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## **Final Report**

**Analysis and evaluation of contributions to the  
public consultation on air passenger rights carried  
out by the European Commission  
from 15/12/2009 to 10/03/2010**

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**milieu**  
ENVIRONMENTAL LAW & POLICY

This Report has been prepared by Milieu Ltd for DG MOVE under Service contract No MOVE/A4/2010-421/SI.565489 by Claire Dupont, Vanessa Leigh and Gavin McBride.

The views expressed herein are those of the consultants alone.

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# 1 INTRODUCTION

The Commission has recently carried out a Public Consultation on Air Passenger Rights in order to gather opinions from national authorities, citizens and private & public organisations on the existing or perceived problems and preferred solutions with regard to five pieces of European legislation in the field of Air Passenger Rights:

- Regulation (EC) No 889/2002, which transposed the Montreal Convention into EU Law ("the Liability Regulation") and which notably concerns the liability for lost, damaged and mishandled luggage;
- Regulation (EC) No 261/2004 ("the APR Regulation") establishing rules for compensation and assistance to passengers in the event of denied boarding, cancellation and long delay;
- Regulation (EC) No 1107/2006 on the rights of passengers with reduced mobility ("the PRM Regulation");
- Regulation (EC) 1008/2008 on common rules for the operation of air services in the EU and
- Directive 96/67 on the conditions for access to the ground handling markets.

The consultation, held between 15 December 2009 and 10 March 2010, was an overwhelming success, with more than 370 contributions received from a variety of stakeholder groups, showing the ever increasing interest in the issue of passenger rights. This interest has even been reinforced through the events and the impact related to the recent volcanic ash crisis.

The consultation was followed by a stakeholder hearing organised by the European Commission on 28<sup>th</sup> June 2010 at the premises of the European Economic and Social Committee to discuss the different topics covered by the Consultation. The hearing provided lively panel discussions on each topic and was attended by a variety of representatives from many of the participant organisations involved in the Consultation.

This report gives an overview of the contributions received in response to the Public Consultation on Air Passenger Rights. The 360 responses received via the Commission's online Interactive Policy Making (IPM) Tool were integrated in the data statistical analysis. The qualitative analysis of the responses covers all the 370 responses received, including by other means than IPM.

For the purposes of summarising the responses to the Consultation, this report has divided the responses into the following stakeholder groups:

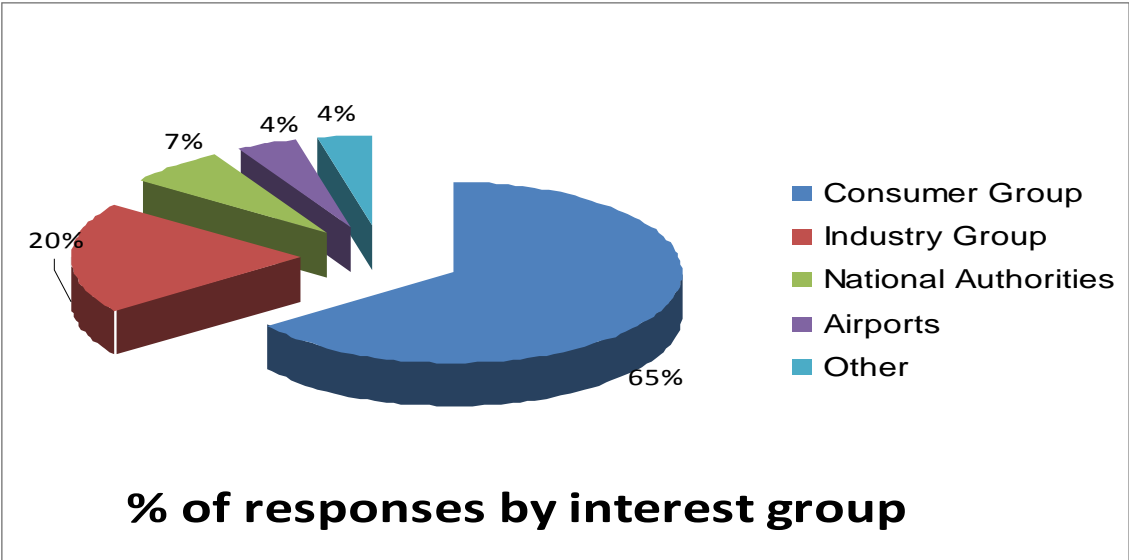
- National Authorities, which include National Enforcement Bodies (NEBs) and other national, regional and local authorities and represented 7% of the respondents
- The Consumer Group comprising 193 individuals and 41 organisations representing consumer and/or persons with disabilities or reduced mobility (PRM) interests, that is 65% of all respondents
- The Industry Group including 72 respondents (20% of the total) representing airlines, their associations, travel agents and their associations as well as employers' associations, and,
- Airports comprising airports and their associations and including 14 respondents (4% of the total).

As might be expected, in analyzing the responses, the views of both the Consumer Group and the Industry Group tended to be quite polarized, whereas the views of National Authorities and Airports generally showed a broader distribution of opinions. To facilitate the analysis and comprehension of the data we have considered the responses at a group level drawing attention to any significant deviations where appropriate.

The remaining 4 % of responses came from a number of different sources, including NGOs, research institutes and trade unions. While these responses have been included within the overall totals it was

however felt that there have been too few contributions from these groups to provide a representative pattern. Therefore, this group 'Other' was not included in the percentages of responses.

The figure below shows the breakdown of contributions per stakeholder group.



Summaries of contributions for each question are followed by conclusions summing up the main points as well as recommendations representing a sample made by some respondents.

## 2 QUESTIONS RELATED TO MISHANDLED LUGGAGE

### 2.1 The Liability Regulation (889/2002)

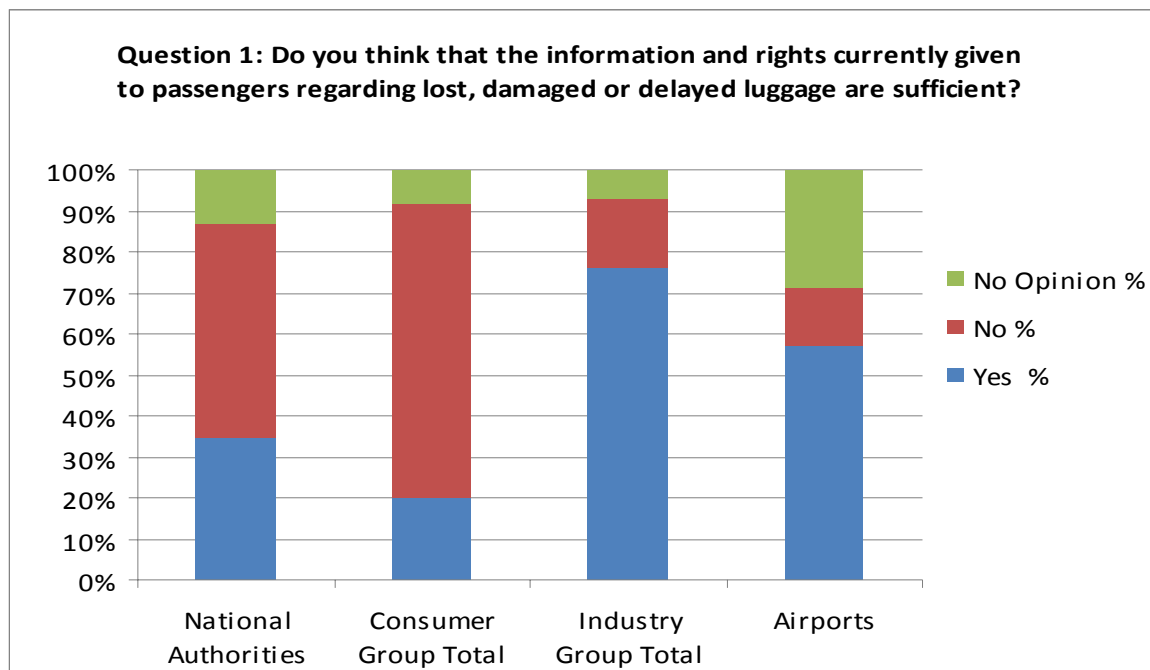
#### 2.1.1. Information, monitoring and sanctioning powers regarding the application of the Liability Regulation

*Question 1: Do you think that information and the rights currently given to passengers regarding lost, damaged or delayed luggage are sufficient? If not, what would be your suggestion to improve the current situation?*

The majority of respondents (57.1%) believed that information given to passengers in respect of lost, damaged or delayed luggage was not sufficient. 33.9% of respondents felt that such information was sufficient, while 9% expressed no opinion. There was however a strong divergence of views between the industry group, 76.1% of which thought that current measures were sufficient and the consumer group, 72% of which did not think that current measures were sufficient.

Of the 23 national authorities which responded, roughly half (52.2%) did not believe that current measures were sufficient. 57.1% of Airports believed that current measures were sufficient, compared with 14.3% which did not and 28.6% which did not express an opinion.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>34.8%</b>	<b>52.2%</b>	<b>13.0%</b>	<b>23</b>
Consumer Organisations	9.8%	85.4%	4.9%	41
Individuals	22.1%	68.9%	8.9%	190
<b>Consumer Group Total</b>	<b>19.9%</b>	<b>71.9%</b>	<b>8.2%</b>	<b>231</b>
Employee Associations	100.0%	0.0%	0.0%	5
Industry Associations	61.5%	30.8%	7.7%	26
Private Companies	82.5%	10.0%	7.5%	40
<b>Industry Group Total</b>	<b>76.1%</b>	<b>16.9%</b>	<b>7.0%</b>	<b>71</b>
<b>Airports</b>	<b>57.1%</b>	<b>14.3%</b>	<b>28.6%</b>	<b>14</b>
Other	26.7%	66.7%	6.7%	15
<b>Total All Respondents</b>	<b>33.9%</b>	<b>57.1%</b>	<b>9.0%</b>	<b>354</b>



## Overview of additional comments received

The following comments were made in support of the current situation:

### Information and rights with regard to mishandled luggage are sufficient

#### *Current information and rules are sufficient*

One industry association referred to the Eurobarometer study on APR which was carried out in 2009 indicating that “the majority of EU residents felt that information provided by airlines was sufficient”. Moreover, a number of airlines stated that information currently provided by them is comprehensive, extensive and/or easily available. One airline specified that there was no need for additional information to be provided to passengers and a number of respondents commented that increasing the burden of information would not necessarily result in a better service to customers.

One airline and one industry association also stated there was no confirmed need for passengers to benefit from any additional rights or rules in this area. One airline association highlighted the fact that the preamble to the question did not address the issue of the adequacy of rights enjoyed by passengers, but they nevertheless believed that such rights are adequate.

One industry association and one private company referred to the Montreal Convention which “lays down a process on how air carriers are obliged to communicate passenger rights”, with a number of airlines stating that the rights and responsibilities in respect of mishandled luggage set by the Convention are clear, sufficient and that the rules on liability under the Convention are easily available on the internet for customers to view. One airline association stated that if lost luggage has not been found after a reasonable period of time, the passenger will be reimbursed according to the provisions of the Convention. Several airlines stated that current regulations and specifically the International Air Transport Association (IATA) regulations are sufficient.

One consumer organisation referred specifically to the duty to provide information pursuant to the Annex of the Council Regulation (EC) No 2027/97 of the European Parliament and of the Council of 9 October 1997 on air carrier liability in the event of accidents, as amended by Regulation (EC) No 889/2002 of the European Parliament and of the Council of 13 May 2002 (the “Liability Regulation”). One airline association and one airline also highlighted the obligations of airlines under the existing 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 (the



“APR Regulation”) to give information to passengers facing delays. One airline stated that “passengers are already guaranteed a lot of information via the existing regulation”. One industry association regarded it as a matter of consistent follow-up action from regulatory authorities in respect of those airlines which do not comply with standards.

#### *Sources and types of information*

A number of airlines and airline associations commented that information in respect of lost, damaged and delayed luggage could be found on the internet and airline websites, including phone and email contacts and online feedback forms to comment or query the airline on issues such as mishandled baggage. According to some airlines these websites have specific baggage and customer information pages with information on passengers’ rights regarding liability of the carrier, and claim forms in respect of damaged, delayed and lost baggage. Moreover, it was noted that airports also provide this information. One airline association noted that the airport’s lost and found office had details of all airlines and information on the subject. Several airlines also suggested that passengers can find out their rights by contacting airlines directly by telephone and via complaint forms to the airlines, airline authorities or National Enforcement Bodies.

#### *Terms and Conditions*

Several airlines pointed out that information in respect of mishandled luggage and baggage liability was provided in the general terms and conditions of travel/carriage. One airline association stated that online customers are generally required to tick a box confirming that they have read the terms and conditions, but questioned how many of them actually read these fully. Only one individual specifically stated that they always read the airline’s conditions of carriage. One airline stated that clear information regarding passenger rights in relation to damaged, delayed and lost baggage are detailed within their e-mail confirmation received upon purchase of flights. One industry association stated that it is the air carrier’s duty to make this information available on its website and for ticket sellers to bring it to passengers’ attention.

#### *Commercial implications*

Other respondents including one airline and one employer association stated that there were commercial incentives to avoiding lost or delayed luggage and providing a level of customer service which would encourage passengers to use the airline again.

#### *Costs*

Several respondents stated that it takes a lot of resources for an airline to be able to keep passengers informed and it was also noted that such an obligation could result in further costs which could in turn be reflected in fares.

### **Information and rights with regard to mishandled luggage are not sufficient**

Fifty-seven percent of respondents felt that information and rights were not sufficient. The following comments were made in support of this:

#### *Information not sufficient*

A number of organisations stated that passengers are often unaware of their rights in this area with two respondents referring to existing studies. One of those noted that passengers were neither informed about their rights nor aware of the scale of mishandled luggage. One industry association stated that current passenger rights were out of date. While it was accepted that information is provided in the general conditions of carriage, one industry association felt that there is still confusion among passengers about rights and information on mishandled luggage, and on the distinction between air carrier and airport responsibilities. It was stated by several individuals that this information is often insufficient or hard to find. Two industry associations also commented that such information is often ambiguous, not explicitly brought to the attention of passengers and in some cases even contradicts applicable legislation. One airport also indicated that airlines had discretion as to what information they actually provided. Concern was also expressed by several respondents, including individuals, regarding the clarity and the amount of available information in respect of compensation.

### *Compensation*

According to one consumer organisation, airlines have different policies regarding the passengers' rights to compensation, such as different documentation requirements in the event of refunds. In some cases of mishandled luggage, it was stated by both individuals and one industry association that compensation amounts are generally too low. One consumer organisation added that airlines tend to award a much lower compensation to their passengers than the actual cost of the lost or damaged luggage. One airline and one airport noted that there are currently no express rules covering situations where items have gone missing or been stolen from a passenger's checked bag.

Two consumer organisations noted that many airlines tend to minimise compensation payments by requiring passengers to provide proof of purchase (usually receipts), which, according to several consumer organisations, one airline and individuals, can be difficult, especially for items bought some time ago. Two consumer organisations stated that in cases of damaged luggage, some airlines ask consumers to prove the damage. With delayed baggage, according to one consumer organisation, there may also be absolute limits on what a passenger can spend on replacement items whilst they are without their bag instead of reimbursing for reasonable expenses that take into account individual circumstances. A number of individuals also believed that the only way of obtaining compensation was by taking legal action.

### *Deadlines*

Two consumer organisations commented that consumers are not always aware of the strict deadlines for lodging complaints for lost, damaged or delayed luggage. Several consumer organisations underlined that the deadlines in which to claim compensation are too tight.

### *Suggestions on how to improve the current situation*

Several respondents including one private company, one national authority and one consumer organisation stated that compulsory obligations should be introduced to display or provide a minimum level of information on the rights of passengers, including where and how to contact the air carrier in the event of problems, how the complaint will be handled, contact details, deadlines and document requirements. Other respondents including consumer organisations and a national authority suggested that information should be placed on ticket/travel documents and on booking confirmations, in the language of the consumer.

One national authority commented that conditions of carriage should be provided through other sources in addition to websites, especially for those customers without internet access. Two industry associations commented that air carriers' conditions of contract should be checked to ensure they comply with applicable rules.

Several respondents including industry organisations and consumer associations suggested that more information on passengers' rights should be made available through the use of a public awareness raising campaign, similar to the campaign under the APR Regulation. Other consumer associations suggested more specifically that information should be made available at or near check-in areas, at baggage collection points, lost and found areas and in airplanes.

A number of consumer organisations suggested that information should be provided to passengers before or as soon as they buy their tickets through the use of leaflets and flyers or a 'key facts' document at the point of sale, setting out basic information and rights on how to deal with difficulties that may arise. Other consumer organisations suggested that on a leaflet, the website and telephone number of a consumer advice centre (like the ECC-Net) could be provided for further assistance, along with obligatory additional information on complaint deadlines in case of undelivered or lost luggage, and more information given at the time and at the place the problem occurs.

One respondent suggested that training should be provided for staff so that they accurately and efficiently advise consumers whose luggage is lost, damaged or delayed.

### *Suggestions on how to improve information and rights in respect of compensation*

One consumer organisation stated that consumers must be given clear information on their rights and the required steps to introduce a claim for compensation. Other consumer organisations suggested

adjusting the time limits within which to claim, for example to 21 days to match the limit set for reporting delayed luggage. It was also suggested that the amount of compensation payable should be increased and that in cases of lost or damaged luggage it could be useful to have compensation based on insurance practice. One PRM organisation suggested that any damage of mobility equipment for PRMs should be fully compensated by insurance under the responsibility of the airport authorities or airline companies.

#### *The need for information in alternative formats*

One PRM organisation underlined the lack of accessible information in respect of disabled rights and air carrier liability. Another PRM organisation commented that information on passengers' rights can also be difficult to find in alternative formats, such as Braille, audio or large print. One PRM association stated that information should be made available in various formats for PRMs and staff should be made aware of these other formats.

#### *Other*

One national authority suggested that the Special Drawing Rights provided for under the Montreal Convention could be discussed for cases involving destruction, loss, damage or delay of baggage .

### **Conclusions**

A large proportion of the airline industry believes that current information and rights provided to passengers in respect of mishandled luggage is sufficient, with information freely available mainly via the internet and airline websites. There were commercial concerns about the effects that additional obligations could have on the industry, including the effect on airline fares.

However there were also concerns about the information that is currently available. The opinion that information and rights were not sufficient was shared mainly by the consumer group. There, the general impression was that current air passenger information is insufficient, ambiguous and inaccessible, particularly for certain, vulnerable, groups of passengers. Many felt that airlines have discretion in the way they present some of this information.

