



Air Passenger Rights Support necessary to protect passengers rights and end consumer confusion

The revision of the Regulation on Air Passenger Rights provides a unique opportunity to protect passengers' interests and to permanently safeguard essential retail revenues for European airports.

ETRC calls for the EU Air Passenger Rights Regulation to be amended to allow passengers the right to bring airport shopping on-board and in addition to the prescribed hand baggage, at no extra cost.

Over the past four years, certain airlines have enforced severe restrictions on passengers bringing airport shopping on-board. Thousands of passengers have been forced to discard goods bought in good faith at the airport, while others have been forced to pay exorbitant 'fines' of up to €50 to simply bring on-board a small bag of airport shopping.

In February 2014, The European Parliament Plenary voted overwhelmingly in favour of an amendment which will ensure that air passengers in Europe cannot be charged for bringing airport retail purchases on-board the aircraft.

Within the Council, a majority of Member States voiced support for a legislative solution which would safeguard the right of passengers to carry on-board, free of charge, essential personal items, in addition to the hand baggage allowance, including items purchased from the airport.

As progress was halted before negotiations could be completed due to a political dispute between Spain and the United Kingdom over the application of certain aspects of the regulation to Gibraltar, the Greek Presidency published a Progress Report in June 2014. However the Latvian Presidency is expected to make significant progress in Council, announcing in January 2015 that it would be "ready to seek progress in the Council on the proposal concerning the minimum rights for air passengers."

Passenger confusion

Conflicting airline policies have resulted in widespread reluctance amongst passengers to shop at the airport. Consumer confidence in airport shopping has been considerably undermined as passengers observe the strict enforcement of these policies by certain carriers, and have at times been subjected by ground handlers to similar restrictions on other carriers without these policies, generating further confusion.



Changes to Ryanair hand luggage policy

Ryanair has been the most avid enforcer of the one bag rule. Whilst welcome, changes made to Ryanair's carry-on baggage policy in 2014 does not solve the problem of consumer confusion, but simply allows an additional small ladies handbag (standard on most airlines) or a small (A4) sized bag of airport shopping. Shopping bags in an A4 format are not in use at European airports. This size is too small to hold the typical purchase, such as the average 2.4 items per passenger which may include a bottle of wine or spirits.

More importantly, due to EU security regulations, ETRC members must pack liquids, aerosols and gels (LAGs) purchased by transfer passengers in Security Tamper Evident Bags (STEBs). STEBs produced to an A4 specification would be too small to hold the vast majority of LAGs products sold in airport travel retail and duty free shops.

Financing European airports

Each year, restrictions on carrying airport shopping on-board have cost the European travel retail industry millions of euro in lost revenue.

With approximately 830 million passengers travelling through European Airports in 2012¹, one survey suggested that as much as €1.12² per passenger in potential airport retail sales was lost for that period - equating to almost €1 billion in lost revenues to European airports.

The European Commission is currently proposing to significantly reduce the level of government or state aid to airports, especially to smaller regional airports. According to a recent ACI Europe study, over 47% of European airports are now loss making, most of these having less than 5 million passengers per annum.

Given the intense pressure upon airports to lower charges to airlines, creating – and guaranteeing the conditions for a strong retail and commercial business is the only way that many of these airports will become viable.

Retail is the largest single component of non-aeronautical revenues in Europe and its share is growing. Retail revenue contributes as much as 15% of total airport income, with revenues rising from €3.1 billion in 2008 to €4.1 billion in 2011³.

¹ "Nearly 830 million air passengers in 2012", Eurostat 161/2013 – 5 November 2013

http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/7-05112013-BP/EN/7-05112013-BP-EN.PDF

² Passenger responses to survey coordinated by ACI EUROPE and ETRC conducted at eight European airports which collectively accounted for almost 95 million passengers in 2011.

³ The Economics and Regulation of on-board carriage of European retail sales - Dr Harry Bush, 2013 (available at <http://www.etric.org/data-room/reports.html>)



Without protection afforded through the Air Passenger rights regulation, it is possible that any airline could adopt a policy which effectively prevents passengers bringing airport shopping on-board, thus jeopardising vital airport income.

Decision of the European Court of Justice (ECJ) in the Vueling Case

The Vueling Case involved a referral to the European Court of Justice (ECJ) from a Spanish regional court, to test whether Spanish legislation that prohibits airlines from applying an additional charge to the ticket price for the carriage of checked in luggage is in line with European law⁴.

In its ruling, the ECJ made a clear distinction between checked-in baggage and hand baggage. Checked-in baggage was found to be a service that cannot be considered to be compulsory or necessary for the carriage of passengers.

However for hand baggage, the Court considered it to constitute a necessary aspect of the carriage of passengers and that its carriage cannot, therefore, be made subject to a price supplement, on condition that such hand baggage meets reasonable requirements in terms of its weight and dimensions, and complies with applicable security requirements.

The decision of the Court affords clarity in that it acknowledges that passengers have the right under existing legislation to carry hand baggage free of charge.

As the negotiations on the Air Passenger Rights Regulation continue, this right of passengers acknowledged by the ECJ should be incorporated and defined to avoid any future confusion for passengers as to their rights to carry hand baggage.

Conclusion

ETRC believes that the current revision of the Regulation on Air Passenger Rights presents a unique opportunity to enhance passenger rights, to protect their interests and provide a permanent solution that safeguards airport retail revenues against future airline policies which charge passengers for carrying their airport shopping on-board.

Formalising the right of passengers to bring on-board their airport shopping will simply acknowledge the status quo on policies currently operated by most airlines across Europe. There are no costs involved for air carriers in the adoption and implementation of this amendment. The European Parliament proposal simply serves to formalise the rights of carriage currently extended to the majority of airline passengers and to ensure that these rights are not infringed in the future.

⁴ [Judgement in Case C-487/12](#), European Court of Justice (ECJ) ruling, Vueling Airlines SA v Instituto Galego de Consumo de la Xunta de Galicia, 18th September 2014.



ETRC therefore calls for the adoption of clear EU legislation that allows passengers to benefit from the right to bring their airport shopping on-board at no extra cost, regardless of which airline they fly with.

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About the European Travel Retail Confederation (ETRC)

The European Travel Retail Confederation (ETRC) is an industry association representing the interests of the duty-free and travel retail industry in Europe, focused on creating the right environment to allow the industry to operate and achieve its potential. The organisation works closely with European and international governments, regulatory authorities and other stakeholders.

ETRC is composed of 11 national and regional affiliated trade associations representing over 200 European companies, Tax Free World Association (TFWA) representing 500 brand companies, and direct corporate membership from 33 individual companies working in the duty free and travel retail trade across Europe and beyond. The European Travel Retail Confederation's operations are directed by its Supervisory and Managing Boards and carried out by a full-time secretariat.

For more information about the organisation, please see our website – www.etrc.org
