I start from the proposition that an adult, of sound mind, should be in charge of his or her health at all times – not only when travelling. But in the real world this simple proposition has to be qualified by numerous caveats, conditions and a priori assumptions – the most important of which is that the adult should have reasonably accurate information on the state of his or her health and of possible interactions with the physical conditions of travel – especially air travel. At this level, the simple proposition disintegrates. If there have been no symptoms, most people are unaware of what may happen if they are, by inheritance or lifestyle, at risk of heart disease, stroke, diabetes or any one of the endless imperfections which manifest themselves in the human race. And even if the passenger is aware of being ‘below par’ in some way – there is a negligible chance that self-diagnosis will reveal that the infectious phase of some affliction has begun, or that life itself may be under threat.

If there have been perceptible symptoms – have they been reported to a qualified person? And has any accurate warning, information or advice emerged? And is the adult or the professional advisor aware of any possible interactions with the physical (or psychological) conditions of air travel? We have no sixth sense to tell us whether our perceptions of ‘something wrong’ indicate something worthy of investigation, or the beginnings of a life-threatening, or infectious condition. It is not necessary to be a hypochondriac to accept that there can be no substitute for expert investigation and diagnosis. Yet most of us realise that the first port of call following (for example) a persistent (self-treated) headache should be the neighbourhood pharmacist rather than a consultant neurologist. Not a sixth sense: just a mixture of common sense and experience.

In short, the basic proposition is not valid unless scientifically – valid information is available to and understood by travellers and their professional advisors. There’s the rub! And what of those who remain blissfully ignorant of all such matters by reason of age, infirmity or limited comprehension?

* Originally an aeronautical engineer, Harold Caplan started by investigating accidents for aviation insurers. After qualifying as a lawyer he specialised in the insurable liabilities of aircraft manufacturers and operators. In September 2000 he was appointed as an expert to a study group of the EU Economic and Social Committee, reviewing the law on air carrier liability.
Year by year, increasingly larger samples of the general population may be flying as passengers: old, young, fit, unfit, couldn’t-care-less, the smart, the knowledgeable, and the stupid. We are all stupid in areas where we have no accurate or specialised knowledge. For example, are we instantly aware of the difference between an infectious and a communicable disease? Do we know the correct procedure if a fellow-passenger appears incapacitated by an uncontrolled spasm of sternutation? Is air travel recommended if suffering from coryza? Despite such widespread ignorance, the world’s population continues to thrive, increase and travel by air – a tribute to the success of natural selection rather than the dissemination of medical knowledge.

One of the less well-known consequences of mass travel by air is that, based on studies initiated by Qantas and others, the number of passengers who die on board commercial aircraft world-wide is now believed to be of the same order of magnitude as those killed in accidents. Is this precise? No. Can it be true? Probably.

The reason that we still have no precise numbers is that, until comparatively recently, the phenomenon of non-accidental death in the air was not openly acknowledged, discussed or considered. It is not necessarily a consequence of air travel itself. Careful epidemiological studies will be necessary to assess the statistical significance of death in the cabin as compared with a similar non-flying cohort.

Popular media and the medical press are awash with anecdote and preliminary studies. Serious science and reliable statistics have yet to be developed to the same stage as those which established the fatal linkage between smoking and lung cancer.

One very good reason why serious studies have been so slow to start is that the subject of air passenger’s health has fallen through the regulatory cracks. No single regulator anywhere has this task. I will argue that the most natural and appropriate regulator to assume the complete burden of air passenger health is the air safety regulator. My suggestion is not popular, but I confidently forecast that it will happen.

My viewpoint is that of a (nearly) life-long enthusiast for aviation – particularly air transport. I can claim over 50 years experience as an air traveller. Thus I believe my views are as relevant as those of any other traveller, or airline or regulator. No-one has a monopoly of wisdom. I readily adopt the following statement, first formulated 20 years ago by the International Airline Passenger Association (IAPA) – of which I am only a recent member: ‘The passenger wishes to arrive at his destination within a reasonable period of time at least as happy and healthy as when he boarded his flight’.

I speak for no-one but myself, and I write as a citizen of the European Union. Others will address the rest of the world.