### **Recommendations:**

#### *Recommendations regarding availability of information*

1. Compulsory obligations should be introduced to display or provide a minimum level of information on the rights of passengers, including where and how to contact the air carrier in the event of problems, how the complaint will be handled, contact details, deadlines and document requirements.
2. More information on passenger rights should be made available through the use of a public awareness-raising campaign,
3. Conditions of carriage should be provided through other sources in addition to websites, for those customers without internet access and for the visually impaired.
4. Information should be provided either before or upon purchase of tickets, for example through the use of leaflets and flyers or a 'key facts' document at the point of sale,. On a leaflet, the website and telephone number of a consumer advice centre (like the ECC-Net) could be provided for further assistance, along with obligatory additional information on complaint deadlines in case of undelivered or lost luggage, and more information given at the time and at the place the problem occurs.
5. Information should be placed on ticket/travel documents and on booking confirmations, in the language of the consumer.
6. Training should be provided for staff so that they accurately and efficiently advise consumers whose luggage is lost, damaged or delayed.

### *Recommendations regarding compensation*

7. The consumer must be given clear information on their rights and the required steps to introduce a claim for compensation.
8. The time limits within which to claim should be adjusted,
9. The amount of compensation payable should be increased. In cases of lost or damaged luggage it could be useful to have compensation based on insurance practice.
10. Any damage of mobility equipment for PRMs should be fully compensated by insurance under the responsibility of the airport authorities or airline companies.

### *General Recommendations*

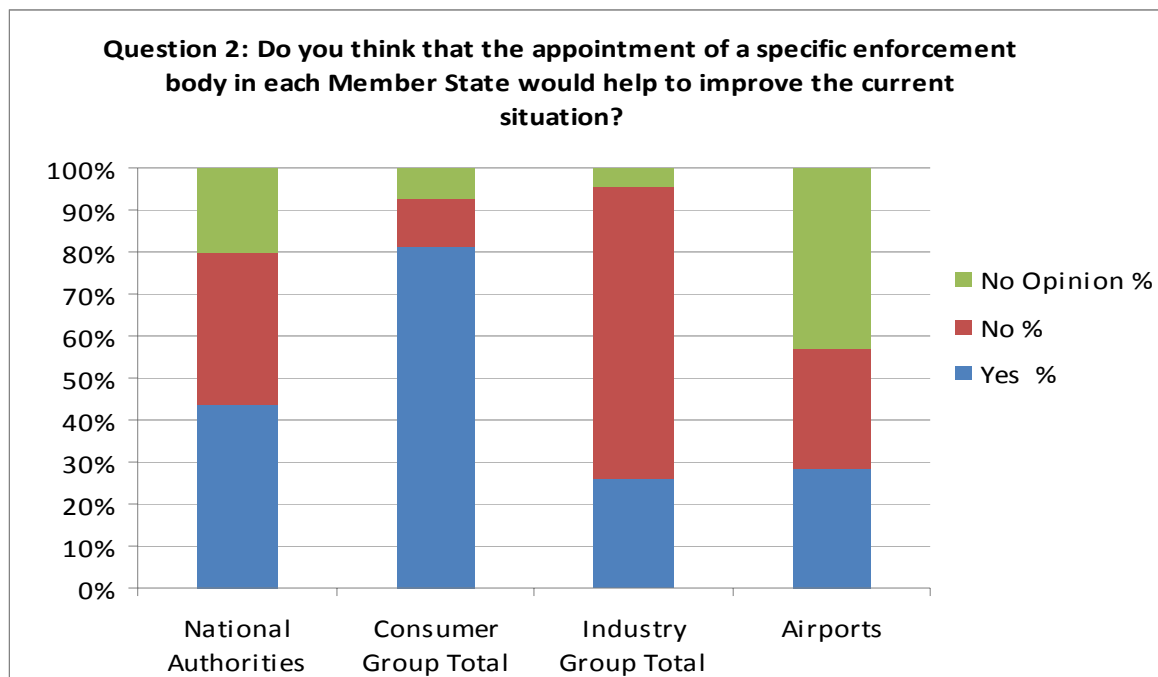
11. A voluntary code should be introduced for the airline industry.
12. All key passenger rights, including baggage-related rights, should be harmonised within the framework of a single legislative instrument,
13. Minimum obligations should be created in respect of complaint response times and compensation levels, as well as minimum penalties for delayed luggage for those air carriers which fail to meet such standards.
14. Member States should be responsible for implementing further measures to promote passenger rights and ensure that information for passengers is easily available.

***Question 2: Do you think that the appointment of a specific enforcement body in each Member State under EU law to handle complaints and to enforce effectively the Regulation in the event of breaches – also through appropriate sanctions – would help to improve the current situation?***

Overall, almost 65% percent of respondents supported the appointment of a specific enforcement body in each Member State under EU law. However, there was a strong divergence in views between the consumer group and the industry group. The consumer group was largely in favour, with 81.6% indicating that a specific enforcement body would improve the situation, while 69.4% of the industry group were opposed to the appointment of a specific enforcement body.

Responses from national authorities were mixed with 44% stating that a specific enforcement body would improve the situation and 36% stating that a specific enforcement body would not. 20% expressed no opinion to the question. Airports were evenly divided between positive (28.6%) and negative (28.6%) responses. 42.9% expressed no opinion.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>44.0%</b>	<b>36.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	80.5%	17.1%	2.4%	41
Individuals	81.9%	9.8%	8.3%	193
<b>Consumer Group Total</b>	<b>81.6%</b>	<b>11.1%</b>	<b>7.3%</b>	<b>234</b>
Employee Associations	20.0%	80.0%	0.0%	5
Industry Associations	25.9%	66.7%	7.4%	27
Private Companies	27.5%	70.0%	2.5%	40
<b>Industry Group Total</b>	<b>26.4%</b>	<b>69.4%</b>	<b>4.2%</b>	<b>72</b>
<b>Airports</b>	<b>28.6%</b>	<b>28.6%</b>	<b>42.9%</b>	<b>14</b>
Other	53.3%	26.7%	20.0%	15
<b>Total All Respondents</b>	<b>64.7%</b>	<b>25.8%</b>	<b>9.4%</b>	<b>360</b>



## Overview of additional comments received

**A specific enforcement body in each Member State to handle complaints and to effectively enforce the Regulation in the event of breaches would improve the situation**

### *Need for standardisation and harmonisation*

Several respondents felt that the process should be delegated to an existing body, independent of airlines to encourage a level playing field between Member States and specifically to standardise

complaint handling. One national authority referred to a study which indicated that out of over 600 baggage scales tested at Gatwick Airport, 20% were found to be inaccurate, by up to 5 kilos.

A private (rail) company stated that airlines should be put on the same footing as railway undertakings in this regard.

#### *Benefits*

One consumer organisation felt that such measures would encourage air transport companies to inform customers about their rights and promptly comply with legal obligations. According to two industry associations, an enforcement body would be useful to discipline carriers and to assist passengers with their claims. One airline and several individuals felt that an effective enforcement agency would provide a single point of contact which could significantly reduce costs by avoiding the need for passengers to resort to legal action.

#### *Montreal Convention*

One national authority also commented that the Montreal Convention limited the liability of airlines with regard to baggage issues and required passengers to comply with very strict guidelines – for example the Product Irregularity Form (“PIF”) which asks for claims to be made within 7 days if the baggage fails to arrive.

#### *Specific enforcement body*

A number of consumer organisations called for a specific enforcement body in each Member State, and the use of sanctions where necessary. One consumer organisation stated that if such bodies were to be appointed then they would have to be structured in such a way as to balance the inequality of the consumer position and the current “light touch” approach to consumer representation and assistance. One NGO felt that the efficiency of such a body would heavily depend on whether consumers were properly informed of its existence and competencies.

Other positive responses reflected a more cautious approach to such an enforcement body. For example, one national authority suggested reviewing the adequacy of the existing regime before making any changes. One airport noted that it would be difficult to predict what the impact of such a body would be, compared to the costs and to the actual number of lost or damaged luggage. Other organisations did not see the need for a new specific enforcement body in each Member State but that existing NEBs could perform a similar function in respect of complaints. One individual suggested creating a single EU body with responsibility for managing complaints of all 27 Member States, while one industry association stated that greater harmonisation was required between existing bodies.

One consumer organisation stated that any new complaint procedure should not deprive consumers from the right to present their claim in front of a court if they are not satisfied.

#### **A specific enforcement body would not improve the situation**

Twenty-six percent of respondents did not think that the appointment of a special enforcement body would improve the current situation. The following comments were made against such a measure:

#### *No substantial benefit*

Several respondents felt that under the current legislation an enforcement body would not make much difference. Several airlines and airline associations argued there was no actual evidence of a problem at all. One airline noted that the dualism introduced by the APR Regulation has not proven to be effective or necessary. Two consumer organisations felt that such bodies had limited powers of investigation and that passengers may still have to turn to the courts in any event.

#### *Commercial implications*

One airline association questioned the feasibility and usefulness of investing additional resources into such bodies in each Member State. A number of airlines argued that the appointment of a specific body would not give additional value for the passenger or the airline. Other respondents felt that it would be costly and inefficient, resulting in additional administration and bureaucracy, especially when compared to the cost and the actual numbers of lost, damaged or delayed luggage.

One consumer organisation felt that this area is best regulated by the market, while several airlines and airline associations underlined that customer satisfaction is already in the airline's interest.

*Existing mechanisms and enforcement bodies are sufficient*

Two airlines felt that existing enforcement mechanisms were sufficient in many Member States, with several respondents referring to existing national consumer complaint bodies. One national authority confirmed that the existing organisation in their country intervened on behalf of passengers where they have not been able to obtain satisfaction from the supplier concerned and will seek a resolution where appropriate to try and resolve the complaint.

According to some airlines, the current situation is based on a contractual relationship between carrier and passenger, and the system allows unsatisfied passengers to file suits before national courts in their Member State if necessary. Moreover, in relation to lost baggage, two national authorities commented that the rights under the Regulation are civil rights and could only be properly enforced in a civil court. They also stated that passengers consider it more important to be able to protect their civil rights rather than imposing sanctions on airlines.

*Not suitable under the existing regulatory framework*

Several respondents questioned the suitability of the existing regulatory system to support such enforcement. For example, one consumer organisation stated that baggage claims do not give rise to issues of breach of legislation in the same way as complaints falling within the scope of the APR Regulation and Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (the "PRM Regulation"), and it is therefore questionable whether the creation of National Enforcement Bodies along similar lines under those Regulations would be proportionate to the problem. Other respondents felt that the ability to create further sanctions would be restricted by international treaties, such as the Montreal Convention.

## **Conclusions**

Many respondents, mainly from the consumer group, commented that the appointment of an enforcement body would facilitate the standardisation of complaint handling and encourage air transport carriers to assist passengers and comply with their legal obligations with regard to baggage. However, in particular the industry group is concerned about the cost, effectiveness and proportional benefit of establishing such bodies compared to the cost and the actual numbers of lost, damaged or delayed luggage. Furthermore, it is believed that existing enforcement mechanisms are sufficient in many Member States, and the ability to create further sanctions would be restricted by the existing regulatory framework.

## **Recommendations**

1. Review the adequacy of the existing regime before making any changes.
2. Increase harmonisation between existing bodies.
3. Give additional enforcement powers to existing National Enforcement Bodies (NEBs).
4. Create a single EU body with responsibility for managing complaints for all Member States.
5. Maximise the efficiency of such an enforcement body by informing consumers of its existence and competencies.
6. Any new complaint procedure should not deprive consumers from the right to present their claim in front of a court if they are not satisfied.

### **2.1.2 The amount of compensation in cases of mishandled luggage**

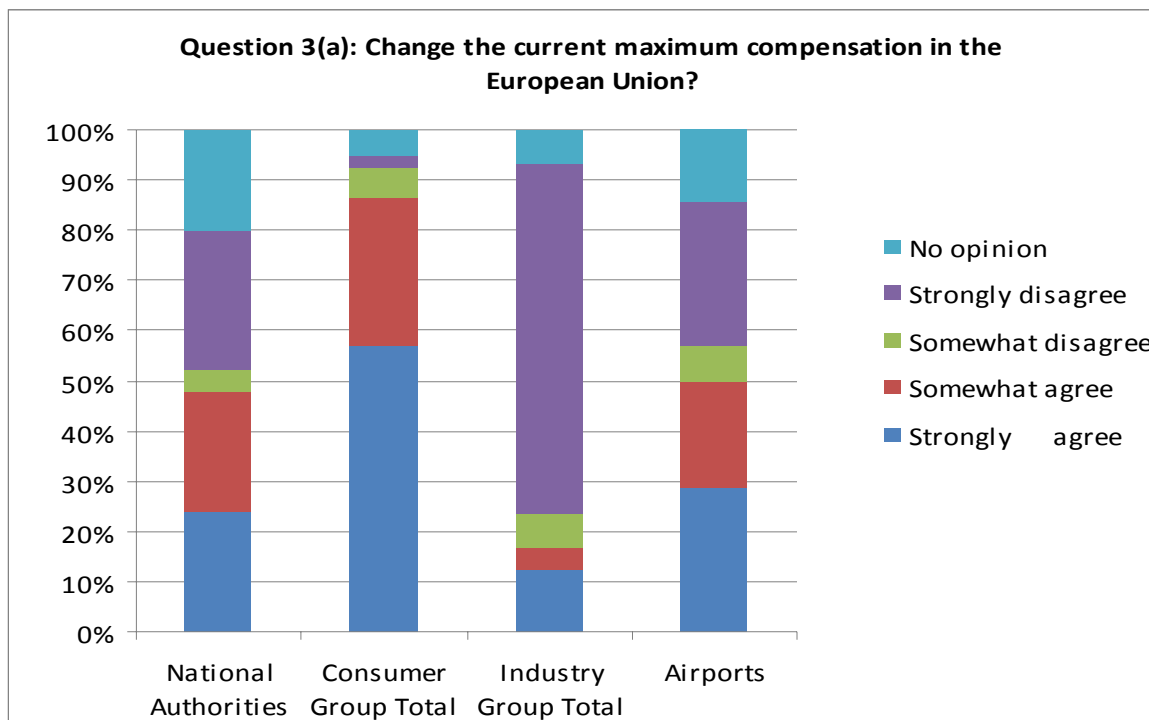
*Question 3- In your view, what is the best way to address compensation for mishandled luggage? Please give your opinion on the following:*

**a) Change the current maximum compensation in the European Union**

67% of all respondents agreed that the current maximum compensation limit in the EU should be changed. The large majority (86.3%) of the consumer group felt that the maximum should be changed, of which 56.8% strongly agreed, while 29.5% somewhat agreed. 48% of national authorities also indicated that the maximum should be changed, compared with 32% which opposed such a change. A significant proportion of national authorities (20%) expressed no opinion. 76.3% of the industry group felt that the maximum should not be changed, of which 69.4% strongly disagreed and 6.9% somewhat disagreed. 50% of all Airports felt that the maximum should be changed, of which 28.6% strongly agreed while 21.4% somewhat disagreed that the current maximum compensation limit in the EU should be changed. 35.7% of Airports opposed a change in compensation, of which 28.6% strongly disagreed and 6.4% somewhat disagreed.

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree
<b>National Authorities</b>	<b>24.0%</b>	<b>24.0%</b>	<b>4.0%</b>	<b>28.0%</b>
Consumer Organisations	63.4%	19.5%	12.2%	2.4%
Individuals	55.4%	31.6%	4.7%	2.6%
<b>Consumer Group Total</b>	<b>56.8%</b>	<b>29.5%</b>	<b>6.0%</b>	<b>2.6%</b>
Employee Associations	20.0%	0.0%	0.0%	60.0%
Industry Associations	22.2%	0.0%	11.1%	63.0%
Private Companies	5.0%	7.5%	5.0%	75.0%
<b>Industry Group Total</b>	<b>12.5%</b>	<b>4.2%</b>	<b>6.9%</b>	<b>69.4%</b>
<b>Airports</b>	<b>28.6%</b>	<b>21.4%</b>	<b>7.1%</b>	<b>28.6%</b>
Other	40.0%	13.3%	13.3%	20.0%
<b>Total All Respondents</b>	<b>43.9%</b>	<b>23.1%</b>	<b>6.4%</b>	<b>19.4%</b>





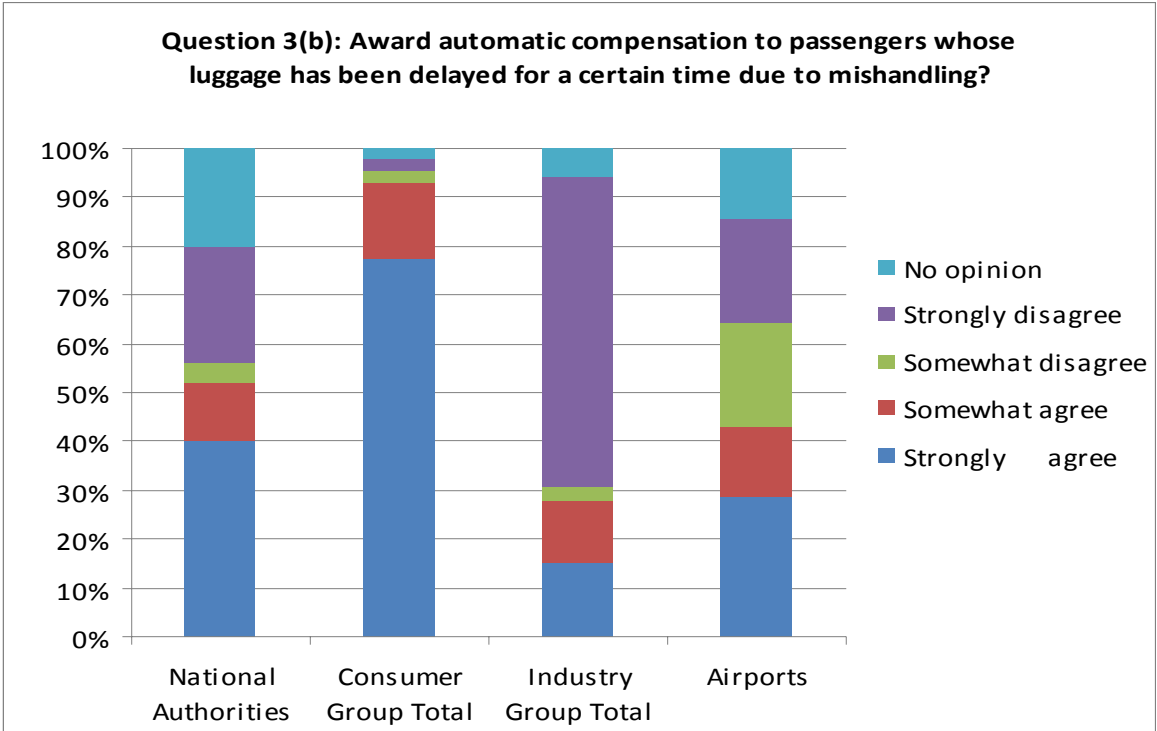
***b) Award automatic compensation to passengers whose luggage has been delayed for a certain time due to mishandling — for example until the following day***

Overall, 74.4 % of respondents were in favour of awarding automatic compensation for delayed luggage due to mishandling. The overwhelming majority (93.2%) of the consumer group agreed that automatic compensation should be awarded. Of this percentage, 77.4% strongly agreed, while 15.8% somewhat agreed. 52% of national authorities also agreed that automatic compensation should be awarded, of which 40% strongly agreed and 12% somewhat agreed. 28% of national authorities responded negatively, 24% of which strongly disagreed that automatic compensation should be awarded. The remaining 20% of national authorities expressed no opinion to the question.

