



IATA Comments on Draft Bill 19352 on Cancellation Fees

The International Air Transport Association (IATA) is a global trade association for airlines representing some 290 airline members and accounting for 82% of total global air traffic. Our members include airlines based in the Republic of Korea and major foreign airlines that operate services to/from the Republic of Korea.

IATA understands that the National Assembly of the Republic of Korea is currently seeking public opinion on a draft bill for a mandatory waiver of cancellation and change fees by airlines in case of Force Majeure. Due to the time constraint, IATA was unable to consult our member airlines extensively on the proposed bill. However, IATA would like to submit the below comments to the National Assembly of the Republic of Korea for your kind consideration.

As the global airline association, IATA supports airlines in their commitment to ensure the safety and comfort of passengers and recognize the need for passengers to have access to basic protections during their journey. To that end, IATA members have affirmed a set of core principles on consumer protection that aim to strike a balance between protecting passengers while maintaining industry competitiveness and recognizing the power of the marketplace (see [Annex A](#)). The core principles were developed in accordance with the Montreal Convention 1999, which the Republic of Korea has been a party to since ratification in 2007.

Air travel has brought about increased connectivity and choice for consumers. Strong aviation growth indicates consumer preference for air travel as a safe, secure and efficient mode of transport, and has been made possible by maintaining the balance between protecting consumer rights and protecting sustainable air services. IATA believes that appropriate regulations which are globally coordinated can give passengers confidence while ensuring the freedom to fly. However, consumer protection regulation that disrupts the balance can have adverse effects on the very consumers it aims to protect.

A seat on a flight is a perishable product – an unsold seat has no value once the door closes. To help mitigate demand volatility of the perishable airline product, airlines offer a range of fares with different levels of change flexibility. The proposed mandatory waiver of cancellation and change fees would deprive airlines of their freedom to price according to levels of change flexibility. Without such a flexibility, the average fares would increase and many marginal routes would become unsustainable commercially. This would be an unintended and unfortunate consequence for consumers, depriving them of low fares and choice.

Rather than regulations “defending” passengers, IATA recommends that they should be framed as a partnership between consumers and the industry, to encourage competition, innovation, consumer confidence and enhanced air connectivity. In this regard, IATA would like to respectfully request the National Assembly of the Republic of Korea to reconsider the proposal for a mandatory waiver of cancellation and change fees by airlines in case of Force Majeure, such that it provides adequate protection to air passengers while maintaining competitiveness of the airline industry and allowing consumers the freedom to choose an airline that corresponds with their desired price and service standards. IATA would be happy to further extend our support by conducting a workshop on the Smarter Regulation Initiative (see [Annex B](#) for IATA’s Smart Regulation Methodology), which would aid the National Assembly of the Republic of Korea and the Ministry of Land, Infrastructure and Transport in introducing regulation that delivers clearly defined and measurable policy objectives through a transparent, objective and consultative process, such that it reduces unnecessary burden on consumers and businesses. For any questions or feedback, please contact Younkyung Kim at kimy@iata.org.

Annex A: Core Principles on Consumer Protection

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

Annex B: IATA's Smart Regulation Methodology

Definition Statement

Smart regulation delivers clearly defined, measurable policy objectives in the least burdensome way. It is achieved through a transparent, objective, and consultative process.

Policy Design Principles

- Consistency and coherence – Regulations should be consistent with existing (and planned) rules and practices that are applicable to regulated activities so that there are no overlaps and contradictions (nationally or internationally). They should also be predictable and applied with clear oversight responsibility and without discrimination against those being regulated.
- Proportionality – Regulations should be used only when their necessity is demonstrated and should be proportionate to the problems identified so that the costs of compliance are minimized by pursuing the most cost-effective solution.
- Targeted at risk – Regulations should have specific and well-defined objectives that respond directly to the problems identified. Whenever appropriate, flexibility should be given to those being regulated to meet defined objectives.
- Fair and non-distortive – Regulations should be applied fairly and not create discriminatory burdens on any group/s in particular.
- Clarity and certainty – Audiences subject to regulatory compliance need to clearly know the regulations that will apply, what is expected of them, and have sufficient time to be able to comply with new requirements.

Process Principles

- The objective of the regulation should be identified based on sound evidence and available alternatives must be considered to select the most appropriate solution.
- There should be an assessment of the impacts from the regulation.
- The drafting of the regulation should involve those who are potentially affected; the decision-making process should be transparent and objective.
- The process of developing the regulation should focus on reducing the compliance burden and allow for regular and systematic review (and subsequent modification, if needed) to ensure that the regulation is still appropriate.
- There should be clear procedures to respond to adjudications and appeals and to revise the regulation if necessary.