

## Aviation round table – Coronavirus recovery strategy

### European Passengers' Federation ivzw

In the context of the European Commission's Coronavirus recovery strategy for the aviation industry, EPF would like to stress the following points.

Firstly, in the short term, **protection in case of airline insolvency** is very important – not only to protect passengers' basic rights, but also to restore their confidence as consumers.

Between 2011 and 2019, it is estimated that 5,6 million passengers were impacted by airline insolvencies, on average incurring 432€ in costs of which 83% non-recoverable<sup>1</sup>. Whereas this was hence already an issue before Covid-19, many more airlines are now in difficulties and hence the situation for both airline companies and passengers is likely to deteriorate.

This means that urgent action is needed. Passengers who booked a standalone flight should receive the same level of protection as passengers who booked a travel package: they should receive a refund and if necessary, be repatriated. To achieve this, possible solutions could be the creation of a guarantee fund, compulsory insurance and better monitoring of the financial health of airlines (the latter is currently discussed in the context of the review of the Air Services Regulation 1008/2008). The topic should also be addressed in the review of the Air Passenger Rights Regulation<sup>2</sup>.

Secondly, but related to the first point, EPF calls upon the European Commission to monitor and enforce compliance with the Air passenger rights Regulation, notably the **right to cash reimbursement**.

The Covid-19 pandemic has led to travel restrictions all over the EU (and the world) and a surge of cancellations. Airlines and travel agencies have been exerting strong pressure on passengers to accept credit vouchers instead of cash reimbursement as well as on governments to change the law in order to legalise this.

In EPF's view, it could be acceptable that passengers have the option to accept vouchers *only if they wish – and only under the following conditions*: (i) cash reimbursement must always be an option; (ii) vouchers' redemption time must be extended for a reasonable period; (iii) if the passenger accepts a voucher and does not use it within this period, it should automatically be reimbursed in cash; and (iv) credit vouchers should be insolvency protected should the agency or operator go out of business.

On May 13., the European Commission presented a package of guidelines and recommendations related to "Tourism and Transport in 2020 and beyond".<sup>3</sup> EPF is pleased that the Commission has confirmed its position that cash refunds need to stay available to consumers – for all modes of transport and for travel packages. Unfortunately, though, the EC's communication merely contains "recommendations" that are not legally binding. In practice, this means that for passengers, vouchers offered by operators or agencies are generally NOT<sup>4</sup> insolvency protected.

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<sup>1</sup> Study on the current level of protection of air passenger rights in the EU, Final report, Study contract n° MOVE/B5/2018-541, 2020, confirmed by the Special Eurobarometer study on passenger rights (485), published 2020.

<sup>2</sup> For more information, see: <http://www.epf.eu/wp/epf-position-on-the-air-passenger-rights-review/>

<sup>3</sup> COM(2020) 550 final: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Tourism and transport in 2020 and beyond

<sup>4</sup> A – partial – exception is Denmark: A €200 million Danish State loan supports the Travel Guarantee Fund, which provides reimbursement to travellers in case of travel cancellations – for package travel, not standalone flight tickets.

Therefore, EPF calls upon both the European Commission and the Member States' national governments to reinforce the compensation-in-cash principle as it is a core consumer right.

Thirdly, there is the issue of **state aid to airlines**. The decisions taken today must be considered in a broader, long-term perspective and assessed against the three pillars of sustainability – economic, social and environment.

The EU's **Green deal** objectives must remain at the centre of attention. If the Commission is serious about its combat against climate change and its ambition to become climate-neutral by 2050, a return to 'business as usual', i.e. a further unbridled growth of air traffic, is not the way forward.

Many EU Member States are currently developing state aid plans to bail out airlines in financial difficulties. It should be carefully considered how such state aid may **distort competition** in the EU single market: on the one hand **between airlines** (some airlines receive state aid, some don't; the situation and amounts also vary per Member State) – which may lead to consolidation on the market which is not likely to be beneficial for consumers –, but also **between transport modes** (what about state aid for e.g. railways, bus & coach companies).

In EPF's view, state aid to airlines must meet a number of conditions:

- it should be **temporary** and take the form of a **loan** that must be repaid; it is not acceptable that state aid is granted while management and shareholders continue to receive dividends;
- it should be guided by the principles of **market efficiency and connectivity**, i.e. it should only be used to support air services that (i) are needed to ensure connectivity, i.e. connections that are considered of 'general interest' (SGEI; note that the Covid-19 pandemic invites us to rethink the concept of 'essential travel') that (ii) cannot be fulfilled by another (more environmentally friendly) transport mode: it would make sense here to ban (subsidized) short haul flights, when efficient railway lines can take passengers city to city within e.g. 4 hours;<sup>5</sup>
- it should come with strict **social obligations**: related to (i) working conditions for staff and (ii) customer-friendliness and respect for passenger rights.

Transport provision is to be seen as a network comprising various modes, including air, and society can gain most benefit when it is approached as an **integrated market**. In view of obtaining a modal shift towards more environmentally friendly modes of transport, as stressed by EPF, BEUC, EDF and AGE Platform in their recent joint letter on the occasion of the upcoming Year of Rail<sup>6</sup>, passengers would benefit from a broader **choice of services and essential travel information** before, during and after their journeys irrespective of where they bought their tickets. Integrated EU-wide ticketing and payment possibilities, whereby consumers can book a connected journey involving different operators via a single accessible platform, is essential for making multimodal transport a convenient choice.

Finally, to ensure a healthy and competitive market, and a level playing field between modes, measures are needed to ensure **internalisation of external cost**. Very cheap airline tickets may at first sight appear attractive to passengers, but they are not sustainable or beneficial to society in the long run. Tax exemptions for air travel give aviation an additional and unfair advantage over more environmentally friendly modes of transport. EPF considers that transport price should reflect its real cost, and that the basis of charging should be consistent across all modes.

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<sup>5</sup> This is in line with the EC's 2008 Communication *Community guidelines on State aid for railway undertakings (2008/C 184/07)* - which states that (§14) "The granting of State aid to the railway industry can be authorised only where it contributes to the completion of an integrated European market, open to competition and interoperable and to Community objectives of sustainable mobility" and (§17) "Article 73 of the Treaty provides that aids are compatible with the common market 'if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service'": principles worthy of wider application across the transport sector.

<sup>6</sup> For the full letter, see <http://www.epf.eu/wp/year-of-rail-strengthen-rail-passenger-rights/>