66.7% of the industry group did not believe that automatic compensation should be awarded, of which 63.9% strongly disagreed, while 2.8% somewhat disagreed.

42.9% of Airports answered positively to the question, of which 28.6% strongly agreed and 14.3% somewhat agreed. 42.8% answered negatively to the question, of which 21.4% strongly disagreed and 21.4% somewhat disagreed.

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	No opinion	Number of Respondents
<b>National Authorities</b>	<b>40.0%</b>	<b>12.0%</b>	<b>4.0%</b>	<b>24.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	73.2%	17.1%	4.9%	2.4%	2.4%	41
Individuals	78.2%	15.5%	1.6%	2.6%	2.1%	193
<b>Consumer Group Total</b>	<b>77.4%</b>	<b>15.8%</b>	<b>2.1%</b>	<b>2.6%</b>	<b>2.1%</b>	<b>234</b>
Employee Associations	0.0%	20.0%	0.0%	60.0%	20.0%	5
Industry Associations	22.2%	7.4%	0.0%	66.7%	3.7%	27
Private Companies	12.5%	15.0%	5.0%	62.5%	5.0%	40
<b>Industry Group Total</b>	<b>15.3%</b>	<b>12.5%</b>	<b>2.8%</b>	<b>63.9%</b>	<b>5.6%</b>	<b>72</b>
<b>Airports</b>	<b>28.6%</b>	<b>14.3%</b>	<b>21.4%</b>	<b>21.4%</b>	<b>14.3%</b>	<b>14</b>
Other	60.0%	13.3%	0.0%	13.3%	13.3%	15
<b>Total All Respondents</b>	<b>59.7%</b>	<b>14.7%</b>	<b>3.1%</b>	<b>17.5%</b>	<b>5.0%</b>	<b>360</b>



***c) Increase this automatic compensation after a reasonable period of time, for instance if the delayed luggage is handed over more than 48 hours after the arrival of the flight***

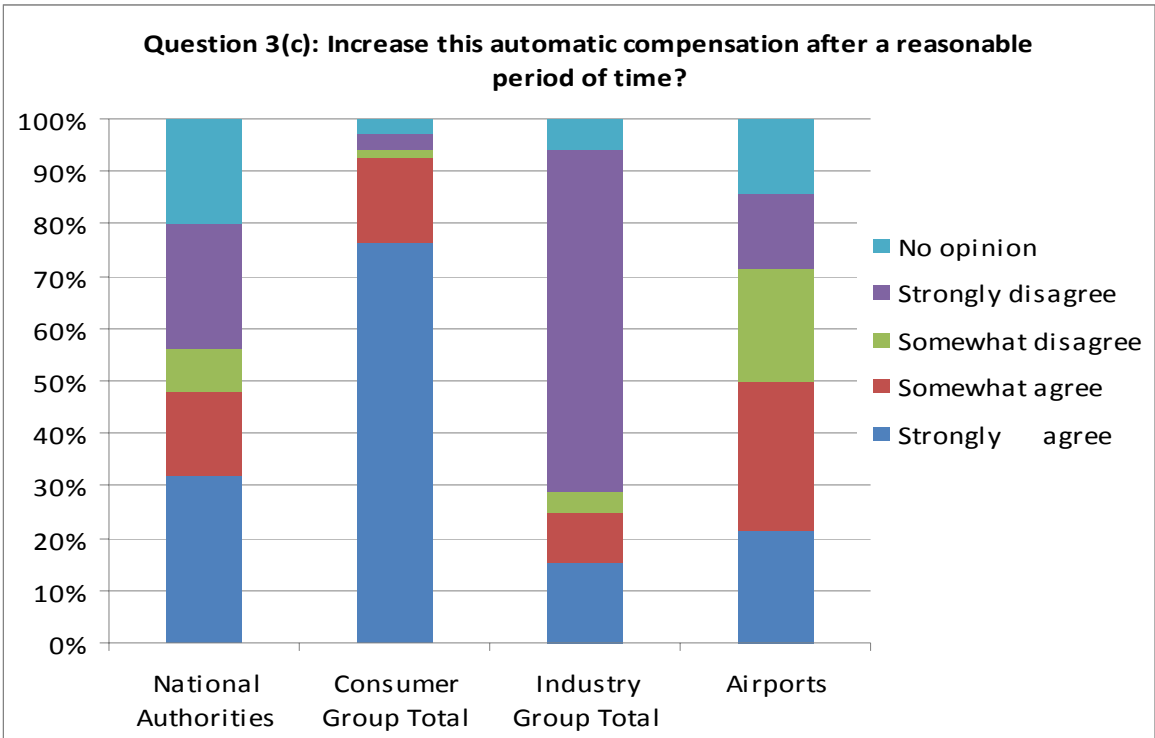
Overall, 73.3% of respondents were in favour of increasing automatic compensation after a reasonable period. An overwhelming majority (92.7%) of the consumer group agreed to increasing automatic compensation after a reasonable period, of which 76.5% strongly agreed and 16.2% somewhat agreed. 48% of national authorities felt that automatic compensation should be increased after a reasonable period, of which 32% strongly agreed and 16% somewhat agreed. 32% of national authorities were

opposed to such an increase after a reasonable time, of which 24% strongly agreed and 8% somewhat agreed. 20% expressed no opinion on the subject.

69.5% of the industry group were opposed to increasing automatic compensation after a reasonable period, of which 65.3% strongly disagreed and 4.2% somewhat disagreed.

50% of all Airports agreed to increasing automatic compensation after a reasonable period, of which 21.4% strongly agreed and 28.6% somewhat agreed. 35.7% did not agree to such an increase, of which 14.3% strongly disagreed and 21.4% somewhat disagreed.

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	No opinion	Number of Respondents
<b>National Authorities</b>	<b>32.0%</b>	<b>16.0%</b>	<b>8.0%</b>	<b>24.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	75.6%	19.5%	0.0%	2.4%	2.4%	41
Individuals	76.7%	15.5%	2.1%	3.1%	2.6%	193
<b>Consumer Group Total</b>	<b>76.5%</b>	<b>16.2%</b>	<b>1.7%</b>	<b>3.0%</b>	<b>2.6%</b>	<b>234</b>
Employee Associations	20.0%	0.0%	0.0%	60.0%	20.0%	5
Industry Associations	22.2%	7.4%	3.7%	63.0%	3.7%	27
Private Companies	10.0%	12.5%	5.0%	67.5%	5.0%	40
<b>Industry Group Total</b>	<b>15.3%</b>	<b>9.7%</b>	<b>4.2%</b>	<b>65.3%</b>	<b>5.6%</b>	<b>72</b>
<b>Airports</b>	<b>21.4%</b>	<b>28.6%</b>	<b>21.4%</b>	<b>14.3%</b>	<b>14.3%</b>	<b>14</b>
Other	60.0%	6.7%	0.0%	13.3%	20.0%	15
<b>Total All Respondents</b>	<b>58.3%</b>	<b>15.0%</b>	<b>3.3%</b>	<b>17.8%</b>	<b>5.6%</b>	<b>360</b>



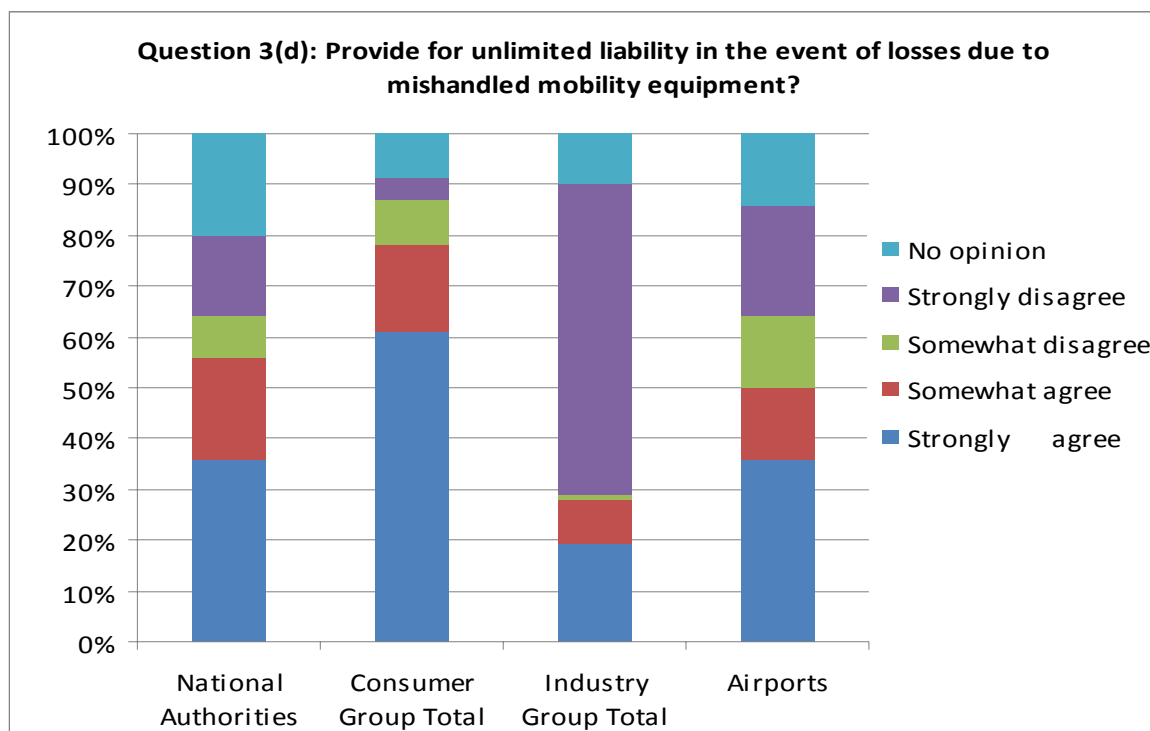
***d) Provide for unlimited liability in the event of losses due to mishandled mobility equipment for passengers with reduced mobility in the European Union.***

Overall, 64.4% of respondents were in favour of unlimited liability with regard to PRM mobility equipment. However, again there was a strong divergence between the consumer and industry groups. 78.2% of the consumer group agreed to unlimited liability, of which 61.1% strongly agreed, and 17.1% somewhat agreed. 62.5% of the industry group were opposed to such unlimited liability, of which 61.1% strongly disagreed, and 1.4% somewhat disagreed.

56% of national authorities were in favour of unlimited liability with regard to PRM mobility equipment, 36% of which strongly agreed and 20% somewhat agreed. 24% of national authorities opposed such unlimited liability, of which 16% strongly disagreed and 8% somewhat disagreed. Again, 20% of national authorities expressed no opinion.

50% of Airports were also in favour of unlimited liability, of which 35.7% strongly agreed and 14.3% somewhat agreed. 35.7% of Airports opposed such unlimited liability, of which 21.4% strongly disagreed and 14.3% somewhat disagreed.

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	No opinion	Number of Respondents
<b>National Authorities</b>	<b>36.0%</b>	<b>20.0%</b>	<b>8.0%</b>	<b>16.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	75.6%	12.2%	7.3%	0.0%	4.9%	41
Individuals	58.0%	18.1%	9.3%	5.2%	9.3%	193
<b>Consumer Group Total</b>	<b>61.1%</b>	<b>17.1%</b>	<b>9.0%</b>	<b>4.3%</b>	<b>8.5%</b>	<b>234</b>
Employee Associations	20.0%	20.0%	0.0%	40.0%	20.0%	5
Industry Associations	22.2%	0.0%	0.0%	66.7%	11.1%	27
Private Companies	17.5%	12.5%	2.5%	60.0%	7.5%	40
<b>Industry Group Total</b>	<b>19.4%</b>	<b>8.3%</b>	<b>1.4%</b>	<b>61.1%</b>	<b>9.7%</b>	<b>72</b>
<b>Airports</b>	<b>35.7%</b>	<b>14.3%</b>	<b>14.3%</b>	<b>21.4%</b>	<b>14.3%</b>	<b>14</b>
Other	46.7%	6.7%	20.0%	13.3%	13.3%	15
<b>Total All Respondents</b>	<b>49.4%</b>	<b>15.0%</b>	<b>8.1%</b>	<b>17.5%</b>	<b>10.0%</b>	<b>360</b>



**e) Other**

The majority of all respondents (61%) had no opinion about other measures to address compensation in respect of mishandled luggage.

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	No opinion	Number of Respondents
<b>National Authorities</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>100.0%</b>	<b>7</b>
Consumer Organisations	35.7%	21.4%	0.0%	0.0%	42.9%	14
Individuals	32.4%	8.3%	3.7%	0.0%	55.6%	108
<b>Consumer Group Total</b>	<b>32.8%</b>	<b>9.8%</b>	<b>3.3%</b>	<b>0.0%</b>	<b>54.1%</b>	<b>122</b>
Employee Associations	0.0%	0.0%	0.0%	0.0%	100.0%	3
Industry Associations	0.0%	0.0%	0.0%	33.3%	66.7%	12
Private Companies	16.7%	5.6%	0.0%	11.1%	66.7%	18
<b>Industry Group Total</b>	<b>9.1%</b>	<b>3.0%</b>	<b>0.0%</b>	<b>18.2%</b>	<b>69.7%</b>	<b>33</b>
<b>Airports</b>	<b>16.7%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>16.7%</b>	<b>66.7%</b>	<b>6</b>
Other	0.0%	0.0%	11.1%	0.0%	88.9%	9
<b>Total All Respondents</b>	<b>24.9%</b>	<b>7.3%</b>	<b>2.8%</b>	<b>4.0%</b>	<b>61.0%</b>	<b>177</b>

## **Overview of additional comments received**

### ***General comments on the best way to address compensation***

Some respondents considered that further regulation regarding the amount of compensation in cases of mishandled luggage would contravene international treaties (The 1999 Montreal Convention & Warsaw Convention System) to which EU and its Member States are parties.

Some airlines also stated that national law is sufficient, considering that additional regulations would go against the principle of subsidiarity and that legislation applicable to the airline sector is already extensive compared with legislation applicable to other modes of transport.

Respondents also stressed that increasing liability would lead to increased airline costs and ticket prices.

Some airlines pointed out that the number of cases of mishandled baggage was very small and that it was not only their fault as there were a number of links in the service chain including airports or handling agents as well as external factors. One national authority pointed out that airports do not permit improvements in infrastructure or service levels. One airline and one airline association suggested that liability schemes should therefore be set up for handling agents/airports that normally take care of the luggage. Moreover, it was suggested that the Commission should take steps to further liberalise airport handling, giving airlines more room to negotiate baggage handling delivery standards.

### ***a) Change the current maximum compensation in the European Union***

#### **Against changing the current maximum compensation**

##### *Already sufficiently regulated*

Several companies, airline associations and one national authority underlined that this limit is already regulated by the Montreal Convention, including unlimited liability for loss of baggage in case of wilful misconduct by the carrier, and is already revised periodically. Such an increase may therefore infringe the Convention and distort competition with regard to third country airlines. Two national authorities noted that they had received no information that these limits were insufficient.

##### *Insurance and declaring extra value of luggage*

Moreover, several respondents noted that, under the Liability Regulation, passengers have the option to request a higher liability limit by paying a supplementary fee. Passengers should therefore be encouraged to declare higher value items or take insurance, and information on insurance should be given in writing at the time of booking or check-in.

These liability limits are deemed sufficient by many respondents and one consumer organisation noted that it was rare for damages to exceed the limit. Concern was also expressed that increasing the amounts would lead to fraudulent claims and that the main problem is proving the actual value of baggage.

#### **In favour of increasing maximum compensation**

One airport and one consumer organisation supported raising the maximum limit, stating that this would create incentives for higher efficiency.

Several consumer organisations suggested that compensation levels be revised every five years to take into account inflation rates, and increased costs of living. Consumer organisations and individuals suggested increases in compensation ranging between 1000 and 2000 Euros. Several individuals considered that maximum compensation should be in line with US levels.

It was however noted that any proposal to increase maximum compensation should be preceded by a statistical study reflecting actual losses suffered and compensation provided as well as impact studies.

***b) Award automatic compensation to passengers whose luggage has been delayed for a certain time due to mishandling - for example until the following day.***

**Against awarding automatic compensation**

A number of respondents opposed automatic compensation stated that this should be decided on a case by case basis as part of a business product. Several airlines and airline associations noted that measures are already taken by airlines for example through a first needs kit. Two national authorities commented that it would be against the interest of airlines because they would have to pay compensation regardless of proof of damage. Moreover, it would be against the interest of passengers because they would not have the time to quantify the actual damage.

*Different situations amongst passengers*

Several respondents highlighted that situations amongst passengers differed and automatic compensation did not address each situation. A few respondents highlighted the difference between passengers returning home and those away from their homes. One industry association pointed out that the provision of automatic compensation may not always be proportionate to actual loss suffered.

*Against interest of consumer*

Questions of costs were also raised, with several respondents highlighting that automatic compensation would imply a control system which would impact on prices of tickets. Moreover, one airline considered that such measures may lead the carriers into arbitration decisions to the detriment of the interest of the consumer.

**In favour of awarding automatic compensation**

*Benefits*

Several consumer organisations in favour of automatic compensation noted that it would lead to a more efficient procedure and ensure that passengers could purchase essentials.

*Form of automatic compensation*

Many respondents including individuals stated that a kit of essentials or automatic compensation should be provided to cover such expenses. According to some respondents, such compensation should be made after 24 hours or 6 hours. One consumer organisation suggested automatic minimum compensation per day up to 21 days. Another one proposed that a higher compensation should be provided if harm could be proved. A third consumer organisation suggested that compensation should be considered according to luggage and not passengers while one national authority stated that it should depend on the length of delay and price of ticket.

According to one airline, such automatic compensation should be fair and reasonable. Several consumer organisations underlined that it should not limit the consumer's right to file an individual complaint for additional costs incurred. Two consumer organisations also commented that automatic compensation should be in line with the APR Regulation and with the case law of the ECJ. They also stated there should also be a "moral" compensation due to loss of time, distress, and inconvenience.

***c) Increase this automatic compensation after a reasonable period of time***

**Against increasing automatic compensation**

One national authority and one industry association underlined that it sometimes takes more than 48 hours to return luggage when it is sent to the wrong airport.

**In favour of increasing automatic compensation**

Several respondents including individuals agreed that automatic compensation should be increased, for example after a period of 48 hours, as more replacement items will need to be purchased. One consumer association added that this would create an incentive to speed up the process. It was also suggested that the increase should be proportionate to inconvenience and costs as well as the fare paid and whether it is a homeward-bound flight.