2. THE REGULATORY SCENE

The best overview of this topic is undoubtedly in the report[2] ‘Air Travel and Health’ from Sub-Committee II of the Science and Technology Committee of the House of Lords – chaired by Baroness Wilcox. I draw unashamedly from that report because it is comprehensive and not likely to be bettered for some time.

Of course it is based in the UK – but in the absence of an encyclopedia of the world-wide aviation and health laws – it is a good working guide to the approach of a modern European State. Other members of the European Union may not regard the UK as typical – but none, so far, claims to have all the answers.

The House of Lords report (the Report) draws upon official memoranda (printed in full in the separate volume of ‘Evidence’) supplied by the Department of the Environment, Transport and the Regions (DETR), the Department of Health (DoH), the Civil Aviation Authority (CAA), the Health and Safety Executive (HSE) and the Joint Aviation Authorities (JAA). The JAA is an informal grouping of 33 national regulators under the auspices of the 38 States of the European Civil Aviation Conference (ECAC) which operates under the umbrella of the International Civil Aviation Organisation (ICAO) established by the 185 States parties to the 1944 Chicago Convention.

The purpose of the Chicago Convention is to agree ‘principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and directed soundly and economically’. No part of the Convention is directed specifically to airborne passenger health – but there are provisions designed to limit the spread of diseases, to provide quarantine facilities and to permit the control of insects (‘disinsection’) for which aircraft may act as efficient international vectors.

ICAO has developed 18 minimum Standards and Recommended Practices for international civil aviation – two of which have a direct impact on aircraft design, manufacture, maintenance and operation: Annex 6 on the Operation of Aircraft and Annex 8 on Airworthiness. The central purpose of all the aeronautical regulations governing design, manufacture, maintenance and operation is SAFETY i.e. the avoidance of foreseeable accidents. Although no part of the Chicago Convention (or its Annexes) is specifically focused on the health of airborne passengers – I can see no fundamental reason why Standards and Recommended Practices could not be developed for passenger health – just as they have been for crew health and fitness. In 1994 the ICAO Assembly passed a (non-binding) resolution calling upon States to ban smoking in international flights (UK has not legislated for this). There are also Standards aimed at reducing and controlling the environmental (non-safety) impact of civil aviation

(e.g. noise and products of combustion) – so there can be no fundamental objections to placing passenger health squarely on the agenda.

The World Health Organisation (WHO) has well-observed international health regulations which govern disinsection and the control of infectious diseases. There are guidelines aimed at minimising the spread of tuberculosis in aircraft.\(^3\)

The JAA standards in Europe are focused on safety but, of course, design standards for aircraft and their engines do have an impact on the cabin environment generally (size, number of seats, modes of exit, etc) and cabin air in particular (pressurisation levels, air conditioning etc). At present the JAA only has a slight \textit{direct} involvement in passenger health when specifying the minimum contents of airborne medical kits. Again, there would be no fundamental difficulty in adding passenger health to the criteria for design and operational approval but there would be a need for a dramatic modification of regulatory philosophy. Fortunately the prospects are good within the JAA because it has no precise legal mandate. The JAA Future Aviation Safety Team (FAST) has already identified several topics relevant to passenger health, and the current research programme includes aspects of deep vein thrombosis.

Some JAA standards have already been adopted by the European Union\(^4\) – thereby giving the Community legal competence in some areas of aviation safety.

The 15 Member States of the European Union already have power, in the basic treaty, to legislate for consumer health and safety:

\begin{quote}
\textbf{Consumer Protection}  \\
\textit{Article 153 (ex Article 129a)}
\end{quote}

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Community shall contribute to protecting the health, safety and economic interests of consumers, as well as promoting their right to information, education and to organise themselves in order to safeguard their interests.

2. Consumer protection requirements shall be taken into account in defining and implementing other Community policies and activities.

Since 1975 the Community has a respectable history of legislation and the provision of information for consumers in accordance with five fundamental rights:

- The right to protection of health and safety
- The right to protection of economic interests
- The right to information and education

\(^3\) WHO/TB/98.256.  
\(^4\) Council Regulation (EC) 3922/91.
– The right to representation
– The right to fair compensation for damages in the form of valid, effective and affordable procedures.

