right of action. The individual member state enforcement bodies encourage passengers to report their claims to them for government enforcement, instead of through individual enforcement in the civil courts⁹⁷</p>
Data Collection	<p>The Bureau of Transportation Statistics (“BTS”), a subdivision of the DOT’s Research and Technology Administration (“RITA”), compiles various data on air travel in the U.S.</p> <p>Additionally, the Office of Aviation Enforcement and Proceedings compiles data from air carriers and publishes a monthly “Air Travel Consumer Report” on:</p> <ul style="list-style-type: none"> -Flight Delays -Baggage Mishandling -Overbooking/Bumping -Consumer Complaints⁹⁸ <p>Advantage: U.S.</p>	<p>There is mandatory collection of data on passengers and air transport statistics⁹⁹</p> <p>However, there is currently no single body which compiles and analyzes air passenger transport data. Eurostat has very basic data on volume (pax, RPK, etc.) but lacks data on topics like delays, denials of boarding and baggage issues¹⁰⁰</p> <p>In the past, the Association of European Airlines (“AEA”) published detailed data on European carriers (delays, baggage, etc.). However, the organization appears to have stopped publishing these statistics, leaving a void that Eurostat has failed to fill¹⁰¹</p>
Air Travel Volume	<p>2009: 709,588,000¹⁰² 2008: 749,234,000 2007: 775,989,000</p>	<p>2009: 746,943,000¹⁰³ 2008: 787,651,000 2007: 786,554,000</p>
On-Time Performance	<p>2009: 79.3% on time¹⁰⁴ 2008: 75.0% on time¹⁰⁵ 2007: 73.1% on time¹⁰⁶</p>	<p>2009: No data available 2008: 70.7% (intercontinental) / 80.8% (intra-E.U.)¹⁰⁷ 2007: 76.9% (total)¹⁰⁸</p>

Mishandled Baggage Rate	2009: 3.94 reports per 1,000 passengers ¹⁰⁹ 2008: 5.42 reports per 1,000 passengers ¹¹⁰ 2007: 7.26 reports per 1,000 passengers ¹¹¹	2009: 10.8 reports per 1,000 passengers 2008: 14.1 reports per 1,000 passengers 2007: 16.6 reports per 1,000 passengers ¹¹²
Denied Boarding Rate	Involuntary: 2009: 1.18 per 10,000 passengers ¹¹³ 2008: 1.11 per 10,000 passengers ¹¹⁴ Voluntary: 2009: 11.9 per 10,000 passengers ¹¹⁵ 2008: 10.7 per 10,000 passengers ¹¹⁶	No data available

¹ 14 CFR Part 253.4(b)

² 14 CFR Part 250.9

³ 14 CFR Part 382.45(d)

⁴ REGULATION (EC) No 261/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (hereinafter “Regulation 261/2004/EC”) at Article 14, paragraph 1

⁵ *Id.* at Article 14, paragraph 2

⁶ REGULATION (EC) No 1107/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 5 July 2006 Regulation 1107/2006/EC, concerning the rights of disabled persons and persons with reduced mobility when travelling by air (hereinafter “Regulation 1107/2006/EC”) at Article 4, paragraph 3

⁷ 14 CFR Part 250.2b(a)

⁸ *Id.*

⁹ 14 CFR Part 250(a)

¹⁰ 14 CFR Part 250.5(b)

¹¹ Regulation 261/2004/EC Article 4, paragraph 1

¹² *Id.*

¹³ *Id.* at Article 4, paragraph 3

¹⁴ 14 CFR Part 250.6(c)

¹⁵ Regulation 261/2004/EC, Article 10, paragraph 2

¹⁶ *Id.* at Article 10, paragraph 1

¹⁷ 14 CFR Part 234.11(a)

¹⁸ 14 CFR Part 234.11(b)

¹⁹ 14 CFR Part 399.81(c)

²⁰ Regulation 261/2004/EC, Article 6, paragraph 1; *Id.* at Article 9, paragraph 1

²¹ *Id.* at Article 6, paragraph 1(c)(iii)

²² United Airlines, Inc., CONTRACT OF CARRIAGE, Updated: 7/6/2010, <http://content.united.com/uai/asset/COC06Jul10final.pdf>

²³ Southwest Airlines Co., CONTRACT OF CARRIAGE — PASSENGER, Seventh Revised, Effective July 28, 2010, http://www.southwest.com/travel_center/coc.pdf

²⁴ Regulation 261/2004/EC, Article 5, paragraph 1(a)

²⁵ *Id.* at Article 5, paragraph 1(b)