One consumer organisation suggested categorising periods with varying amounts of compensation e.g. 1 day, 2 days, 3-7 days, 1-2 weeks, 2 weeks – 1 month, etc.

***d) Provide unlimited liability in the event of losses due to mishandled mobility equipment for PRMs in the EU***

**Against unlimited liability**

*Measures already in place*

Airlines and airline associations noted that measures are already in place and that the maximum liability with regard to mobility equipment for PRMs is often waived by airlines. Moreover, airlines and industry associations noted that mishandling of mobility equipment was rare and such that equipment was handled with extra care. It was also stated that airlines should be left to determine commercial policy.

*Insurance*

Several respondents also raised the points that this equipment should be placed as hand luggage or be properly insured with even an obligation to do so. Two consumer organisations suggested a “mass insurance” premium spread over all passengers.

*Risk of fraud and costs being transferred to the consumer*

One airline raised concerns that this unlimited liability may lead to abuse, and that mishandling needed to be proved. One industry association suggested that unlimited liability for mishandled mobility equipment would affect consumers, and that a better option would be to encourage risk prevention such as improving handling procedures.

*Alternatives to regulation*

One consumer organisation and one airline supported replacement of mobility equipment and one consumer organisation suggested providing alternatives such as rental equipment. Other suggestions included that there should be no unlimited liability, but that the limits should be incremented in a reasonable way for PRM mobility equipment and the PRM should be placed in the same position he/she was in prior to the loss. One consumer association suggested that doubling or tripling the liability limit would be sufficient.

*No evidence*

Two national authorities stated that there was no evidence that compensation limits were insufficient.

**In favour of unlimited liability**

Two consumer organisations and one PRM organisation noted that unlimited liability would incentivise PRMs to travel. According to one respondent, the compensation should be proportional to the delay, needs and cost of the equipment.

Several consumer organisations, one private (rail) company and one PRM organisation referred to Article 25 of the Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations (RPR Regulation) which states that "no financial limit shall be applicable" on compensation related to the loss of or damage to mobility equipment.



## *e) Other*

### *Changes in procedure*

Two consumer organisations suggested reducing the burden on consumers to prove the contents of bags. It was also suggested by consumer organisations that the deadline to make a claim should be extended, for example from 7 to 60 days.

### *Information*

One consumer organisation as well as individuals noted that more information should be provided for passengers on their rights. One consumer organisation highlighted that the Liability Regulation requires airlines to publish this information, but it can be difficult to find in the airline's terms and conditions.

According to another consumer organisation, it should be clarified that the airlines are liable for damages that have occurred by inappropriate handling of the luggage. Several consumer organisations commented that information should also be provided on the amount of compensation available to passengers and the possibility of declaring high value items to airlines including fees to insure them. This could be done through a 'key facts' documents at point of sale or through a European Commission passenger rights portal.

One industry association suggested mandatory insurance, which would allow for a cheaper service for other passengers.

One airport and one consumer organisation commented that there should be a compulsory minimum level of compensation. One airline suggested that such compensation should be in cash and local currency.

One airport also suggested that mobility equipment should not be treated as luggage in future regulations and should be specifically dealt with through a separate regulation.

One consumer organisation recommended that data relating to the relative performance of different air carriers, airports and national enforcement bodies should be published.

## **Conclusions**

Among those general comments made with regard to compensation, several respondents believed that further regulation would contravene international treaties including the Montreal Convention, while others within the airline industry commented that existing regulations and airline practices were sufficient. There were also fears that increased liability would increase costs and therefore ticket prices.

The majority of respondents agreed that the current maximum compensation limit in the EU should be changed. Several respondents including one airport and one consumer organisation suggested that an increase in the limit would encourage efficiency, while several individuals suggested increasing compensation in line with US levels. Those who responded negatively opposed changing the maximum compensation limit largely on the basis that the industry was already sufficiently regulated.

Of those respondents in favour of awarding automatic compensation for delayed luggage due to mishandling a number of consumer organisations stated that provision should be made to cover expenses, determined after a specific time period. Again it was stated that such measures would help increase efficiency. Of those respondents opposed to automatic compensation, a considerable number of airlines stated that there were already sufficient measures in place. Others suggested that this should be decided on a case by case basis.

Respondents in favour of increasing automatic compensation after a reasonable period were largely consumer organisations, some of which believed that a specific period would provide an incentive for airlines to speed up the process. Of those opposed to such measures, one national authority and one

industry association stated that it sometimes took more than 48 hours to return luggage which was sent to a wrong airport.

Respondents in favour of unlimited liability with regard to PRM mobility equipment stated that it would encourage PRMs to travel. However, of those who responded negatively several respondents, including consumer organisations and one PRM organisation referred to Regulation 1371/2007 preventing financial limits from being applied to the loss or damage of mobility equipment.

## Recommendations

### *Changing current maximum compensation*

1. Any proposal to increase maximum compensation should be preceded by a statistical study reflecting actual losses suffered and compensation provided as well as impact studies.
2. Passengers should be encouraged to declare higher-value items or take insurance, and information on insurance should be given in writing at the time of booking or check-in.
3. Consumer organisations and individuals suggested increases of compensation ranging between 1000 and 2000 Euros.
4. Maximum compensation should be in line with the US level.
5. There should be a revision of compensation levels at regular intervals to take into account inflation rates, and increased costs of living.

### *Awarding automatic compensation*

6. Automatic compensation should be brought into line with the APR Regulation and with ECJ case law. There also should be a “moral” compensation due to loss of time, distress and inconvenience.
7. Automatic compensation should be provided on a case-by-case basis, as part of a business product.
8. A kit of essentials or automatic compensation should be provided to cover expenses.

### *Increasing automatic compensation after a reasonable period of time*

9. Any increase in automatic compensation should be proportionate to inconvenience and costs as well as fare paid and whether it is an outbound or homeward-bound flight.

### *Unlimited liability in the event of losses due to mishandled mobility equipment for PRMs*

10. A “mass insurance” should be established with the premium spread among all passengers.
11. Alternative equipments such as rentals should be provided.
12. Rather than unlimited liability, limits should be incremented in a reasonable way for PRM mobility equipment, and the PRM should be placed in the same position he/she was in prior to the loss.
13. Compensation should be proportional to the delay, needs of passengers and cost of the equipment.

### *Other*

14. Reduce the burden on consumers to prove the contents of bags.
15. Extend claim deadlines from 7 to 60 days.
16. Clarify liability for damages that have occurred through inappropriate handling of baggage.
17. Provide information on the amount of compensation available to passengers eg through a “key facts” document at the point of sale or through a European Commission passenger rights portal.
18. Automatic compensation should be provided on a case-by-case basis, as part of a business product.
19. Mandatory insurance for all passengers.

## 2.1.3 Conditions on the carriage of luggage

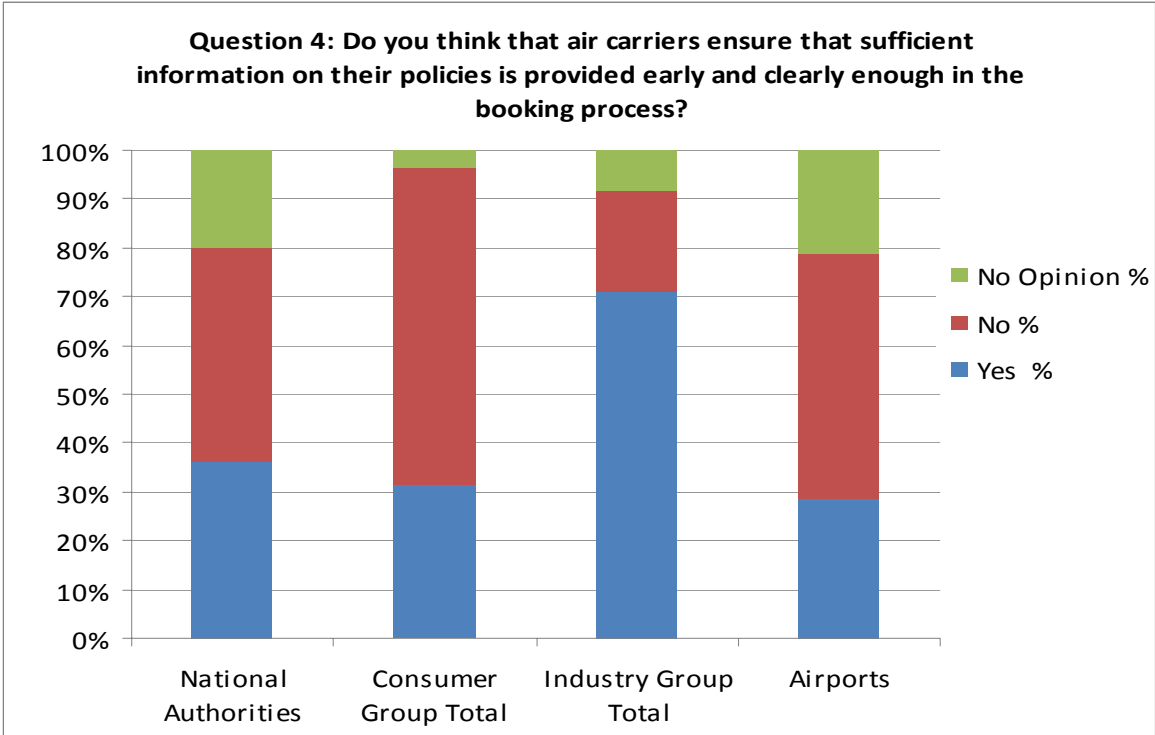
***Question 4: Do you think that air carriers ensure that sufficient information on their policy on fees, size and weight of checked-in and hand luggage is provided early and clearly in the booking process?***

Overall, 53.6% of respondents did not think that air carriers ensure that sufficient information is provided early and clearly enough in the process, compared with 39.7% who did.

The majority (64.5%) of the consumer group did not think that air carriers ensure sufficient information is provided early and clearly enough. 44% of national authorities also responded negatively, compared with 36% who responded positively. 20% expressed no opinion on the question. 50% of Airports also did not believe that air carriers ensure that sufficient information is provided early and clearly enough, while 28.6% responded positively. 21.4% expressed no opinion on the matter.

70.8% of the industry group did think that air carriers ensure sufficient information is provided early and clearly enough in the process.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>36.0%</b>	<b>44.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	19.5%	78.0%	2.4%	41
Individuals	34.2%	61.7%	4.1%	193
<b>Consumer Group Total</b>	<b>31.6%</b>	<b>64.5%</b>	<b>3.8%</b>	<b>234</b>
Employee Associations	80.0%	20.0%	0.0%	5
Industry Associations	51.9%	37.0%	11.1%	27
Private Companies	82.5%	10.0%	7.5%	40
<b>Industry Group Total</b>	<b>70.8%</b>	<b>20.8%</b>	<b>8.3%</b>	<b>72</b>
<b>Airports</b>	<b>28.6%</b>	<b>50.0%</b>	<b>21.4%</b>	<b>14</b>
Other	33.3%	60.0%	6.7%	15
<b>Total All Respondents</b>	<b>39.7%</b>	<b>53.6%</b>	<b>6.7%</b>	<b>360</b>



## **Overview of additional comments received**

### **Carriers do provide sufficient information**

#### *Sources of Information*

Many respondents felt that the information was sufficient and they specified that information could be found on the ticket, in the booking confirmation, on the boarding pass in the terms and conditions of carriage, on airline websites, at airports, at service centres, travel agencies, by telephone and on request. However, several respondents (including individuals) added that the way in which this information is available can depend on the individual air carrier and how the customers purchase their ticket. One consumer organisation suggested that information to passengers should be provided via the use of a 'key facts' document at the time of booking.

#### *Commercial incentive to provide information*

One airline and one airline association commented on the already highly competitive nature of the market and several respondents added that it is in the airlines' interest to ensure that customers are aware of this information. One airline stated that this difference in information could be one of the parameters to encourage competition between airlines.

#### *Existing legislation is sufficient*

Two national authorities stated that 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 (the "Air Services Regulation") requires air carriers to provide details of all optional fees clearly at the start of the booking process, including any charges for hold baggage. One of them stated that improved access to these fees could be helpful, but that existing legislation such as the Unfair Commercial Practices Directive (Directive 2005/29/EC) requires all material information to be provided to consumers.

#### *Concerns*

Despite positive responses, a number of organisations and individuals expressed concerns in certain areas regarding the provision of information. One consumer organisation referred to two cases where two airlines involved had different policies concerning weight resulting in passengers having to pay a very high fee for their trip. Several individuals and one consumer organisation mentioned that with some websites, information can be difficult to find outside the booking process.. One national authority acknowledged that charges for excess baggage may be more difficult to find than information on allowances for the size and weight, and that these are sometimes included only within terms and conditions. One airline commented that while the information is readily available, many customers do not read the information, even when it is presented clearly and promptly in the booking process.

### **Carriers do not provide information early or clearly enough**

#### *Lack of clarity, availability and accessibility of information*

A number of those respondents including individuals who answered negatively reiterated the point that information provided to passengers was not clear enough, particularly in relation to information provided on air carrier websites. Two consumer organisations as well as individuals commented that information was not provided early enough in the booking process while several respondents specifically suggested that additional fees for baggage should be made clearer and earlier, for example before passengers buy their tickets.

One national authority stated that although the rules are quite clear, the problem is that not all carriers are consistent in their application. One airline believed that this lack of uniformity caused confusion among passengers. One organisation stated that some airlines are more meticulous and helpful in respect of providing information than others, and one airport noted that low cost carriers were not as informative as other carriers. Others stated that baggage policies (such as permitted dimensions of hand luggage) as well as the availability of information concerning baggage rules varied considerably between different airlines. One employer's organisation commented that an analysis of all literature

and websites of the different companies should be carried out to confirm that the information conveyed to the customers is correct. Two consumer organisations and one industry association suggested that standards and more harmonised technical rules on baggage should be introduced throughout the EU.

#### *Problem of access to information*

One PRM organisation stated that information was not in accessible formats such as Braille, audio or large print. Several consumer organisations stated that information was difficult to find for those passengers with limited or no access to the internet.

### **Conclusions**

Less than half of respondents stated that air carriers provide sufficient information on their luggage policies through various different means including tickets, websites and at airports. A number of respondents highlighted that the lack of clarity and uniformity between airlines in how this information is provided can lead to uncertainty among passengers. Some respondents commented that this information is not provided sufficiently clearly or early enough in the booking process.

### **Recommendations**

1. Additional information to passengers should be provided via the use of a 'key facts' document at the time of booking.
2. Standards and more harmonised technical rules should be introduced throughout the EU.
3. An analysis of all literature and websites of the different companies should be carried out to confirm that the information conveyed to the customers is correct.

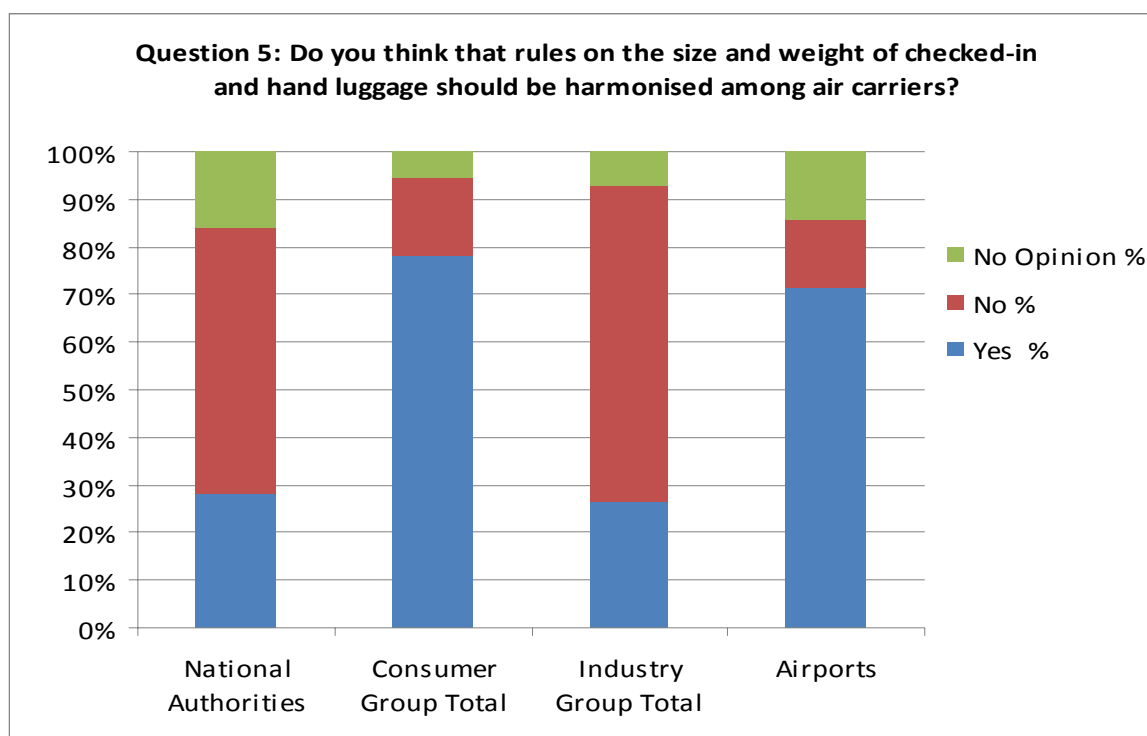
#### ***Question 5: Do you think that rules on the size and weight of checked-in and hand luggage should be harmonised among air carriers?***

Overall, 63.1% of respondents believed that rules on the size and weight of checked-in and hand luggage should be harmonised among air carriers, while 29% of respondents did not.

The majority (78.2%) of the consumer group felt that the rules should be harmonised. This view was shared by 71.4% of Airports.