However, until recently, the topic of air passenger health has not been on the agenda. That omission was rectified early in 2000. Under the direction of Vice President Loyola de Palacio, the Commission has an ambitious comprehensive project well under way under the title of ‘Protection of Air Passengers in the European Union’. This includes plans for an assessment of the effect of the cabin environment on passenger health – so it is most likely to be within the European Union that we shall see the beginnings of integrated regulation combining health and safety, perhaps under a single regulator. A structure for such integrated regulation may be found in the Commission’s controversial plans for a European Aviation Safety Agency (EASA) provided that there is the political will to achieve such a result. However, passenger health is not yet an explicit part of the EASA proposals.

Within the UK it may suffice to quote the first few of many robust conclusions and recommendations in the House of Lords Report:

‘RECOMMENDATIONS
A higher profile for health

1.8 Safety is paramount in the airline industry and nobody would wish it otherwise. Our concern is not that health is secondary to safety but that it has been woefully neglected. We welcome the belated acceptance by the DETR that it has the lead within the UK, and we recommend the Government to ensure that concern for passenger and crew health becomes a firm priority.

1.9 There is no international regulatory focus for monitoring and developing practises and procedures on passenger and crew health. We recommend the Government actively to pursue the strong UK interest in passenger and crew health through its international contacts with the JAA, ICAO and other appropriate organisations, and we urge them all actively to promote health. This will both benefit air travellers in other countries and also help to minimise the possible impact of greater attention to health on competition within the international airline industry.

1.10 We recommend the UK and other governments to do everything they can to reduce inertia within the international safety-focused regulatory structures.

This is only the beginning: there are over 40 more detailed recommendations of similar pungence and relevance covering topics such as crew health, passenger fitness to fly, deep vein thrombosis, seating, ventilation, air quality, transmission of infection, air filtration, noise, stress, in-flight medical emergencies, research, information for passengers and complaints procedure.

Thus I do not need to make the case for air passenger health as a regulatory issue.

In their consultation paper on “The Future of Aviation” (December 2000) the DETR said ‘The Government welcomes the [House of Lords] Committee involvement..... The Government is carefully considering the Committee’s recommendations. We have also commissioned a study to assemble a coherent picture of the existing evidence’, taking account of the views of all interested parties. It remains to be seen whether the UK is able to take the regulatory lead recommended by the House of Lords Committee.

3. Co-ordinated Regulation of Health & Safety

Adding passenger health (and possibly comfort) to the mandate of safety regulators is not generally accepted by the air safety community. For example, at a recent conference at the Royal Aeronautical Society in London dedicated to ‘The Future of European Aviation Regulation’ – not a single official speaker referred to the future task of taking passenger health on board. Because it is of limited international interest I have not attempted to summarise those parts of the HL Report which show that in the UK, despite the diffusion of interest in passenger health across several departments (DETR, DoH, CAA, HSE) there are pragmatic procedures in place to promote inter-agency co-operation and avoid regulatory duplication. Nevertheless I am convinced that in due course, in the European Union at least, this network of regulatory effort will be consolidated into a single focus for air passenger health. This is ultimately dictated by the nature of the air transport vehicle. To state the obvious: no other form of public transport is so constrained by a wholly-artificial environment – the cabin in the sky. If research clearly establishes that the twin considerations of passenger health and safety call for modifications in the design and operation of aircraft – there is only one place to start – on the drawing board (or the designer’s laptop). I therefore regard it as inevitable that there will be a single regulator. The remaining question is whether it should be a public health authority advised by air transport experts, or an aviation authority advised by public health experts.

My simple view is that aviation safety regulators are the only specialised groups with the potential to integrate considerations of passenger health within the necessary and desirable criteria of aircraft design and operation. Critics of such a proposal argue that the effectiveness of aircraft safety regulators on both sides of the Atlantic is already too diluted by daily and strategic compromises with manufacturers and airlines. I agree in the sense that regulation can never be a precise or brutal science regardless of economic considerations. The art of practical compromise is an integral part of the regulator’s philosophy if

7. On possible health risks associated with flying.
8. Para 104.
commercially-successful air transport is to continue. As a passenger, I regard many of the existing regulatory compromises in the cabin as imperfect – but the alternatives for passenger health regulation are unlikely to be successful.