²⁶ *Id.* at Article 5, paragraph 1(b); *Id.* at Article 9, paragraph 1

²⁷ *Id.* at Article 5, paragraph 1(c); *Id.* at Article 7, paragraph 1

²⁸ *Id.* at Article 7, paragraph 2

²⁹ *Id.* at Article 7, paragraph 3

³⁰ *Id.* at Article 7, paragraph 4

³¹ 14 CFR Part 259.4(a)

³² 14 CFR Part 259.4(b)(1)

³³ 14 CFR Part 259.4(b)(2)

³⁴ 14 CFR Part 259.4(b)(3)

³⁵ 14 CFR Part 259.4(b)(4)

³⁶ 14 CFR Part 244

³⁷ 14 CFR Part 259.4(b)(8)+(9)

³⁸ 14 CFR Part 259.4(b)(6)

³⁹ 14 CFR Part 259.4(e); 49 U.S.C. 46301; 14 CFR Part 383.2(a)

⁴⁰ 14 CFR Part 254.4; U.S. Dept. of Transportation, DOMESTIC BAGGAGE LIABILITY, October 9, 2009, Docket DOT-OST-2008-0332

⁴¹ U.S. Dept. of Transportation, GUIDANCE ON REIMBURSEMENT OF PASSENGER EXPENSES INCURRED AS A RESULT OF LOST, DAMAGED OR DELAYED BAGGAGE, May 13, 2008

⁴² CONVENTION FOR THE UNIFICATION OF CERTAIN RULES FOR INTERNATIONAL CARRIAGE BY AIR, May 28, 1999, ICAO Doc. 9740, reprinted in S. TREATY DOC. NO. 106-45 (hereinafter “Montreal Convention”); *Walz v. Clickair SA*, Case C-63/09, European Court of Justice, Opinion of Advocate General Mazak, 26 January 2010