66.7% of the industry group felt that the rules should not be harmonised along with 56% of national authorities. 16% of national authorities expressed no opinion to the question.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>28.0%</b>	<b>56.0%</b>	<b>16.0%</b>	<b>25</b>
Consumer Organisations	80.5%	12.2%	7.3%	41
Individuals	77.7%	17.1%	5.2%	193
<b>Consumer Group Total</b>	<b>78.2%</b>	<b>16.2%</b>	<b>5.6%</b>	<b>234</b>
Employee Associations	20.0%	80.0%	0.0%	5
Industry Associations	33.3%	55.6%	11.1%	27
Private Companies	22.5%	72.5%	5.0%	40
<b>Industry Group Total</b>	<b>26.4%</b>	<b>66.7%</b>	<b>6.9%</b>	<b>72</b>
<b>Airports</b>	<b>71.4%</b>	<b>14.3%</b>	<b>14.3%</b>	<b>14</b>
Other	53.3%	20.0%	26.7%	15
<b>Total All Respondents</b>	<b>63.1%</b>	<b>29.2%</b>	<b>7.8%</b>	<b>360</b>

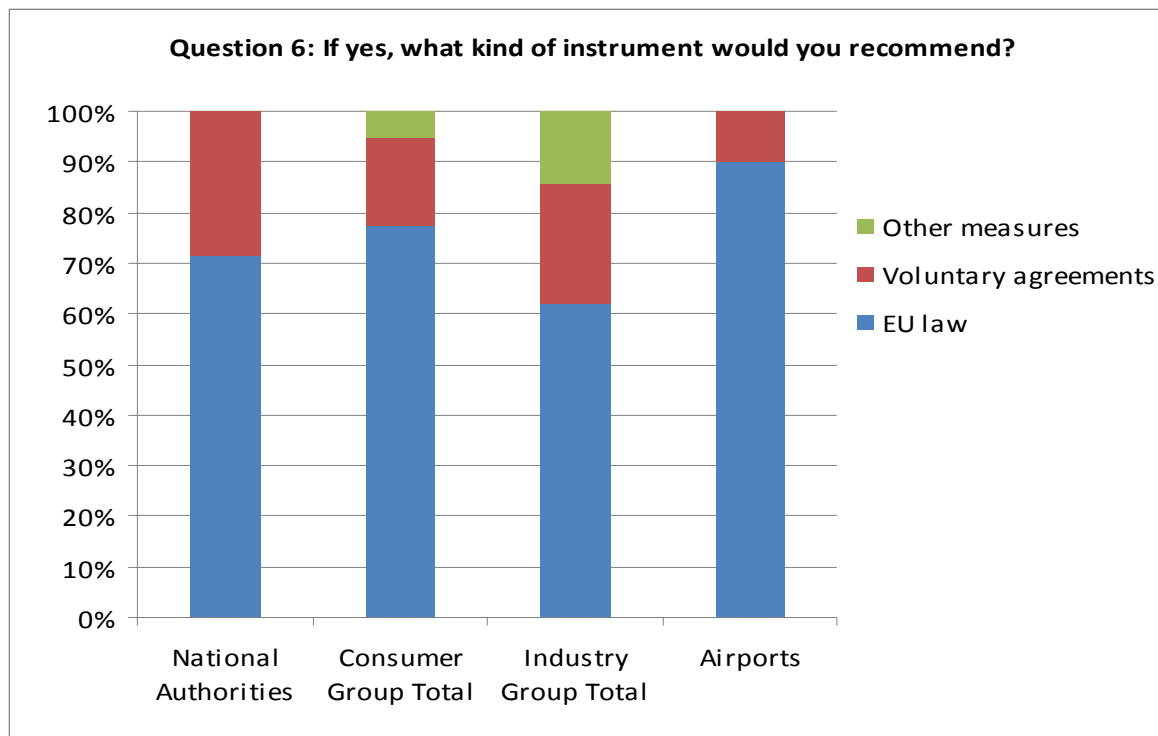


**Question 6: If yes, what kind of instrument would you recommend?**

76.1% of those who responded “Yes” to question 5 specified EU Law as the preferred instrument of harmonisation. 77.6% of the consumer group specified EU Law as the preferred instrument, while 17.4% specified voluntary agreements and 5% recommended other measures. 61.9% of the industry group specified EU Law as the preferred instrument, while 23.8% specified voluntary agreements and 14.3% recommended other measures. 90% of Airports specified EU Law as the preferred instrument while 10% specified voluntary agreements. 71.4% of national authorities also specified EU Law as the preferred instrument while 28.6% specified voluntary agreements.



Category of stakeholder	EU law	Voluntary agreements	Other measures	Number of Respondents
<b>National Authorities</b>	<b>71.4%</b>	<b>28.6%</b>	<b>0.0%</b>	<b>7</b>
Consumer Organisations	77.1%	20.0%	2.9%	35
Individuals	77.7%	16.9%	5.4%	166
<b>Consumer Group Total</b>	<b>77.6%</b>	<b>17.4%</b>	<b>5.0%</b>	<b>201</b>
Employee Associations	100.0%	0.0%	0.0%	1
Industry Associations	77.8%	22.2%	0.0%	9
Private Companies	45.5%	27.3%	27.3%	11
<b>Industry Group Total</b>	<b>61.9%</b>	<b>23.8%</b>	<b>14.3%</b>	<b>21</b>
<b>Airports</b>	<b>90.0%</b>	<b>10.0%</b>	<b>0.0%</b>	<b>10</b>
Other	62.5%	12.5%	25.0%	8
<b>Total All Respondents</b>	<b>76.1%</b>	<b>17.8%</b>	<b>6.1%</b>	<b>247</b>



## **Overview of additional comments received**

### **Rules on the size and weight of checked-in and hand luggage should be harmonised**

#### *Harmonisation to encourage consistency, clarity and transparency of information*

One industry association commented that there is confusion between passengers, agents and tour operators regarding current rules. Several other respondents felt that harmonisation would help create more transparency for consumers as well as clarity and consistency. Some respondents noted that this would be especially helpful in cases where passengers are flying with several different airlines during the same trip. Moreover, one private (rail) company said this may help combat both the hidden costs and the reduction of the quality of service.

Several respondents including one airline and one national authority stated that industry standards for weight of baggage permitted on aircraft should be set, such as a maximum weight per piece of luggage and maximum dimensions for hand luggage. Other respondents including one industry association, one private company and one consumer organisation suggested that there should be minimum standards regarding weight exemptions and excess charges to ensure homogeneity. One industry association suggested that luggage rules should be defined according to booking classes and regions. One consumer organisation stated that harmonisation of rules should be achieved on the basis of weight only, since this would make it easier and clearer for passengers travelling with different carriers on a single trip.

A number of respondents including individuals stated that harmonisation would be a sensible solution to the large variation in baggage rules between carriers, allowing them to be placed on an equal footing, and allowing consumers to compare the different services of the airlines more easily.

#### *EU Law as the preferred instrument*

Of those respondents who replied positively, the majority specified EU law as the preferred instrument of harmonisation. One consumer organisation stated that there should be no difference between rules on flights within the EU.

#### *Voluntary Agreements*

A small number of respondents were in favour of voluntary agreements, one suggestion being that they should be used at least until EU regulations are brought into force. One consumer organisation stated that a benefit of voluntary rules is that they could be applied to non-EU carriers. However, another one criticised voluntary agreements for their lack of effectiveness and enforceability.

#### *Other agreements*

One airline and one consumer organisation suggested that there could be potential practical problems in attempting to apply EU law to non-EU carriers and jurisdictions. One of those respondents commented that consistency and clarity for customers and airline ground handlers would be lost if one system applied to the EU and another one to the rest of the world. One consumer organisation recommended harmonisation through the use of international agreements and associations such as the International Air Transport Association (IATA) and the Association of European Airlines (AEA).

### **Rules on the size and weight of checked-in and hand luggage should not be harmonised**

#### *Commercial concerns*

Several respondents commented that the issue of baggage size and weight is central to the commercial policy of airlines. Various respondents commented that airlines should be free to make their own commercial decisions, such as offering their passengers the product they deem most suitable to their needs, and setting their own conditions and charges for carriage, provided these are made clear to the customer. Other respondents added that baggage policy is best regulated by the market and harmonisation would lead to unnecessary over-regulation. A number of individuals were also concerned about the effect of harmonisation on costs.

### *Competition concerns*

It was also argued that harmonisation would have a negative impact on competition between airlines (size, weight and bag fees stated as being the means of competitive advantage). One airline suggested that harmonisation would risk putting European carriers at a disadvantage if other non-EU carriers were offered a more generous allowance.

A number of organisations stated that any attempt to harmonize the size and weight of checked-in and hand luggage among air carriers would be contrary to competition law. One airline pointed out that IATA had previously proposed to introduce a standard baggage weight for check-in baggage. However the US Department of Transportation did not grant the proposed resolution anti-trust immunity because it considered it reduced competition between airlines.

### *No evidence that this is necessary*

One airline and one industry association stated that there was no evidence that "the lack of uniformity among carriers makes carry-on baggage a multi-faceted problem on board aircraft today" as specified in the Public Consultation document. One national authority and one industry organisation commented that harmonisation should not be necessary provided that airlines communicate their policies and sufficient information clearly in advance.

### *Potential obstacles to harmonisation*

One consumer organisation, one airline and several individuals stated that standardisation could be difficult, impractical and/or inappropriate because airlines have a variety of different baggage policies and rules relating to size and weight of luggage. Two industry associations indicated that the amount and price of baggage items can vary significantly depending on travel classes, destinations and duration of stays. In addition, several respondents underlined that local safety regulations or collective bargaining agreements, as well as differences in aircraft specifications and technical standards could make harmonisation difficult or unworkable. One airline and one national authority therefore stated that any attempt at harmonisation would also have to take into account the type of aircraft (size and capacity).

### *Safety and environmental concerns*

Two organisations and a number of individuals expressed concern that harmonised rules on the size and weight of baggage could affect safety.

One airline noted that harmonisation of baggage allowances at a high level may encourage passengers to take more baggage, thus increasing aircraft emissions.

### *Effects on customer service and consumer choice*

A number of respondents stated that baggage policy was a customer service issue and that variations in baggage policy between airlines facilitated customer choice, for example between cheaper tickets and lower baggage allowances and possibly more expensive tickets with higher allowances. One airport commented that changing the balance between checked-in and carry-on luggage could have significant implications for the operation of the airport and the quality of service experienced by passengers. Therefore any further regulation in respect of these matters would require careful consultation and consideration of the costs and benefits. One airline stated that any perceived benefit from such harmonisation would need to be balanced against the inevitable reduction in such choice for passengers.

## **Conclusions**

Harmonisation in this area was viewed by many respondents as a way to encourage consistency, clarity and transparency of information on baggage policies and to ensure uniformity between passengers and airlines. EU law was the preferred instrument of harmonisation, although there were practical concerns about applying such rules outside the EU. There were also serious commercial concerns within the industry about over-regulation of the market. Harmonisation of baggage policies was regarded by several respondents as being potentially detrimental to a competitive market, as well as being contrary to EU and non-EU competition law.

## Recommendations

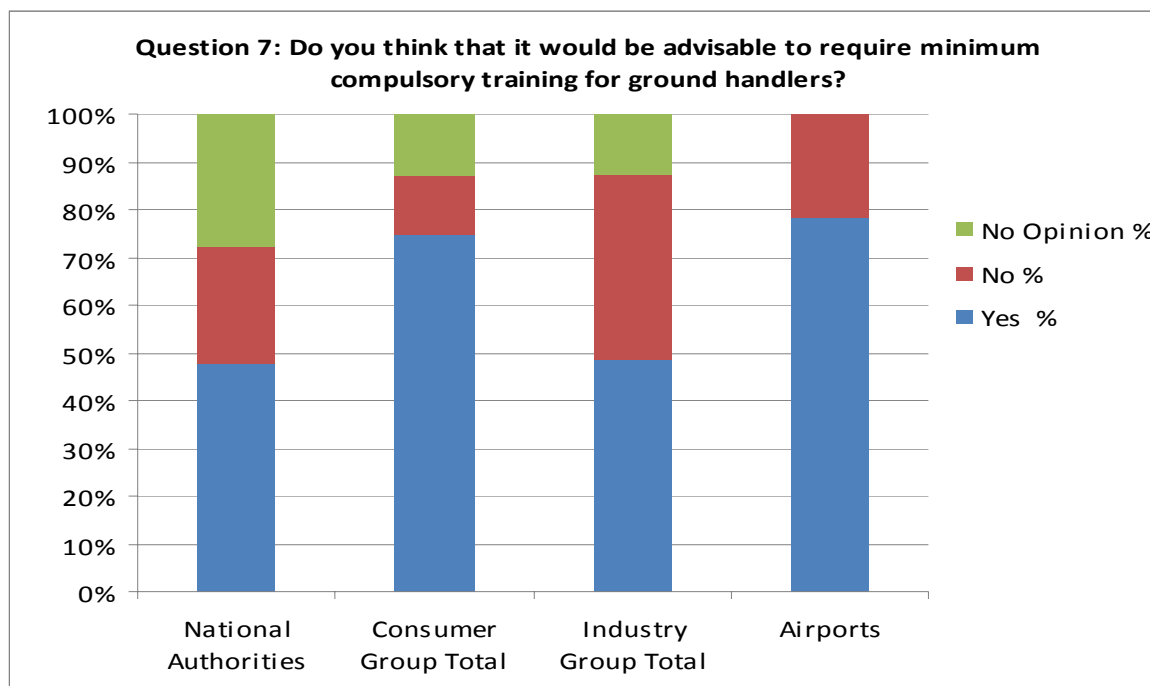
1. There should be standard limits for luggage with regard to permitted weights, exemptions and excess charges and dimensions of hand luggage to ensure homogeneity throughout the industry.
2. Luggage rules should be defined according to booking classes and regions.
3. Any attempt at harmonisation would also have to take into account the type of aircraft (size and capacity).
4. Harmonisation of rules should be achieved on the basis of weight only, since this would make it easier and clearer for passengers travelling with different carriers on a single trip.
5. Any perceived benefit from harmonisation should be balanced against the inevitable reduction in such choice for passengers.
6. Voluntary agreements should be encouraged, particularly with regards to size limits of hand luggage.
7. Harmonisation should be facilitated through the use of international agreements and associations, such as the International Air Transport Association (IATA) and the Association of European Airlines (AEA).

## 2.2 Directive 96/67

**Question 7: Do you think that it would be advisable to require minimum compulsory training for ground handlers (in particular for staff in charge of handling baggage)?**

Overall seventy percent of respondents are in favour of requiring minimum compulsory training for ground handlers. Consumers were for the most part in favour of this suggestion (75%) and airports were also strongly in favour (79%). However, national authorities and the industry group were divided on this question with approximately 50% in both groups approving this measure.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>48.0%</b>	<b>24.0%</b>	<b>28.0%</b>	<b>25</b>
Consumer Organisations	65.9%	19.5%	14.6%	41
Individuals	76.7%	10.9%	12.4%	193
<b>Consumer Group Total</b>	<b>74.8%</b>	<b>12.4%</b>	<b>12.8%</b>	<b>234</b>
Employee Associations	40.0%	60.0%	0.0%	5
Industry Associations	48.1%	29.6%	22.2%	27
Private Companies	50.0%	42.5%	7.5%	40
<b>Industry Group Total</b>	<b>48.6%</b>	<b>38.9%</b>	<b>12.5%</b>	<b>72</b>
<b>Airports</b>	<b>78.6%</b>	<b>21.4%</b>	<b>0.0%</b>	<b>14</b>
Other	53.3%	33.3%	13.3%	15
<b>Total All Respondents</b>	<b>66.9%</b>	<b>19.7%</b>	<b>13.3%</b>	<b>360</b>



## Overview of additional comments received

### No need for minimum compulsory training

Twenty per cent of the respondents considered that there was no need for minimum compulsory training. The following reasons were given against such training:

#### *Measures and rules already in place*

According to many respondents, there are already international rules and minimum qualifications applying to ground handling.

Several respondents including airlines and industry associations also noted that standards were already applied such as IATA Airport Handling Manual or IATA ISAGO audit program. Some respondents also stated that airlines invest heavily in individual quality management and training for ground handling personnel in order to ensure their competitiveness including through IATA's Baggage Improvement Programme. One national authority noted that in Italy, handlers are certified and monitored by a certifying authority. One airport noted that some airports already have the ability to impose minimum conditions on ground handlers. Several airlines, airline associations, one consumer organisation and one regional authority underlined that airlines may also impose requirements on their subcontractors. According to one airline association, the terms of reference in tenders for the selection of ground handling companies should indicate the training level required of staff. One national authority noted that minimum quality standards are in the terms of reference of tenders and take into account local circumstances.

Moreover, one national authority pointed out that in transposing Directive 96/67/EC it was decided to invoke Article 14(1) which relates to approval by a public authority independent of the airport management body. The approval process addresses the requisite training for ground handling activities in question.

Moreover, some respondents stated that it was already in the interest of the airline and that it should be left for industry to set the standards as they are better placed to determine needs of consumers. One airline also noted that it was a question of competition between ground handlers regarding the service they were offering.

### *Problem of infrastructure*

Several airlines also stated that mishandled baggage occurrences are typically due to airport infrastructure or system malfunctions rather than due to the poor training of staff. A few respondents including airlines and associations of airlines noted that ground handling was often managed by airports in a monopolistic way and therefore out of the airline's control. According to two airlines, efforts should be made to adapt airport infrastructure.

### *No evidence that this was an area of concern*

One industry association commented that there was no evidence of market failure in this area and no data to show mishandled baggage is a result of poor training of staff. The fact that there were no other such regulatory interventions in other sectors was also noted by two airlines and two airline associations.

### *Costs and implementation problems*

Concerns were raised that regulations for minimum training would be a costly initiative which would ultimately affect the consumer and would also be difficult to implement. For example, there are many causes of mishandled luggage and it is difficult to have training to cover all causes.

## **Yes to minimum compulsory training**

Sixty-seven respondents are in favour of minimum compulsory training and see different benefits of such a requirement.

### *Benefits*

Many individuals and one national authority noted that compulsory training would be useful due to the number of bags that were mishandled. Respondents in favour of this measure stated that it may reduce cases of lost or damaged baggage, benefit the consumer, enhance effectiveness of staff work and increase safety and security. The latter benefit was deemed important as shortcomings had been noted in area of security.

It was also pointed out by one private company that despite there being IATA recommendations, these are not always applied therefore training needed in this area. One consumer organisation stressed that this shouldn't be used as responsibility exclusion.

### *Concern of theft*

Many individuals were concerned with the issue for theft and thought that supervision of ground handler's work or checking of their criminal records was necessary. Others suggested that this problem could be resolved by penalising the airlines or openly publishing annual rates of lost damaged and delayed baggage for airports and airlines.