Imagine (for example) a dedicated regulator for passenger health, separate from the safety regulator. It is not difficult to imagine that such a regulator would develop rules requiring:

- a medical certificate for each passenger before reservations can be accepted
- ‘human engineering’ specialists as a condition for approval of design teams involved in aircraft cabins, seating and ventilation
- seat and exit dimensions to accommodate human extremes
- separate power plant and filters dedicated to cabin air, plus continuous monitoring of air quality
- enhanced medical qualifications for all air crew – trained in the use of augmented medical/emergency equipment
- continuously-available airborne speech, video and data links to medical experts on the ground
- drastic reductions in maximum seating capacity
- considerable increases in the number and size of regular and emergency exits
- route limitations to ensure that no aircraft at any time is more than 25 minutes from a safe airfield with adequate medical/surgical facilities
- rearward-facing seats
- random inspection of the interior of arriving aircraft (particularly galleys and toilets) by microbiologists
- international and national research programmes directed to factors governing the transmission of infectious diseases and passenger health generally.

Any one of the above may contain the germ of an idea for study or development – but none can be implemented without intimate liaison with those engaged in air transport design and operation. That is the established role of existing air safety regulators. Compromises between the ideal and the practical will always be required. Compromise is impossible without dialogue, and dialogue with designers and operators requires familiarity with aeronautical science and technology – a facility already possessed by existing safety regulators. One consequence is that the air transport industry has learnt to respect its regulators even though total agreement on every issue can never be guaranteed.

It is not impossible to visualise the alternative: educating a new generation of medical and health specialists in the basics of aeronautical science and technology practice – who would then have to establish their credibility and earn the respect of the air transport industry. By no means impossible – but I suspect it will take much longer and the interim results will be less welcome to the air transport industry. Medical specialists might see that as an advantage.

Thus it is my belief that it will be easier and more acceptable to designers and
operators for safety regulators to expand their competence to include medical and health specialists rather than the reverse. It remains to convince aviation safety regulators.

Perhaps these issues could be crystallised by posing a hypothetical rhetorical question: Which is likely to be the more successful design:
- an airliner designed by doctors, or
- a hospital designed by aeronautical engineers?

4. **The Next Steps?**

Nothing will change quickly.

Enlarging the mandate of air safety regulators to include passenger health will require primary legislation in UK or secondary legislation in Europe. Before that can be justified, many existing and future programmes of research must be completed and analysed and lessons drawn. A process which can span from 10 months to 10 years. The spectre of mad cow disease still haunts the world, with rival teams of scientists being lured into politics, and politicians using and abusing science. I do not forecast an easy ride for the regulation of air passenger health.

But, as noted above, the legal structure which can most easily integrate aviation safety and passenger health already exists in the European Union in the context of the Commission’s ambitions for dramatically improving passenger rights and creating a European Aviation Safety Agency (EASA). A single press conference could unite these twin aims overnight. That would be the beginning of several years of controversy because EASA is already a controversial project. The community which has a potential interest in aviation safety and passenger health is at least as broad as the 38 members of ECAC – whereas EASA would be limited to the present 15 members of the EU (soon to be increased). More fundamental objections to EASA may be seen in the contrast between the EU’s legal competence and its technical competence (hence the concept of an Agency – drawing on the expertise of the JAA). The arguments will rumble on.

Meanwhile, who’s in charge of passenger health?
Why the passenger, of course, with all the difficulties outlined above in the introduction to this essay.

5. **Voluntary Codes of Conduct**

Yet there is one way in which attention could be rapidly focussed on passenger health and comfort without awaiting the completion of all research and legislative initiatives. The key is ‘voluntary commitment’ – currently in vogue in Europe as the best way of encouraging improvement by means of voluntary Codes of Practice – well in advance of legislation. Indeed, a successful Code of Practice could eliminate the need for legislation, or, if it is less than successful, will lay the foundation for future legislation. In accordance with the European drive for
voluntary commitments, the UK Minister of Transport chaired a ‘summit’ on air passengers’ rights (20 February 2001) at which representatives of airlines and airports agreed to continue work in preparation for a major conference in Lisbon, 10 May 2001. One of the ten conclusions of the summit was:

- ‘on aviation health issues, the airlines reported on the progress they had made in disseminating information to passengers and in facilitating further research and Government agreed to support these initiatives with revised health advice to the public and GPs and active support for the further research.’