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- ⁴³ Montreal Convention, Article 2, paragraph 2; *Id.* at Article 17, paragraph 3
- ⁴⁴ 14 CFR Part 382.11
- ⁴⁵ 14 CFR Part 382.7(a)(2)
- ⁴⁶ 14 CFR Part 382.3(a)
- ⁴⁷ 14 CFR Part 382.31(d)
- ⁴⁸ 14 CFR Part 382.31(e)
- ⁴⁹ 14 CFR Part 382.55
- ⁵⁰ 14 CFR Part 382.55; U.S. Dept. of Transportation, GUIDANCE CONCERNING SERVICE ANIMALS IN AIR TRANSPORTATION, May 9, 2003, Docket No. OST-2003-15072, p. 24877
- ⁵¹ GUIDANCE CONCERNING SERVICE ANIMALS IN AIR TRANSPORTATION, at p. 24875
- ⁵² Regulation 1107/2006/EC
- ⁵³ Regulation 1107/2006/EC, Article 2, paragraph (a)
- ⁵⁴ *Id.* at Article 4, paragraph 1(a)
- ⁵⁵ *Id.* at Article 4, paragraph 1(b)
- ⁵⁶ *Id.* at Article 4, paragraphs 1 and 4
- ⁵⁷ Regulation 261/2004/EC Article 11, paragraph 1
- ⁵⁸ Regulation 1107/2006/EC, Article 7, paragraph 2
- ⁵⁹ *Id.* at Article 7, paragraph 1
- ⁶⁰ *Id.* at Article 7, paragraph 2; U.K. Civil Aviation Authority, Passenger Rights, Assistance Dogs, <http://www.caa.co.uk> (Accessed: August 2, 2010)
- ⁶¹ 14 CFR 257.5(a) and (d).
- ⁶² REGULATION (EC) No 2111/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier, and repealing Article 9 of Directive 2004/36/EC (hereinafter “Regulation 2111/2005/EC”) at Article 11
- ⁶³ 49 U.S.C. § 41712
- ⁶⁴ U.S. Dept. of Transportation, Consent Order - Costa Cruise Lines N.V., Sept. 3, 2009, Docket No. DOT-OST 2009-0001
- ⁶⁵ COUNCIL DIRECTIVE of 13 June 1990 on package travel, package holidays and package tours 90/314/EEC (hereinafter “Directive 90/314/EEC”)
- ⁶⁶ Directive 90/314/EEC, Article 3, paragraph 1
- ⁶⁷ *Id.* at Article 4, paragraph 4
- ⁶⁸ *Id.* at Article 4, paragraph 2
- ⁶⁹ *Id.* at Article 4, paragraph 5
- ⁷⁰ *Id.* at Article 4, paragraph 7
- ⁷¹ *Id.* at Article 4, paragraph 3
- ⁷² *Id.* at Article 4, paragraph 6
- ⁷³ *Id.* at Article 4, paragraph 7
- ⁷⁴ Hon. Thomas Dickerson, *The Licensing and Regulation of Travel Agents, Tour Operators and Other Travel Sellers in the United States, Canada, Australia, Great Britain, Japan and the Members of the European Community*, May 15, 2000, <http://www.courts.state.ny.us/tandv/Aqtaed1.htm>
- ⁷⁵ *Id.*
- ⁷⁶ 14 CFR Part 399.84
- ⁷⁷ 14 CFR Part 399.84; U.S. Dept. of Transportation, DISCLOSURE OF ADDITIONAL FEES, CHARGES AND RESTRICTIONS ON AIR FARES IN ADVERTISEMENTS, INCLUDING “FREE” AIRFARES, Sept. 4, 2003
- ⁷⁸ Karlsson, J., “Trends in aviation taxes and fees”. 89th Annual Meeting of the Transportation Research Board. Washington, DC: Transportation Research Board of the National Academies (2010); MIT Airline Ticket Tax Project, <http://web.mit.edu/TicketTax/index.html>
- ⁷⁹ U.S. Dept. of Transportation, GUIDANCE ON DISCLOSURE OF POLICIES AND CHARGES ASSOCIATED WITH CHECKED BAGGAGE, 73 F.R. 28854, May 19, 2008
- ⁸⁰ 14 CFR Part 399.84(c)
- ⁸¹ REGULATION (EC) No 1008/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 September 2008 on common rules for the operation of air services in the Community (hereinafter “Regulation 1008/2008/EC”). Regulation 1008/2008/EC, Article 23, paragraph 1
- ⁸² CPC Report on Airlines’ Taxes, Fees, Charges, and Surcharges, 5.2.1, (2010), http://ec.europa.eu/consumers/enforcement/docs/airline_charges_report.pdf
- ⁸³ *Id.*
- ⁸⁴ Special Eurobarometer 319, AIR PASSENGER RIGHTS, TNS Opinion & Social, 2009, http://ec.europa.eu/transport/passengers/air/doc/2009_12_passengersrights_report_en.pdf
- ⁸⁵ <http://airconsumer.ost.dot.gov/index.htm>
- ⁸⁶ U.S. Dept. of Transportation, AIR TRAVEL CONSUMER REPORT, Issued: November 2009, p. 40, ‘Consumer Complaints, January to September’; <http://airconsumer.ost.dot.gov/reports/2009/November/200911ATCR.PDF>
- ⁸⁷ *Id.*; U.S. Dept. of Transportation, AIR TRAVEL CONSUMER REPORT, Issued: November 2008, p. 38, ‘Consumer Complaints, January to September’; <http://airconsumer.ost.dot.gov/reports/2008/November/200811ATCR.pdf>
- ⁸⁸ *Id.*
- ⁸⁹ Regulation 261/2004/EC, Article 16, paragraph 1
- ⁹⁰ Joint Meeting National Enforcement Bodies DG TREN Air Passenger Rights Regulation [EC] 261/2004 14 MAY 2009, pp. 2-3
- ⁹¹ Gallup Poll on Question “Overall, would you say you are satisfied or dissatisfied with the job the nation’s major airlines are doing?”, 2007 Dec 6-9, 2000 Aug 24-27, <http://www.gallup.com/poll/1579/airlines.aspx>
- ⁹² Special Eurobarometer 319, AIR PASSENGER RIGHTS, TNS Opinion & Social, 2009, p. 30
- ⁹³ 49 U.S.C. § 41712; 49 U.S.C. § 46301

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- ⁹⁴ Wolens v. American Airlines, 513 U.S. 219 (1995); Morales v. TWA, Inc., 504 U.S. 374 (1992); Love v. Delta Airlines, 310 F.3d 1347, 1359 (11th Cir. 2002)
- ⁹⁵ Id.
- ⁹⁶ Regulation 261/2004/EC at Article 16, paragraph 3; Ireland: S.I. No. 274/2005 — European Communities (Compensation and Assistance To Air Passengers) (Denied Boarding, Cancellation Or Long Delay of Flights) Regulations 2005, paragraphs 5, 6, and 7; Germany (http://www.lba.de/clin_011/EN/CustomerService/AirPassengersRights/AirPassengersRights_node.html)
- ⁹⁷ Id.
- ⁹⁸ U.S. Dept. of Transportation, Air Travel Consumer Reports, <http://airconsumer.ost.dot.gov/reports/atcr10.htm>
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- ¹⁰⁰ Eurostat Homepage, <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/>
- ¹⁰¹ Association of European Airlines, <http://www.aea.be/>; German Aerospace Center, ANNUAL ANALYSES OF THE EUROPEAN AIR TRANSPORT MARKET - Annual Report 2008, pp. 180, http://ec.europa.eu/transport/air/observatory_market/doc/annual_2008.pdf
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