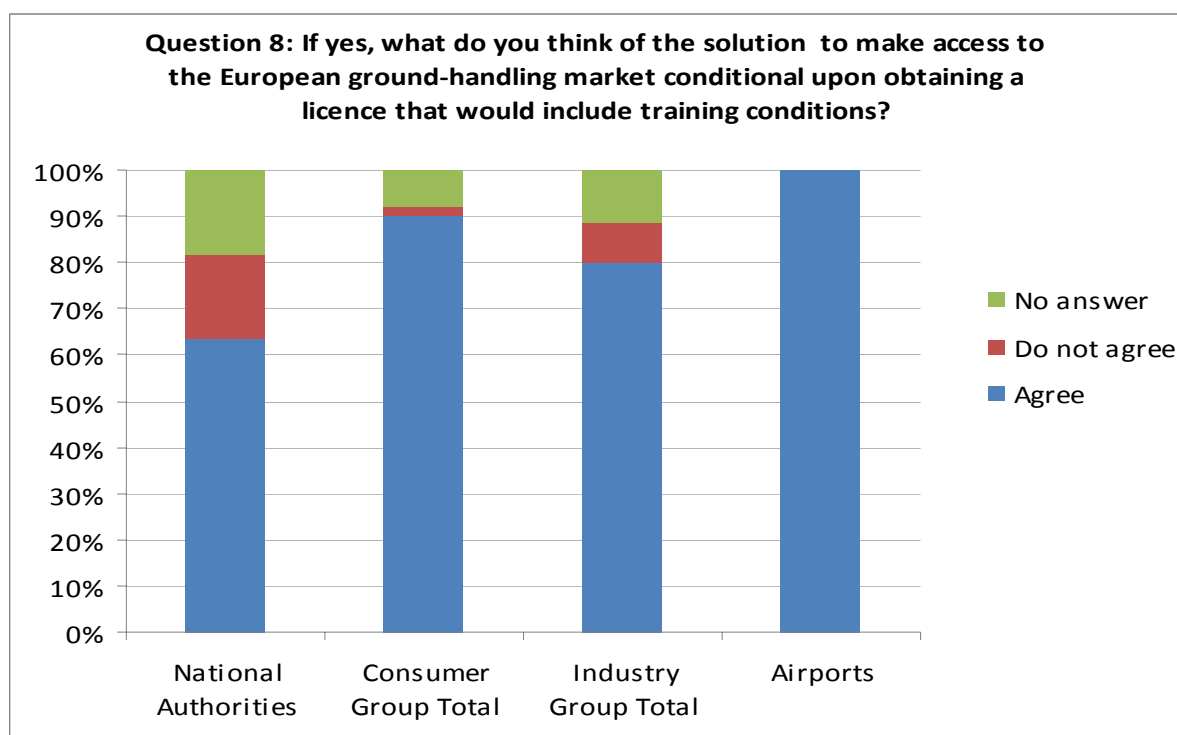
### *Focus of measures*

Several PRM organisations respondents highlighted the strong need for handling personnel to know about PRM equipment and how to handle it. One airline and one industry association agreed that compulsory training could be introduced but only for health and safety. It was suggested by one private company that it should be the responsibility of ground-handlers to provide training.

**Question 8: If yes, under Directive 96/67, Member States currently have the possibility to make the activity of a ground-handling company conditional upon obtaining approval. The criteria for such approval (or licence) do not currently include training. However, access to the European ground-handling market could be made conditional upon a licence that would include training conditions. What do you think of this solution?**

There appeared to be broad agreement across the stakeholder groups that access to the European ground-handling market could be made conditional upon a licence that would include training conditions, with a total of 88% of all respondents in favour of this measure.

Category of stakeholder	Agree	Do not agree	No answer	Number of Respondents
<b>National Authorities</b>	<b>63.6%</b>	<b>18.2%</b>	<b>18.2%</b>	<b>11</b>
Consumer Organisations	96.0%	0.0%	4.0%	25
Individuals	88.9%	2.8%	8.3%	144
<b>Consumer Group Total</b>	<b>89.9%</b>	<b>2.4%</b>	<b>7.7%</b>	<b>169</b>
Employee Associations	100.0%	0.0%	0.0%	2
Industry Associations	84.6%	15.4%	0.0%	13
Private Companies	75.0%	5.0%	20.0%	20
<b>Industry Group Total</b>	<b>80.0%</b>	<b>8.6%</b>	<b>11.4%</b>	<b>35</b>
<b>Airports</b>	<b>100.0%</b>	<b>0.0%</b>	<b>0.0%</b>	<b>11</b>
Other	85.7%	0.0%	14.3%	7
<b>Total All Respondents</b>	<b>87.6%</b>	<b>3.9%</b>	<b>8.6%</b>	<b>233</b>



## **Overview of additional comments received**

### **In favour of a licence including training conditions**

Eighty-eight percent of the respondents in favour of compulsory training felt that making access to the European ground-handling market conditional upon a licence that would include training conditions could be a good solution. The following reasons were given in favour of this measure:

According to one airport, a mandatory licence with requirements for internal education/training for different employee groups may contribute to higher quality and more effective competition among the handlers at the European airports. It was also perceived by some respondents as the only way to guarantee that training is carried out.

One private company noted that the setting of a higher standard licence with mandatory training requirements would be an improvement when airlines must work with the one single ground-handler that operates on an airport.

### **Against a licence including training conditions**

Four percent of the respondents disagreed with this measure. The following reasons were given:

One industry association highlighted the need for improved service standards rather than a licence saying that training has been undertaken. According to another industry association, this is more a matter of enforcement and follow up carried out by the NEB.

It was also noted by several national authorities and one airline that any minimum training requirements should fit into existing European frameworks on training and qualification and that with regards to airline operators a licence is unnecessary where staff are properly trained (and records are maintained) in accordance with the requirements of EU-OPS.

### **Overall conclusions**

Introducing compulsory training was seen by many individuals, national authorities, airports, PRM organisations and consumer organisations as an effective way to reduce loss and damage to baggage and would be beneficial in terms of security. Individuals seemed particularly concerned about theft of baggage.

However, many airlines and associations of airlines pointed out that rules and measures were already in place including IATA standards. Moreover, the issue that inadequate airport infrastructure is also a cause of mishandled and lost luggage was commented on.

Among those who were in favour of compulsory training, a majority seemed in favour of making access to the European ground-handling company conditional upon a licence that would include training conditions. The main reason given in favour of this measure was that it would guarantee that training was carried out.



## Recommendations

1. Automatic awards for damaged/delayed baggage should be used as measures to pressure airlines to provide an effective service.
2. Service standards should be regulated and key performance indicators imposed on the service provider. These should be defined at local level and overseen by an independent regulator.
3. Airports should be required to report publicly on their performance.
4. Existing industry standards should be part of the ground handler selection procedure.
5. Training standards should be harmonised throughout Europe with particular regard to mobility equipment.
6. Training of baggage handling included in the audit of air carriers ground handling agents should be used as the model for general application.
7. Variation in types of aircraft serviced and local conditions in relation to equipment used should be taken into account in the development of training conditions.

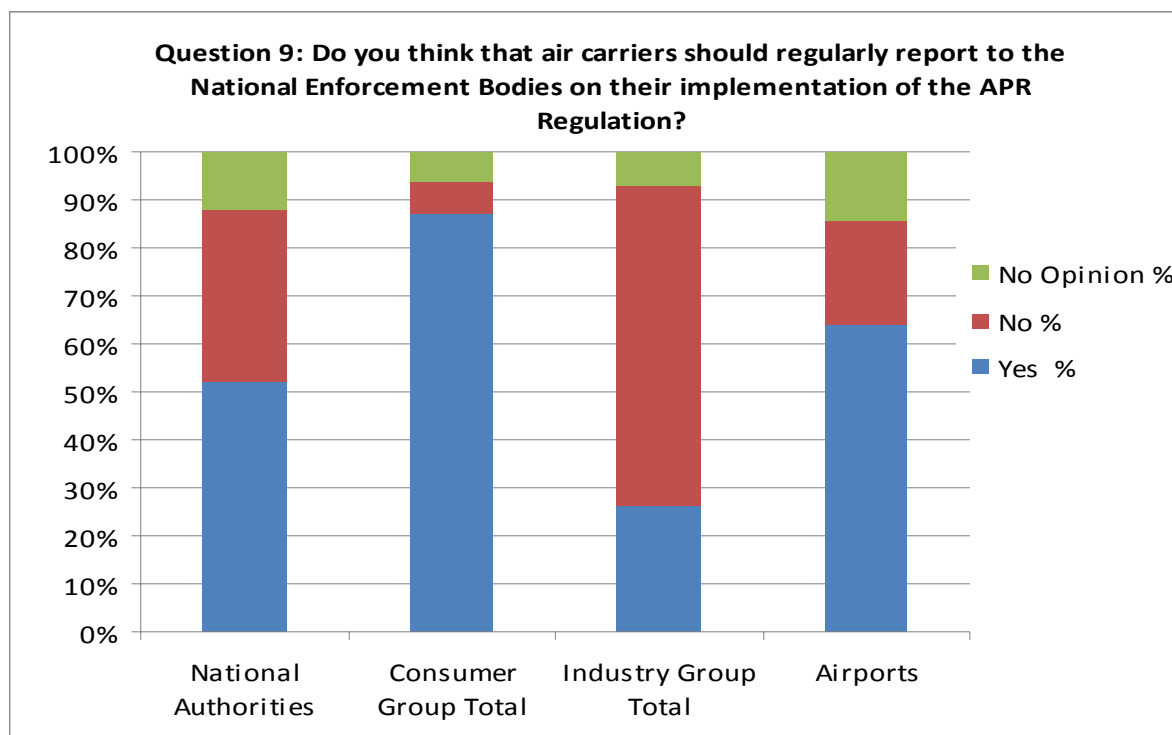
### 3 QUESTIONS RELATING TO THE APR REGULATION (261/2004)

#### 3.1 Reporting obligations under the APR Regulation

*Question 9: Do you think that air carriers should regularly report to the national enforcement bodies on their implementation of the APR Regulation, notably on the number of incidents, the routes and peaks of the day/year where incidents happen more often, or the redress offered to passengers under the Regulation?*

Overall seventy-one percent of respondents support regular reporting by air carriers to the NEBs. Consumers were overwhelmingly in favour of reporting (87%) while airports and the national authorities were also positive. Two-thirds of the respondents representing industry were against the idea.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>52.0%</b>	<b>36.0%</b>	<b>12.0%</b>	<b>25</b>
Consumer Organisations	85.4%	9.8%	4.9%	41
Individuals	87.6%	5.7%	6.7%	193
<b>Consumer Group Total</b>	<b>87.2%</b>	<b>6.4%</b>	<b>6.4%</b>	<b>234</b>
Employee Associations	20.0%	80.0%	0.0%	5
Industry Associations	33.3%	55.6%	11.1%	27
Private Companies	22.5%	72.5%	5.0%	40
<b>Industry Group Total</b>	<b>26.4%</b>	<b>66.7%</b>	<b>6.9%</b>	<b>72</b>
<b>Airports</b>	<b>64.3%</b>	<b>21.4%</b>	<b>14.3%</b>	<b>14</b>
Other	80.0%	6.7%	13.3%	15
<b>Total All Respondents</b>	<b>71.4%</b>	<b>21.1%</b>	<b>7.5%</b>	<b>360</b>



## Overview of additional comments received

### In favour of regular reporting by air carriers

Seventy-one percent of respondents support regular reporting by air carriers to the NEBs.

#### *Increased transparency and support enforcement*

According to several stakeholders, it would increase transparency. One respondent noted that it would help in promoting best practices and terms of reference to be applied. Several respondents also noted that it will improve visibility as to the effectiveness of the APR Regulation, and that NEBs will be better informed. Two industry associations added that it would also be useful to EU legislators to identify shortcomings of legislation. One national authority argued that this would also increase security as the available data would support decisions on how to reduce the occurrence of dangerous situations. Besides, the information on the number of compensations paid and their size would show whether provisions of the APR Regulation are enforced in a proper way.. Finally, reporting is seen by several respondents as a useful instrument to improve enforcement, for example to identify airlines incorrectly claiming extraordinary circumstances. One consumer organisation considered that this would facilitate not only enforcement activities but also the promotion of preventive activities. One national authority noted that such information would be useful to draft statistics and carry out action plans.

#### *Increased competition amongst airlines*

Some respondents considered that regular reporting would increase competition between airlines, and one individual noting that it would help passengers to make an informed choice. One private rail company underlined that it would be fair to place on airlines the same obligation, which already lies with railway undertakings.

### Against reporting by air carriers

Twenty-one per cent of respondents do not support regular reporting to the NEB for various reasons:

According to several respondents including airlines, this represents only additional administrative/bureaucratic work for the air carriers, while others noted that it would be at considerable costs disproportionate to limited or no benefits. Several respondents noted that

information is already published by AEA, authorities, airlines or airports. A number of respondents considered that the question suggested distrust of authorities towards airlines, ignoring rules of competition and that European passengers were probably the world's best protected consumers.

Additional reporting obligations are seen by several respondents as a matter of enforcement or as over-regulation and against the principle of better regulation. One airline pointed out that more appropriate measures could be provided through more active monitoring by enforcement bodies rather than relying on carriers to provide the information. Some respondents remarked that the enforcement of reporting obligations in the Member States varies considerably and that such an obligation could therefore lead to distortions of competition between airlines. One consumer organisation underlined that reporting was not useful as there would be no guarantee that the information provided by airlines was accurate. A similar remark was made by one airline, which underlined that each company would report on a different basis using different definitions of incidents and numbers.

#### *Structure and content of reporting*

Several respondents suggested that reports could be produced in line with a similar report issued by the US Department of Transport and should cover key consumer statistics i.e. flight punctuality, cancellations, complaints and mishandled baggage, in order to increase transparency. One national authority suggested that they should be able to oblige carriers to nominate a local representative in each EU country for questions concerning passenger rights. Another one suggested providing data on how many of the passengers on a flight have been compensated pursuant to the APR Regulation in cases when the carrier is liable, while one consumer organisation proposed to include information on how long it takes carriers to respond to consumers' complaints. One national authority noted that information should be provided on all elements of the APR Regulation, including date of flight, flight number, route and data about assistance provided to passengers. One regional authority recommended including information on the type of extraordinary circumstances that has caused the flight cancellation.

However, one airline and one individual noted that only aggregated data should be disclosed e.g. at airport or country level. One industry association also remarked that the information should not be more detailed than necessary to ensure the effectiveness of legislation, noting that the reporting scheme in the USA is only mandatory for large airlines that reach a threshold of numbers of passengers carried, while a previous attempt by the EU to introduce mandatory reporting by airlines failed after considerable expenditure. The association underlined that one key factor was the failure of the EU to accept standard industry reporting definitions, which would have eased the reporting burden on airlines. One consumer organisation noted that practical considerations should be addressed such as the difficulty for NEBs to validate some of the data and to make like-for-like comparisons between airlines.

Finally, one airline considered that this obligation should be limited only to carriers who receive state aid.

Amongst the respondents against the introduction of a reporting obligation for carriers, one national authority noted that it should be for the national authorities to decide, which information they need and at what frequency. One PRM NEB remarked that this should be the responsibility of the supervisory authorities who should enquire often enough on airports to draw statistics if needed.

While one industry association considered that information on carriers' punctuality should be locally published rather than through a system-wide performance, several other respondents stated that airlines should provide data only on the basis of ad hoc requests. One national authority suggested that information should be requested based on consumer detriment and a prioritised approach. Prioritisation should be based on the number, type and seriousness of consumer complaints or following a monitoring or research exercise. One consumer organisation, while considering that there were already enough sources of information, noted that data on redress reports would be useful if not available elsewhere. One airline underlined that a sector approach should be followed, including airports, air traffic control if such reporting obligation should be established. Another airline considered carriers should report complaint statistics by category, rather than reporting the number of

incidents. It added that, before deciding on reporting, it would be helpful to understand the intention and how this information is to be used and to what benefit.

#### *Publicity and control of the information*

Several respondents have recommended that this information should be made public. One consumer organisation noted that the information should be exchanged within the network of NEBs and made public on the webpages of all NEBs.

Some consumer organisations noted that the authority/NEB should be able to control the information, while one consumer organisation suggested that monitoring by consumer organisations should also be provided for. Another consumer organisation suggested providing this information together with a key fact document to passengers at the time of boarding. Consumer organisations recommended organising such reporting within a comprehensive EU reporting system, inspired from an earlier project on Community Air Passengers Reporting System, and including comparative database and website, but also along with an effective complaint handling system and redress mechanisms.

### **Conclusions**

The large majority of respondents (over 70 %) are in favour of regular reporting from air carriers to the NEBs. It is seen as an effective way to improve transparency and enforcement. It was also highlighted that this would increase competition between airlines. About 20 % of respondents did not support the introduction of a reporting obligation. They pointed out that it would lead to additional bureaucracy and cost without tangible benefits and that information was already published by different stakeholders. Such obligation is seen as over-regulation, which would lead to distortions of competition between airlines. Finally, several respondents questioned the accuracy and comparability of data provided by airlines.

### **Recommendations**

#### *Content and structure of the information*

1. Reporting should cover key consumer statistics/all elements of the APR Regulation (flight punctuality, cancellations, complaints and mishandled luggage), the type of extraordinary circumstances that has caused the flight cancellation, the number of cases in which compensation has been paid, timing for responding to consumers' complaints.
2. Only aggregated or sector information should be reported on.
3. Carriers should be required to nominate a local representative in each EU country for questions concerning passenger rights.
4. The reporting scheme should only be mandatory for large airlines that reach a threshold of numbers of passengers carried.
5. Practical considerations should be addressed such as the difficulty for NEBs to validate some of the data and to compare between airlines.
6. The reporting obligation should be limited only to carriers who receive state aid.
7. National authorities should decide, which information they need, according to which criteria and at what frequency, including ad hoc requests.

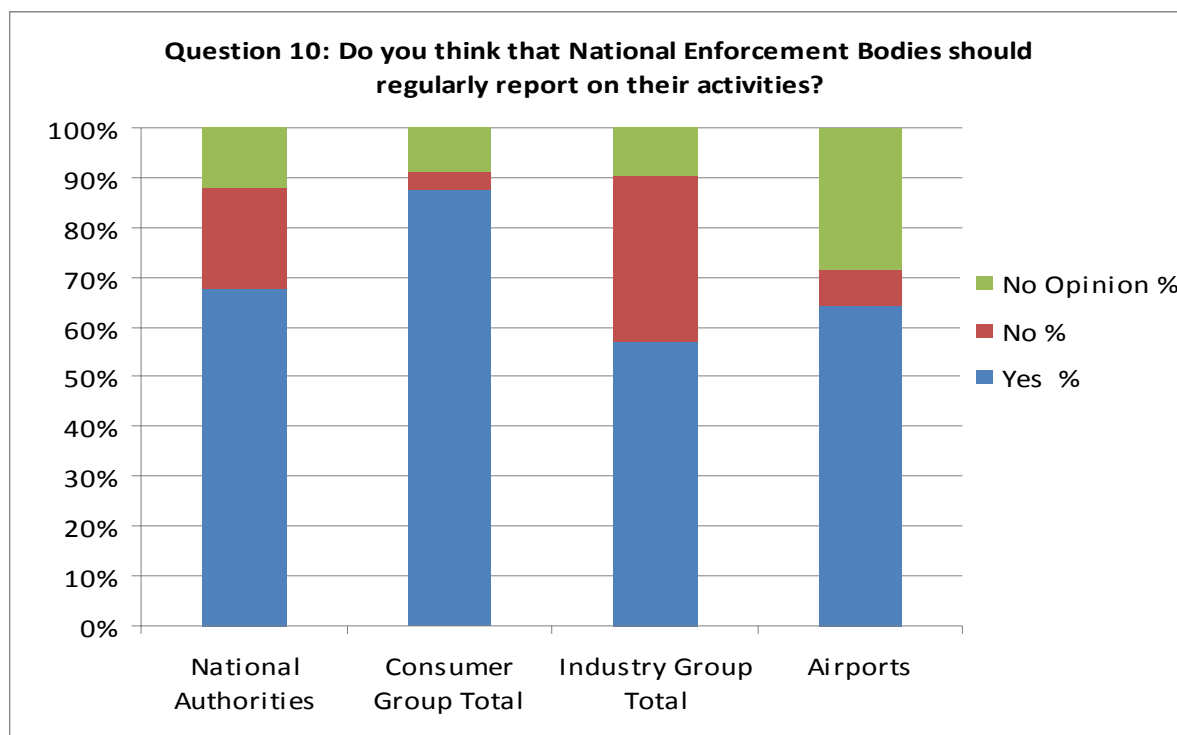
*Publicity and control of the information*

8. The information reported by carriers should be made public, including on NEBs webpage.
9. The information should be provided in a key fact document to passengers at the time of boarding.
10. The authority/NEB should be able to control the information.
11. Airlines' reporting should be organised within a comprehensive EU reporting system to include a comparative database and website.