[GP = general practitioners of medicine]

The House of Lords Report is so good it is not likely to be bettered anywhere for a very long time. Its contents should be studied carefully by diligent staff who will prepare Executive Summaries for airline boardrooms, design offices and regulators across the world of air transport. In short, the Report should sensitise the international air transport industry.

The vital lessons can be distilled within a year and plans drawn up for voluntary Codes of Conduct in the offices of aircraft designers, operators and regulators. I am not so rash as to guess what such Codes will look like. But I have a practical suggestion to make if any of the leaders of the air transport industry should doubt that the Report already contains the seeds for future action. It involves another Voluntary Commitment.

This suggestion is aimed at each airline, designer and regulator who recognises that air passenger health is now at the forefront of public concern and who accepts that it must be addressed either voluntarily or grudgingly in the face of unwelcome legislation. I challenge the industry leaders to accept a Voluntary Commitment with the following features:

- **at least once each year**, each airline board member and each line manager or chief pilot; each chief aircraft and engine designer; and each senior safety regulator – will take a trip around the world (to be completed in not more than 30 days) seated in the cheapest part of the cabin
- accompanied whenever possible by spouse/partner/children
- accepting all procedures to which ordinary passengers are exposed (including the use of public transport to and from airports, queuing for check-in, immigration, customs and baggage collection)
- no use of executive or VIP lounges
- treated by staff throughout as ordinary passengers.

For the avoidance of doubt, I believe that no good purpose would be served by requiring staff at lower levels to accept the above Voluntary Commitment. They already know how it is.

I forecast that if any airline board member, chief designer or regulator is bold enough to accept this challenge – it will not be necessary for them to endure many such round-the-world trips before things begin to improve for all
passengers, and new designs begin to appear sketched on sick bags... there will be a clamour for research results and a new generation of aircraft and services may appear before legislators are awake.

In Europe, the energy and determination of Vice President Loyola de Palacio is already visible at airports in the form of leaflets and posters summarising existing passenger rights as developed within the EU covering such topics as: information about flights and reservations; overbooking compensation; compensation in case of an accident; air travel as part of a package holiday; and how to enforce rights generally.

My view is that by concentrating on passenger rights without attempting to outline passenger responsibilities, the Commission missed an opportunity to generate a balanced view. Therefore in my response to the original consultation document I attempted to do this in an Air Passengers’ Charter which includes considerations of passenger health (see Appendix).

6. Conclusions

– Although air passenger health is currently at the forefront of public concern, it is not the responsibility of any one regulator.
– Nevertheless, several research projects are under way and more can be expected.
– The most comprehensive survey of relevant issues is contained in a recent report from a Committee of the House of Lords.
– Because any legislative response either at a national or a European level must be years away, the only interim relief of public concerns must come from voluntary action – already commenced by leading airlines.
– In the long term, air safety regulators must prepare to accept new responsibilities in relation to passenger health.
– Meanwhile, adult passengers must continue to remain in charge of their own health at all times – assisted by the growing volume of reliable information and advice available from the medical profession and leading airlines.

7. Appendices

The following two Appendices are copied from my submission\(^\text{10}\) to the Air Transport Directorate of the EU Commission in response to their first consultation document *Air Passenger Rights in the European Union*. The purpose is to illustrate the possible scope and contents of a future Air Passenger’s Charter. Passengers’ Health is referred to in:

– Appendix ‘A’: Paragraphs 1, 3, 6, 11 and 12
– Appendix ‘B’: Paragraphs 5(b) (d) (h).

7.1. Appendix ‘A’

An Air Passenger’s Charter

Rights and Responsibilities

1. Member States hereby guarantee that all passengers who are fit to be carried by aircraft operators licensed in the European Union shall be entitled to rely on the reasonable standards established in accordance with this Charter.

2. Reasonable standards shall be established and monitored by the relevant Regulator after due consultation with appropriate interests and organisations which shall always include any organisation recognised by the State as representative of the interests of air passengers or of consumers in general. As used in this Charter: ‘Regulator’ means the body authorised by the State to regulate, in the public interest, one or more of the topics for which reasonable standards are established in accordance with this Charter.

3. Topics for reasonable standards shall include inter alia: health, safety, comfort, convenience, punctuality, fares and other charges, rules, regulations, advice, access to information, and the resolution of disputes.

4. An aircraft operator’s conditions of carriage shall be written in plain and intelligible language and shall not be enforceable by the operator unless approved by the Regulator as demonstrating a fair balance between the requirements of the operator and the interests of the passenger.

5. At all times on the ground, passengers shall be afforded easy access to

i. advice for passengers as approved by the Regulator

ii. operator’s conditions of carriage

iii. all such information as may be necessary or desirable to permit an objective choice of operator and route

6. It shall be the duty of each adult passenger to assume responsibility on his or her own behalf and on behalf of all who may be travelling with that passenger and are unable to assume full responsibility on their own behalf for any reason whatsoever:

i. to become familiar with any advice for passengers issued in accordance with this Charter

ii. to comply with all regulations relating to entry, exit, customs, immigration, security and health

iii. to give notice to the aircraft operator if special assistance is required for the passenger (or anyone for whom that passenger is responsible) or if any such persons are suffering from any condition which may be aggravated by air travel or from any infectious disease

iv. to comply with any reasonable requirements of the operator relating to check-in, baggage, health or other precautions for travel

v. to ensure that adequate life, accident and baggage insurance is in force

vi. to appear at check-in in good time and in a fit state for travel

vii. to be of good behaviour at all times

viii. to inform the operator of any health problems during flight, and of any health problems thereafter which, in the opinion of a qualified medical practitioner, may be attributed to the flight.

7. (a) When a seat reservation is made the passenger shall be informed of the identity of the aircraft operator plus sufficient particulars to identify that reservation.

(b) If, at any time prior to check-in, the operator as originally notified to the passenger becomes aware that the seat reservation is to be honoured by another operator, the passenger shall be informed in sufficient time to enable that passenger to make alternative arrangements.

(c) In the event that a passenger fails to receive information in sufficient time to permit alternative arrangements to be made, the passenger shall be compensated by the originally-notified carrier in accordance with a fixed tariff determined by the Regulator based upon any difference in operator or route by reference to the criteria for an objective choice of operator and route.

8. Delay

The Regulator shall ensure that, at each airport licensed for public air transport, adequate arrangements are in force:

i. to eliminate the principal known sources of delay

ii. to promote cooperation as between all services who may be involved for the purposes of minimising delays as they occur or threaten to occur

iii. to provide accurate information to passengers concerning any circumstances likely to delay departure or
arrival by 15 minutes or more, by reference to published timetables

iv to provide active assistance to passengers in the event of delays likely to exceed 30 minutes

v in the event of delays in arrival or departure of aircraft which exceed 60 minutes – passengers shall be reimbursed for consequential out-of-pocket expenditure – without prejudice to any rights of recourse by the reimbursing agency from those who may have caused or contributed to delay.

9. Passenger’s Property (Including Baggage)
(a) If checked baggage fails to arrive on the same flight as the passenger and there is no reasonable prospect that the baggage will be delivered to the passenger within one hour of passenger arrival, the aircraft operator (or its agent) shall thereupon issue to the passenger

– an appropriate claim form including a summary of passenger’s rights in respect of delayed, lost or damaged baggage

– a non-refundable advance in local currency not exceeding 100 Euro in value which may be taken into account when the passenger’s claim is finally concluded.

(b) If the aircraft operator (or its agent) receives notice of damage to baggage, the passenger shall be given an appropriate claim form including a summary of passenger’s rights in respect of delayed, lost or damaged baggage.

10. Accidents Causing Death or Injury
(a) Aircraft and airport operators shall develop and practise at irregular intervals comprehensive contingency plans for dealing with major accidents.

(b) Such plans may be approved by the appropriate Regulator if they contain comprehensive guidance and instructions for

– humanitarian assistance for accident victims and their immediate family or friends

– financial assistance when required by accident victims, their immediate family and hospitals

– the issue of advice and a summary of applicable law for the benefit of accident victims and their representatives.

11. In-Flight Emergencies
(a) Aircraft operators shall use their best endeavours to avoid adverse weather conditions including forecast turbulence

(b) Aircraft operators shall keep records of medical (and related) emergencies encountered by their passengers; such records shall be reviewed periodically by the relevant Regulator

(c) Employees of aircraft and airport operators who come into contact with passengers shall be trained to recognise the most common medical emergencies and take appropriate action

(d) On routes where it may be impossible to land at a suitable airport within 30 minutes of discovering an acute medical emergency in flight, at least two members of the aircraft crew shall be trained and equipped to provide appropriate first aid until professional assistance can be obtained

(e) Qualified medical practitioners and nurses can only be invited to assist with in-flight emergencies on a voluntary basis and shall be entitled to refuse assistance in the absence of informed consent by the passenger or the issue of a comprehensive indemnity by the aircraft operator in favour of the volunteer.