***Question 10: Do you think that the national enforcement bodies should regularly report on their activities, including a description of the action taken to implement the APR and PRM Regulations, details of the sanctions applied, statistics on complaints and sanctions applied, and information on major court cases?***

There appeared to be broad agreement across all parties in favour of reporting by national enforcement bodies and overall seventy-nine percent of all respondents answered positively.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>68.0%</b>	<b>20.0%</b>	<b>12.0%</b>	<b>25</b>
Consumer Organisations	97.6%	0.0%	2.4%	41
Individuals	85.5%	4.1%	10.4%	193
<b>Consumer Group Total</b>	<b>87.6%</b>	<b>3.4%</b>	<b>9.0%</b>	<b>234</b>
Employee Associations	60.0%	40.0%	0.0%	5
Industry Associations	55.6%	33.3%	11.1%	27
Private Companies	57.5%	32.5%	10.0%	40
<b>Industry Group Total</b>	<b>56.9%</b>	<b>33.3%</b>	<b>9.7%</b>	<b>72</b>
<b>Airports</b>	<b>64.3%</b>	<b>7.1%</b>	<b>28.6%</b>	<b>14</b>
Other	86.7%	0.0%	13.3%	15
<b>Total All Respondents</b>	<b>79.2%</b>	<b>10.6%</b>	<b>10.3%</b>	<b>360</b>



## Overview of additional comments received

### In favour of regular reporting by NEBs on their activities

Seventy-nine percent of respondents are in favour of reporting by national enforcement bodies. Several respondents see it as useful to consumers and carriers. One consumer organisation noted that airline surveys have shown that consumers are interested in getting more information about airlines. One national authority underlined that it should be a standard practice, similarly to what is currently done in the field of railway passengers' rights. Several respondents considered that NEBs, as public bodies, should be subject to reporting obligations, while others underlined that this was part of the right to information. Some noted that it would bring transparency in the public bodies' activities and reinforce their independence. One consumer organisation noted that when NEBs have to report on their activities, the way in which complaints and enforcement of the Regulation is dealt becomes clearer.

Other respondents noted that it is essential to detect areas where improvement is needed and to benchmark between EU Member States. Several respondents considered that NEB reporting will help passengers to make a choice not only based on cost but also on reliability and give an incentive to airlines to improve their services. Others stated that it would help promoting best practices and terms of reference to be applied by all NEBs, while ensuring more equal enforcement across the EU and reducing inconsistencies across Member States. One airline noted that such reports could help to establish a common approach with regard to interpretation of the APR and PRM Regulations. Several industry associations and one airline noted that it would form part of a harmonised enforcement throughout the EU and several respondents underlined the advantage of getting a clear picture of the situation. One airline underlined that it would help incident management. One national authority considered that a shared database may help to prevent carriers to apply different practices depending on the Member States where they operate. Two industry associations stated that such reports could help intermediaries to advise their customers and help raising awareness of the rules and customers' rights, hence contributing to a better enforcement of the Regulation.

One consumer organisation noted that it has a statutory responsibility to handle complaints from passengers travelling to and from the country; yet, it does not have enforcement powers to require airlines to comply with consumer protection legislation. In case of problems, it has to refer to the Civil Aviation Authority. Regular reports would help monitoring the authority's performance and

hold it accountable for shortcomings in implementing the Regulation. One consumer organisation noted that some NEBs modified the European Complaint Form and that, as a consequence, consumers needed to fill it in twice. One airline company underlined that as far as the PRM Regulation is concerned, there should be a better monitoring that the airports fulfil their obligations.

### **Against reporting by NEBs**

Several respondents considered that this would involve additional cost for all stakeholders without any clear benefit to the consumers. One national authority added that it would reduce NEBs' capacities to enforce the Regulation, because of the resources needed. Another considered that the present level of information was sufficient and that while tools, classification and processing of data could be improved, the administrative workload should not be increased. One industry association underlined that the German NEB already publishes data. One national authority noted that a NEB is already giving full information not only to passengers or airlines but to press and anyone interested in air passengers' rights and also key court judgments of civil courts and the ECJ. Other respondents remarked that if all NEBs would consistently enforce the APR Regulation and Regulation 1008/2008 on common rules for the operation of air services in the Community, there would be no problems and distortion of competition. One airline considered that the aspects mentioned could be discussed amongst the airline industry, the EU and the NEBs. Another one noted that such reporting could be of interest to passengers but not to airlines. Another airline noted that making such information available may lead to an increase in the number of unfounded complaints.

#### *Structure, content and frequency of reporting*

One airline noted that NEB reporting should apply to their staffing levels, number of letters processed, cost of processing each claim and response times to customers. One airport proposed to report on implementation activities and statistics of complaints as well as possible decisions or judgements. One national authority recommended developing information systems at EU level covering indicators such as time, number of flights cancelled and the reasons, claims for loss of baggage and time necessary for finding them. One respondent considered that reporting should be to the European Commission, one consumer organisation noting that reports should also be addressed to national governments. One airport considered that reporting should be based on passengers' information or claims and not on carriers' reports.

One industry association, one airline and one consumer organisation noted that reporting requirements should be reasonable and proportionate with regard to the amount and quality of information to be provided and the cost involved in compiling accurate data.

One private company and one individual considered that this proposal should be clarified in relation to the definition of major court cases, noting that information is not available, especially in relation to lower court cases. The company also noted that reporting on individual cases should be limited to those cases where either the carrier has been found responsible for a failure or those cases which set some form of precedent as to the circumstances in which a carrier is held not to be responsible. One individual considered that the reporting should be limited to aggregated data.

Some national authorities agreed with reporting but thought it should be limited to statistics already provided to the Commission. They also warned against the lack of consistency within data provided by various enforcement bodies and across Member States. Some respondents noted that information should be provided on an ad hoc basis. One national authority noted that the current system would not require changes and suggested to rather consider a complaint handling/arbitration procedure at EU level. One national authority considered the use of an existing system such as the European Community Safety Assessment of Foreign Aircraft (SAFA) programme.

Several respondents considered that reporting should be annual.

#### *Publicity and control of the information*

Several respondents noted that the reports should be made publicly available. One respondent suggested that this should be done in one place, together with relevant ECJ and national case laws.



Some respondents suggested creating only one EU enforcement body, a "centre of excellence", to deal with passenger claims. One consumer organisation recommended to organise such reporting within a comprehensive EU reporting system, inspired from an earlier project on Community Air Passengers Reporting System, and including comparative database and website. Reports should be complemented with statistics on complaints and information on main ECJ and national case laws.

## Conclusions

The large majority (79 %) of respondents favour reporting by NEBs as this would increase transparency, help consumers to make informed choices and give an incentive to airlines to improve their services. Several respondents outlined that since NEBs are public bodies they should be subject to reporting obligations. This would also ensure a more harmonised enforcement across the EU, reducing inconsistencies amongst the Member States.

However, several respondents considered that this would involve additional cost for all stakeholders without any clear benefit to the consumers. One national authority feared that the resources needed might be lacking when it comes to the NEBs' enforcement capacities. Another one considered that the present level of information was sufficient and that while tools, classification and processing of data could be improved, the administrative workload should not be increased.

## Recommendations

### *Structure, content and frequency of reporting*

1. Reporting should cover useful information regarding NEBs' staffing levels, number of letters processed, cost of processing individual claims and response times to customers; implementation activities and statistics of complaints as well as possible decisions or judgements, .
2. Reporting should be limited to statistics already provided to the Commission and aggregated data.
3. A complaint handling/arbitration procedure at EU level should be considered rather than changing the current system.
4. Use of an existing system such as the European Community Safety Assessment of Foreign Aircraft (SAFA) programme should be considered
5. Reporting on individual cases should be limited to very specific cases which could set some form of precedent.
6. Information systems at EU level covering indicators such as time, number of flights cancelled and the reasons, claims for loss of baggage and time necessary for finding them, should be developed,
7. Reporting should be to the European Commission / to national governments
8. Information should be provided only on an ad-hoc basis
9. Reporting should be annual

### *Publicity and control of the information*

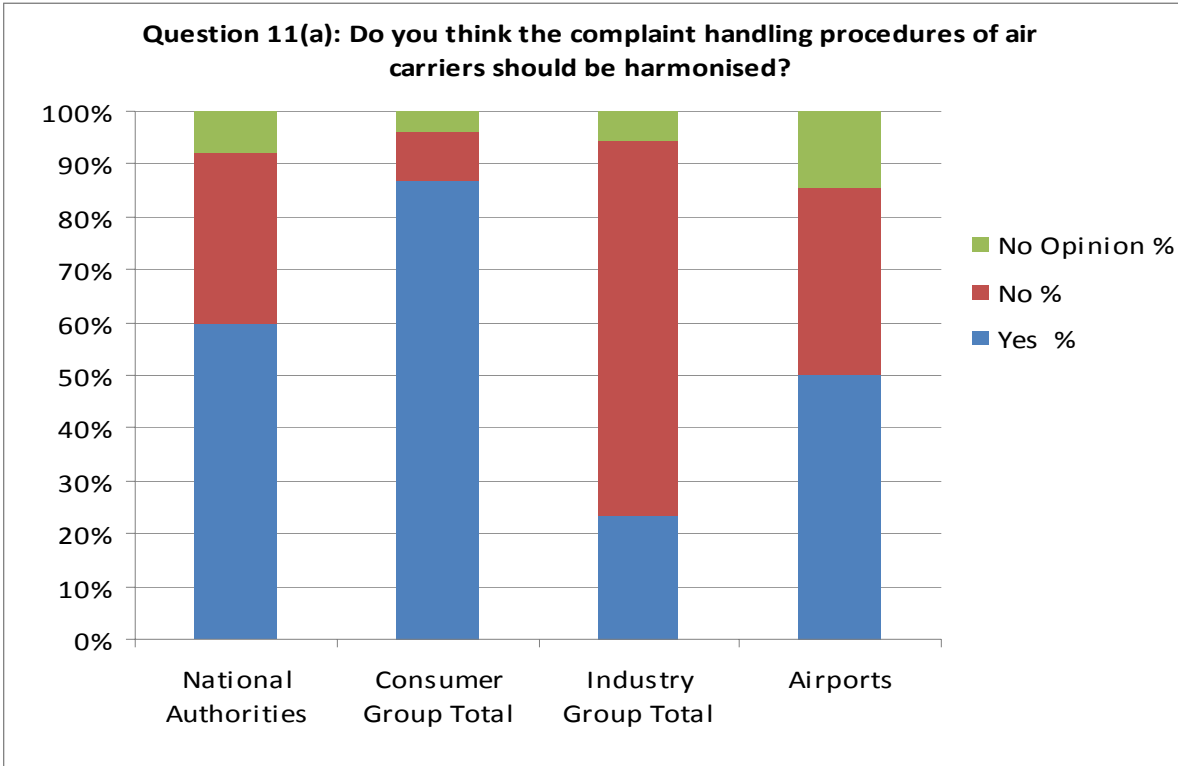
10. Reports should be made publicly available, in one place, together with relevant ECJ and national case laws.
11. One single EU enforcement body should be created to deal with passenger claims
12. A comprehensive EU reporting system should be set up and include comparative database and website. Reports should be complemented with statistics on complaints and information on main ECJ and national case laws.

## 3.2 Air carrier complaint handling and settlement of disputes

***Question 11(a): Do you think the complaint handling procedures of air carriers should be harmonised?***

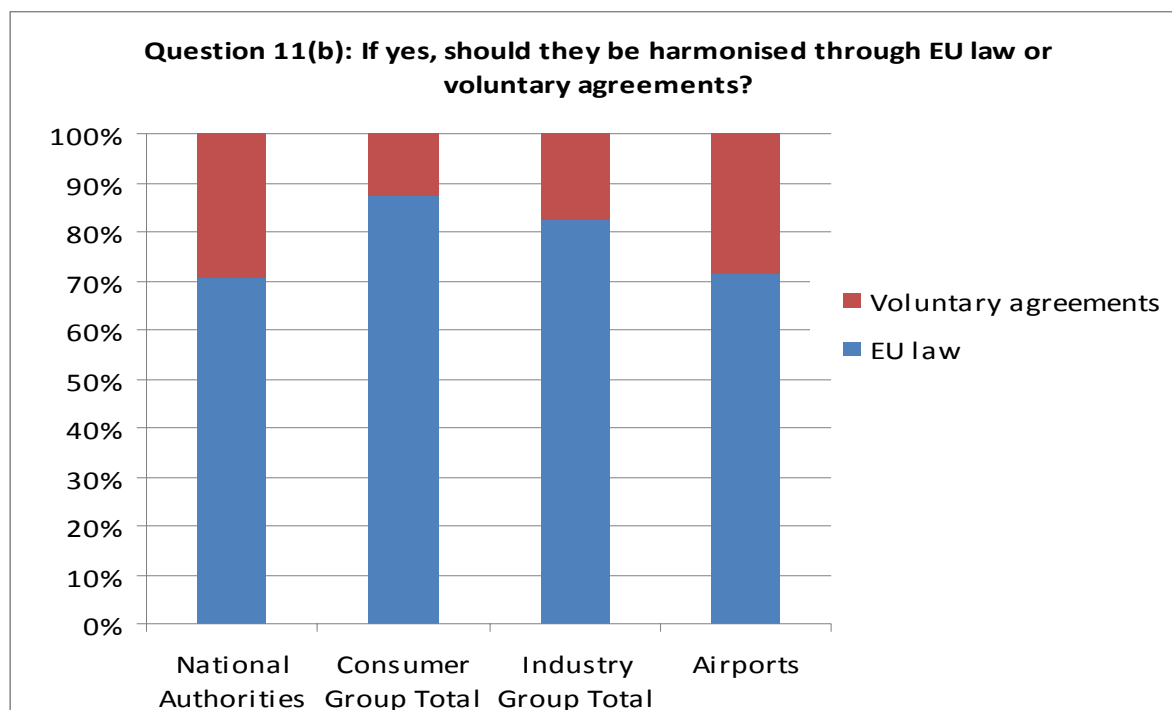
While overall seventy per cent of the respondents favour the harmonisation of complaint handling procedures, this global figure reflects an overwhelming majority of positive responses from the consumer group (86.8%) while national authorities and airports have provided mixed opinion (respectively 60% and 50% positive answers). The industry group is clearly opposed to the harmonisation of complaint handling procedures, with 70.8 per cent of negative responses.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>60.0%</b>	<b>32.0%</b>	<b>8.0%</b>	<b>25</b>
Consumer Organisations	87.8%	9.8%	2.4%	41
Individuals	86.5%	9.3%	4.1%	193
<b>Consumer Group Total</b>	<b>86.8%</b>	<b>9.4%</b>	<b>3.8%</b>	<b>234</b>
Employee Associations	40.0%	60.0%	0.0%	5
Industry Associations	29.6%	59.3%	11.1%	27
Private Companies	17.5%	80.0%	2.5%	40
<b>Industry Group Total</b>	<b>23.6%</b>	<b>70.8%</b>	<b>5.6%</b>	<b>72</b>
<b>Airports</b>	<b>50.0%</b>	<b>35.7%</b>	<b>14.3%</b>	<b>14</b>
Other	66.7%	26.7%	6.7%	15
<b>Total All Respondents</b>	<b>70.0%</b>	<b>25.0%</b>	<b>5.0%</b>	<b>360</b>



**Question 11(b): If yes, should they be harmonised through EU Law or voluntary agreements?**

Category of stakeholder	EU law	Voluntary agreements	Number of Respondents
<b>National Authorities</b>	<b>70.6%</b>	<b>29.4%</b>	<b>17</b>
Consumer Organisations	88.6%	11.4%	35
Individuals	87.0%	13.0%	162
<b>Consumer Group Total</b>	<b>87.3%</b>	<b>12.7%</b>	<b>197</b>
Employee Associations	50.0%	50.0%	2
Industry Associations	100.0%	0.0%	7
Private Companies	75.0%	25.0%	8
<b>Industry Group Total</b>	<b>82.4%</b>	<b>17.6%</b>	<b>17</b>
<b>Airports</b>	<b>71.4%</b>	<b>28.6%</b>	<b>7</b>
Other	100.0%	0.0%	8
<b>Total All Respondents</b>	<b>85.8%</b>	<b>14.4%</b>	<b>246</b>



85.8% of respondents are in favour of harmonisation through EU law while harmonisation through voluntary agreements is the preferred option for only 14.2%. This pattern reflects the responses from all categories of respondents.

## **Against harmonisation**

Twenty-five percent of respondents were against harmonisation of complaint handling procedures. The following reasons were given to support this:

### *Part of airline product:*

The main reason against such harmonisation raised mostly by airlines, industry associations and some individuals was that customer service was part of an airline product and should be left as an area of market differentiation and competition. According to one industry association, passengers can choose not to travel with an airline again and therefore airlines already have a vested interest to address complaints to retain customer loyalty. According to one industry association, airlines that have bad customer service tend to be publicly identified and suffer commercial loss.

### *Against innovation*

One industry association raised concerns that harmonisation may lead to the setting of minimum standards. According to airline associations, there would therefore be no incentive for airlines to improve their service under these minimum standards, and there is a risk that progress would be stalled.

### *Already regulation and internal procedures*

Another reason against regulation raised by airlines is that there are already internal procedures to address complaints. A wariness of over-regulation was expressed by several airlines and one airline association. Moreover, it was noted by several airlines that there were already national laws in place covering complaint handling procedures, and that there is already the Passenger Complaint Form for complaint handling which passengers can send to airlines or NEBs. Several industry associations and one private company also stated that many complaints would be addressed to tour operators and this is already regulated under the Package Travel Directive. According to one national authority, measures should be taken to enforce existing passenger rights legislation, including through the compilation of an airline good practice guide.

Existing practices were also referred to, such as the requirement in Portuguese law that suppliers and service providers (including airlines) possess a book of complaints as well as United Airline's voluntary commitments, under which United undertakes to provide a substantive response to passenger complaints within 30 days of receipt.