12. Health, Comfort and Convenience
The safety Regulator shall have power:

(a) to review air conditioning, seating and exit arrangements in each aircraft having regard to the purpose and length of travel, the health, the reasonable comfort and convenience of passengers, and the practical possibilities of an orderly exit within 90 seconds in actual or simulated emergency conditions using a group of passengers of mixed ages and physical abilities comprising not less than 90% of maximum seating capacity in the configuration under review

(b) to order adjustment of the air conditioning, seating or exit arrangements having regard to the above factors – for implementation at the next major maintenance check as may be prescribed by the Regulator

(c) to suspend the use of aircraft whose air conditioning, seating or exit arrangements do not conform with the reasonable requirements of the Regulator

13. Fares and Charges
(a) All publicly available fares and charges by aircraft and airport operators and by States shall be notified to the public in accordance with the Passenger Information Protocol (PIP).

(b) Fares and charges by aircraft and airport operators and by States which are not determined by competition
shall not exceed the levels prescribed by the Regulator after considering the cost of providing the particular services.

(c) State taxes, levies or other charges related to passenger travel shall not exceed 10% of the lowest publicly available fare or 100 Euro, whichever is the less, in any one State.

(d) As a condition of all operating licences, the face value of a ticket issued by or on behalf of any licensed operator shall (on a one-time basis only) be accepted and honoured by or on behalf of any other licensed operator subject to a deduction by the issuing operator for reasonable administrative expenses if the ticket has been used to obtain a seat reservation which was not used by the passenger for reasons within the passenger’s control.

(e) Restrictions on the transferability of tickets shall not be enforceable unless approved by the relevant Regulator in the public interest.

(f) The Regulator shall not approve commercial agreements between operators unless all parties to the agreements offer identical terms and conditions to passengers and the standards of comfort and convenience for passengers are sufficiently similar.

(g) This Paragraph shall not apply to fares not available to the public; or to travel privileges of present or former directors and staff of operators; or to free passes; or to frequent-flier programmes; or to package holidays.

14. Disputes

(a) States shall devise and promote convenient and cost-effective modes of dispute resolution to supplement existing modes of resolution, for the exclusive benefit of air passengers in their relationships with all those (including the State) who provide services for air passengers.

(b) In disputes where the amount claimed is 5000 Euro or less, the State shall provide an Air Passenger Ombudsman to hear and determine such disputes at the option of the passenger. The Ombudsman shall have power to obtain documents and other evidence, and to summon witnesses and, where necessary, to require sworn testimony.

(c) The Air Passenger Ombudsman shall also have power to determine any dispute between users and providers of air services (including the State) if all parties agree on the issues to be decided.

(d) All decisions of the Air Passenger Ombudsman shall be published in accordance with the Passenger Information Protocol.

(e) The Air Passenger Ombudsman shall publish an annual report summarising the year’s work of that office and drawing attention to any particular problems which require attention either in the operation of air passenger services or in the office of the Ombudsman.

(f) The State may recover not more than 50% of the costs and expenses of the Air Passenger Ombudsman from the providers of aircraft and airport services.

15. General

(a) The rights of passengers in accordance with this Charter shall be in addition to and not in substitution for all other rights and remedies. In the event of any conflict between such other rights and remedies and those provided by this Charter, the Passenger shall be entitled to the benefit of those provisions which are most favourable to the passenger.

(b) The rights of passengers in accordance with this Charter may be directly enforced by passengers. However, the passenger shall not be entitled to claim any compensation as may be prescribed in accordance with this Charter unless the passenger can demonstrate attempts in good faith at compliance with any relevant provisions of Paragraph 6. In cases of doubt or ambiguity, the Ombudsman shall interpret and apply this Charter benevolently in favour of the passenger after giving due consideration to the practical requirements of service providers.

7.2. Appendix ‘B’

Passenger Information Protocol

1. This Protocol applies to all information to be given to passengers in accordance with the Air Passenger’s Charter or as may be prescribed by the relevant Regulator.

2. All information to be given to passengers shall be free of charge except to the extent permitted by Paragraph 7 (a).
3. On request, a passenger shall be given a copy of any part or all the information referred to in this Protocol.

4. Advice
The relevant Regulator shall develop and publish comprehensive advice to air passengers concerning the Air Passenger’s Charter and its implementation. The advice may be published in sections and as a single publication – subject always to review by the Regulator and consequential revision where necessary at intervals of not less than one month on the Internet or two years in printed form.

5. Advice for passengers shall include (but without limitation thereto):
(a) a copy of the Air Passenger’s Charter
(b) detailed guidance on how to comply with Paragraph 6 of the Charter
(c) guidance on how to assess and purchase adequate personal insurance covering life, accidents and baggage
(d) guidance on health, fitness for travel and sources of information on necessary or desirable injections, vaccinations etc.
(e) how to obtain a copy of the conditions of carriage of the actual operator of the aircraft
(f) guidance on how to obtain information sufficient to make an objective choice of operator and route
(g) guidance on what to do if unexpected delays occur before or during travel
(h) guidance on what to do in the event of baggage delayed, lost or damaged; and following death, injury or illness whilst travelling or immediately thereafter
(i) guidance on how to make complaints or claims and how to use the Air Passenger’s Ombudsman service
(j) how to obtain further information on any topic covered by the Charter.

6. Choice of Operator and Route
(a) The relevant Regulator shall develop and determine objective criteria to enable passengers to choose the most appropriate aircraft operator, fare, route and associated conditions having regard to each passenger’s circumstances and requirements
(b) Information for this purpose shall be presented in such form as to facilitate ready comparison as between available operators and routes by reference to the passenger’s complete itinerary or any sector thereof. Comparative data shall include:
- flight identification linked to days of the week and local times of departure and destination
- intermediate scheduled stops
- sector length in time and distance
- elapsed time for a sector or complete itinerary
- official records of the actual operator’s punctuality, cancellations, passenger complaints and safety
- seating space and associated facilities
- conditions relating to fares and baggage allowances with special reference to any conditions which are not applied by other operators on the same route, for the same fare or class of travel
- an indication of those operators who offer identical terms, conditions and standards over the same route
- any other information which the regulator believes is relevant to an objective choice of operator or route
(c) If requested by the passenger, the passenger shall be given data exclusively related to a single operator or a group of operators if the Regulator is satisfied that all members of the group offer identical terms, conditions and facilities.
(d) The Regulator shall also obtain and make available to passengers such information on all airports served by operators licensed in the European Union as may be helpful to passengers. Such information shall include:
- airport name and location in relation to the nearest city
- available modes of access to the airport and charges (including parking facilities)
- facilities for off-airport check-in or baggage storage
- any airport facilities for sleep or showers
- hotels on or near the airport.

7. Availability of Information
(a) All information required to be made available to passengers in accordance with the Charter or this Protocol shall be available on demand at all off-airport points of sale and via all modes of reservation; and on the Internet; and at all airports in areas separate from dedicated sales and reservations services; and, where feasible, at all centres accessible to the public for travel or general information (such as libraries) provided that with the approval of the Regulator a nominal charge may be made for the supply of hard copies and not more than 15% of space may be allocated to commercial advertising on the same page as information is printed in accordance with this Protocol.
(b) No information required in accordance with this Protocol shall be available at or via any desk or space dedicated to check-in.

(c) The existence and availability of information which is required to be made available to passengers in accordance with this Protocol shall be prominently advertised at all places where and how such information is available, and guidance on the existence of such information shall be included in all modes of communication with passengers such as the Internet, and magazines issued by aircraft and airport operators. Nevertheless, nothing in this Protocol shall authorise or result in any addition to or inclusion with a passenger ticket or any other mode of travel authorisation.

8. **Package Holidays**
This Protocol shall not apply to the provision of package holidays.

9. **Promotional Literature**
Promotional literature (including frequent flyer programmes) issued by or on behalf of aircraft operators or travel agents shall not be governed by this Protocol, but if the relevant Regulator or the Air Passenger Ombudsman becomes aware of any material inaccuracy in promotional literature, either of them shall inform the publishers and request suitable amendments to be published.