A few airlines and one industry association referred to the 2009 Eurobarometer survey demonstrating that customers were already satisfied with the way complaints were handled. One airline stated that its passengers have the possibility to submit online complaints by telephone or to write to its customer care service and that they aim to respond between 5 and 28 days.

### *No regulation for other forms of transport*

One airline and one airline association pointed out that other modes of transport are not regulated in this area. According to one airline, 'the legislation is distorting the market by imposing additional costs on air carriers versus other forms of transport'.

### *Other*

Other reasons mentioned against harmonisation included that it would promote an adversarial approach, would be unjustifiably cost intensive; too difficult to enforce and that customers often preferred to write individual letters. According to one private company, the focus should be on clarifying the law.

## **In favour of harmonisation**

Seventy percent of respondents were in favour of harmonisation of EU law, regarding this as a necessary and beneficial measure:

### *Seen as necessary*

According to one airport association, EU legislation is needed as passengers do not know where to complain. Most individuals agreed that EU law would facilitate complaints procedure and referred to personal experience to justify harmonising complaint handling procedures through EU law. Such experiences included being refused the right to complete a complaint form or complaint procedure, non-user friendly websites, feeling that air companies do not care; that the airline staff does not know enough about EU legislation and that it is too cumbersome to start procedures at higher authorities.

### *Benefits*

According to several respondents, EU legislation would bring more transparency, save time and increase competition. Harmonisation through EU law was also supported by representatives of PRMs as a way to facilitate the complaint process. It was considered as beneficial for both airlines and passengers.

Two national authority supported harmonisation but on the condition that the situation between NEBs and between NEBs and passengers would also be regulated. Such harmonisation could be useful to clarify the role of NEBs.

### *Comments on types of obligations for harmonisation under EU law*

Several individuals underlined the difficulties they have experienced in contacting some airlines. Some noted in particular the cost of contacting the airlines suggesting that it should be made possible through websites, e-mail, postal mail or free phone numbers, making sure that a certain number of operators are available. One individual raised the issue of the language in which the answer is given, which should be the language of the person lodging a complaint. Therefore, according to several consumer organisations, national authorities and individuals, EU law should set obligations to answer complaints within certain timeframes, should require airlines to provide a contact person with contact details, with free phone numbers, email address and complaints forms easily accessible on their website. Moreover, several consumer organisations and two industry associations suggested that complaint forms should be in the languages of consumers and a minimum standard should be specified and allow airlines to exceed this standard. One consumer organisation suggested that a system should be developed to inform passengers on the distance of a flight and on the amounts they might be entitled to in terms of compensation.

It was also noted that harmonised procedures should not raise the threshold for bringing complaints against air carrier. According to individuals, the fines imposed by Member States' authorities should not be lower than the price of compensation to be paid to passengers, and a complaint form should also explain the legislative framework and include guidelines and checklists, and offer passengers the freedom to amend the letter of complaint.

Certain respondents thought that it would not be possible to harmonise the entire complaint handling procedure, but certain minimum standards could be outlined in legislation covering issues such as timeframes, information, the right to receive a written notice after certain incidents and to correspond by electronic means, languages, and contact information.

## **Alternative solutions to legislation**

### *Voluntary agreements*

Voluntary agreements with minimum standards are supported by several respondents particularly if the majority of airlines signed up to the agreements. A perceived benefit of these voluntary agreements is their flexibility. Three national authorities felt these may encourage best practices. Two airlines supported such agreements on the condition that airline flight duration, routes and airport characteristics be taken into account. Two national authorities pointed out that size and resources of air carriers should be taken into account. The problem of monitoring such agreements was however raised.

However, voluntary agreements were deemed not to be effective or trustworthy by one national authority and individuals as it was felt that not all companies would join. According to several consumer organisations they do not have enough legal weight. It was also noted by a few airlines,

industry associations and one consumer organisation that voluntary agreements may conflict with competition law.

#### *Alternative dispute resolution*

An Alternative Dispute Resolution system was also suggested mainly by consumer organisations; this should be obligatory and backed by EU law.

Suggestions put forward include the creation of an APR 'Pre-Action Protocol' (similar to the 'pre-action protocols' established within civil law procedures within England & Wales), to enable a smooth 'first contact' complaint between the passenger and the airline. Such a protocol would impose obligations on the parties and enable any subsequent judicial process to analyse the efforts of the parties to comply with APR or their efforts to resolve complaints.

Two national authorities suggested the creation of a complaint/arbitration procedure at European level preferably through legislation. One regional authority suggested that the Spanish arbitration system should be promoted.

### **Conclusions**

The main reason against harmonisation of complaint handling procedures put forward by airlines and their associations was that customer service was part of an airline product and a competition matter, which should not be regulated. It was also stated that harmonisation would lead to the setting of minimum standards and prevent innovation. Several respondents referred to already existing regulation, harmonised EU complaint forms and internal procedures, while some others pointed out that other modes of transport are not regulated in this area.

Most individuals agreed that EU law would facilitate procedures and referred to personal experience to justify harmonising complaint handling procedures through EU law. According to several respondents, EU legislation would bring more transparency, save time and increase competition.

Several respondents supported the use of voluntary agreements to harmonise complaint handling procedures of air carriers particularly if the majority of airlines signed up to the agreements. A perceived benefit of these agreements is their flexibility and the fact that they may encourage best practices. However, the monitoring and enforcement of such agreements remain an issue of concern. They were deemed not to be effective as not all companies would join and they were lacking legal weight. It was also noted that they may conflict with competition law. An Alternative Dispute Resolution system was also suggested mainly by consumer organisations; some considering that it should be compulsory under EU law.

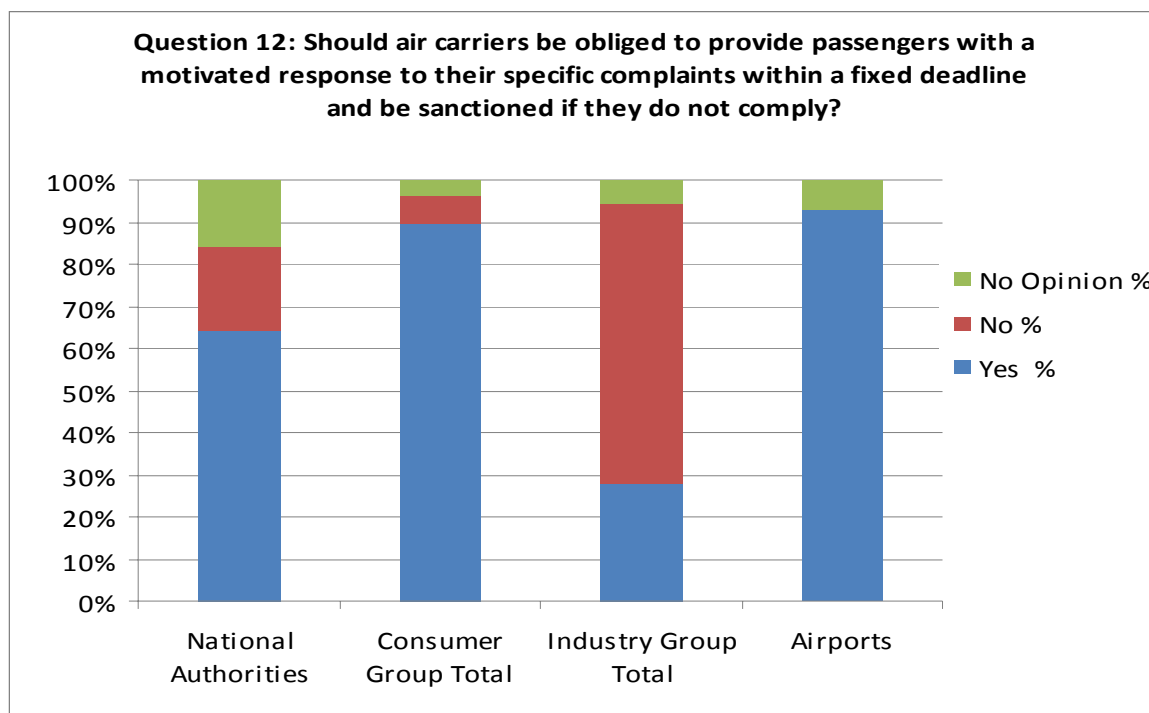
### **Recommendations**

1. Measures should be taken to improve enforcement of existing passenger rights legislation, including through the compilation of an airline good practice guide.
2. EU law should require air carriers to set up an easily accessible complaints handling system with free phone numbers, e-mail address and complaints forms on their website.
3. EU law should oblige air carriers to respect certain minimum standards including answering of complaints within certain timeframes, providing a contact person with contact details, complaint forms in the languages of consumers as well as the possibility to correspond by electronic means
4. Voluntary agreements should take into account airline flight duration, routes and airport characteristics, as well as size and resources of air carriers.
5. An Alternative Dispute Resolution (ADR) system should also be set up on EU level and should be obligatory and backed by EU law.

**Question 12: Do you think that air carriers should in all events be obliged to provide passengers with a motivated response to their specific complaints within a fixed deadline and be sanctioned if they do not comply?**

The majority of respondents from the industry group answered negatively (66.7%) although while employees associations and private companies are clearly opposed to such an obligation, industry associations' opinion is mixed. In contrast, consumer groups, as well as airports, are almost all (about ninety per cent in each of these groups) in favour of placing such an obligation on carriers.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>64.0%</b>	<b>20.0%</b>	<b>16.0%</b>	<b>25</b>
Consumer Organisations	85.4%	9.8%	4.9%	41
Individuals	90.7%	5.7%	3.6%	193
<b>Consumer Group Total</b>	<b>89.7%</b>	<b>6.4%</b>	<b>3.8%</b>	<b>234</b>
Employee Associations	20.0%	80.0%	0.0%	5
Industry Associations	44.4%	44.4%	11.1%	27
Private Companies	17.5%	80.0%	2.5%	40
<b>Industry Group Total</b>	<b>27.8%</b>	<b>66.7%</b>	<b>5.6%</b>	<b>72</b>
<b>Airports</b>	<b>92.9%</b>	<b>0.0%</b>	<b>7.1%</b>	<b>14</b>
Other	60.0%	26.7%	13.3%	15
<b>Total All Respondents</b>	<b>74.4%</b>	<b>20.0%</b>	<b>5.6%</b>	<b>360</b>



### **Against requiring air carriers to provide passengers with a motivated response to their specific complaints within a fixed deadline**

#### *Part of airline commercial policy*

Respondents, mostly airline associations and airlines against requiring air carriers to provide passengers with a motivated response to their specific complaints considered that this is a customer service issue subject to market competition.

Several industry associations, airlines, and one national authority pointed out that companies have a vested interest to answer on time to passengers complaints and to keep the deadlines as short as possible. Many respondents noticed that companies already have internal procedures in place, including deadlines and one airline association underlined that establishing further measures would lead to over-regulation. One private company noted that this is a question of contract rather than regulation and another respondent considered that further regulation would discriminate against smaller carriers.

#### *Alternatives to regulation*

Several respondents including industry associations, airlines and one national authority advocated the signing of voluntary agreements or the development of codes of conduct or industry best practices guidelines. According to one private company, such voluntary agreements already exist in some countries. One industry association mentioned the Airline Passenger Service Commitment, a voluntary agreement launched in 2002 for European airlines. One national authority favoured voluntary agreements as a second choice solution if a harmonised procedure cannot be set up at EU level. One national authority flagged the use of a Customer Charter approach, while another one suggested that procedure rules be included in the airlines companies' general conditions of carriage.

#### *Clarification of terms needed*

One private company noted that the term 'complaint' was quite broad and lacked a detailed definition. Another one flagged contradictions between the APR Regulation and Directive 90/314/EEC on package travel relating to obligations applicable to chartered airlines and tour operators, noting that clarification was needed as to the procedures to be followed in case of claims related to chartered air transport.



## **In favour of these measures**

### *Benefits*

Seventy-four percent of respondents approved such measure, which would encourage airlines to avoid delays and cancellations and give passengers the feeling that they are listened to. One private company and one consumer organisation complained that responses are often generic. One private company argued that responses can also be unfounded and, in some cases incorrect. According to the same respondent, generic responses do not indicate the true reason for delays or cancellation. Several consumer organisations and one individual noted that responses can take unacceptably long or there may be no answer at all and that this may discourage passengers. One airport noted that EU legislation in this field would create transparency and uniform procedures for European consumers and promote competition on the actual services. It would increase efficiency of complaints handling and would push airlines to treat complaints more seriously, creating a true ‘air passenger right’.

### *Types of obligations suggested*

According to one private (rail) company, complaint templates should be differentiated according to the ground of the complaint. One national authority pointed out that the decisions of the airline companies should be well-founded and also include relevant references to conditions of contract/carriage or legislation. According to one national authority and one consumer organisation, they should be substantial clearly motivated. . One consumer organisation added that airlines should demonstrate that they have taken all necessary measures.

One private (rail) company noted that it would be fair to set up such an obligation for airlines similar to the Passenger Rights Regulation 1371/2007 (PRR) applicable to railways. One airport also noted that similar obligations are in place for airports and local CAA. One consumer association suggested the establishment of an APR ‘Pre-Action Protocol’ (similar to the ‘pre-action protocols’ established through civil law procedures within England & Wales), to enable a smooth ‘first contact’ complaint between the consumer and the airline. Such a protocol would impose ‘obligations’ upon the parties and enable any subsequent judicial process to analyse the efforts of the parties to comply with the APR Regulation or their efforts to resolve complaints. One individual suggested that complaints should be addressed directly to an independent authority rather than to airline companies, while another one advocated the use of standardised form for complaints.

Several respondents, mainly consumer organisations, noted that the notion of ‘extraordinary circumstances’ should be specified. One consumer association referred to the ECJ Ruling in the joint cases C-402 and 432-07 *Sturgeon & Böck* and proposed that airlines should be required to provide evidence of the true cause of the delay or cancellation. One individual underlined that clear definitions are needed with regard to weather conditions under which different airline companies take different decision on whether to fly or not. One consumer organisation proposed that such issues be included in a ‘key facts’ document to be handed to consumers at the point of sale.

However, one consumer organisation underlined that air carriers may also receive abusive or unfounded complaints from passengers which do not deserve a response or a standard one.

## **Deadlines**

In terms of deadlines, airlines and one airline association made various comments. It was noted that these can vary greatly depending on the complexity of the case. Imposing a deadline may result in a less favourable situation for the passengers. Some respondents made reference to a deadline of 28 days, although they also underlined that extraordinary circumstances, under which it might be impossible to meet a fixed deadline should be also taken into account (e.g. snow storms).

Several airlines and consumer organisations noted that complex questions may also delay the response due to necessary investigation and research. It was also underlined that some companies have longer deadlines. One airline noted that a fixed deadline policy would involve correspondence by registered mail on the part of both airlines and passengers and increase unnecessary bureaucracy. Several consumer organisations and individuals suggested deadlines ranging from between 10 to 30 days.

Several industry associations proposed to follow the approach set in their Code of Conduct (acknowledgement of complaint within 14 days of receipt and answer within 28 days). One national authority proposed a deadline of 3 weeks with a preliminary response specifying how long it will take to provide the final answer, with a maximum deadline of 8 weeks.

One consumer association underlined that it would be essential to set up a compulsory deadline as the statutory limitation in the Montreal Convention is limited to two years. One national authority pointed out that the deadlines should be realistic and reasonable and differentiated according to the nature of the complaint (civil liability versus complaints on delay or element of comfort).

However, one private company expressed concerns regarding the monitoring of compliance with deadlines.

### **Enforcement and sanctions**

One national authority advocated the establishment of administrative sanctions in case of repeated delays to answer the question.

Several respondents suggested that although it could be legitimate for airlines to provide passengers with a motivated answer within a given deadline, no sanction should be set up for non-compliance. The reasons for this are varied. One respondent mentioned that it would contravene the International Treaties, such as 1999 Montreal Convention and Warsaw System. One national authority considered that the question of sanctions would require detailed consideration and should address unavoidable situations or those beyond the air carriers' control.

One airline and one regional authority noted that the current system whereby the customer can turn to the national enforcement body was deemed sufficient. According to airlines and one consumer organisation, possible procedures include recourse to the civil courts for damages, or reverting to the NEB responsible for oversight of the carrier and/or consumer protection department and/or ADR. One national authority considered that air carriers should provide passengers with information about the competent NEB not only in correspondence concerning complaints but also on internet sites and in general conditions of carriage. One airline noted that the EU should take care that complaints of passengers and letters of the NEBs be delivered to airlines as some airlines do not have representations in the different countries they are flying to, and therefore the competent NEB cannot always enforce the Regulation in cases of infringements.

Among those advocating sanctions, some respondents considered that there should be limits to the imposition of sanctions. For example, one consumer organisation mentioned that sanctions should only apply when the air carrier blatantly disregards and fails to respond to genuine complaints of consumers (which in certain cases may amount to breach of duty or constitute an unfair commercial practice) or to comply with a direction issued by the relevant authority. The importance of taking into account valid reasons for non-compliance was also noted by one airline.

One national authority underlined that sanctions should be proportionate to the degree of seriousness of infringement. According to one airport, sanctions should be set not only for not respecting the deadlines, but also for not providing a motivated response or if the response is not appropriate or false, while one research institute and one individual underlined the importance of sanctioning the lack of response.

One consumer association underlined the need for implementing the same rules to all industries. One individual also suggested using benchmarking tools as a means of sanctioning.

One national authority pointed out that the sanctions system could be difficult to set up, and hard to motivate for unfounded claims. The same respondent suggested that if the airline was unable to reply to a complaint within a specified time limit it would also lose the possibility to use a certain defence in a particular rule or that the burden of proof would be reversed in favour of the consumer.

Finally, several industry associations expressed concerns as to how to manage sanctions against airlines.

## **Conclusions**

Respondents who replied against requiring air carriers to provide passengers with a motivated response to their specific complaints considered that this was a customer service issue and an area of market differentiation, and that it was in the airline's interest to answer complaints in an adequate way. Alternatives to regulation were put forward such as voluntary agreements, codes of conduct or industry best practice guidelines, a Customer Charter and procedural rules in general conditions of carriage.

Respondents in favour of regulation in this field highlighted that replies to complaints could often take a long time or that complaints were not answered at all and that regulation would create efficiency and transparency. Several respondents noted that airlines should demonstrate that they have taken all necessary measures in their responses to complaints.

With regard to deadlines, several airlines noted that these can vary according to the complexity of the case, and extraordinary circumstances should be taken into account. Several consumer organisation suggested deadlines ranging from 10 to 30 days whereas several industry associations suggested that a complaint should be acknowledged within 14 days and answered within 28 days.

With regard to sanctions, several respondents considered that no sanctions should be set up as it would contravene international treaties and many considered that the current system of turning to an NEB was sufficient. Moreover, several industry associations were concerned about how to manage sanctions.

## **Recommendations**

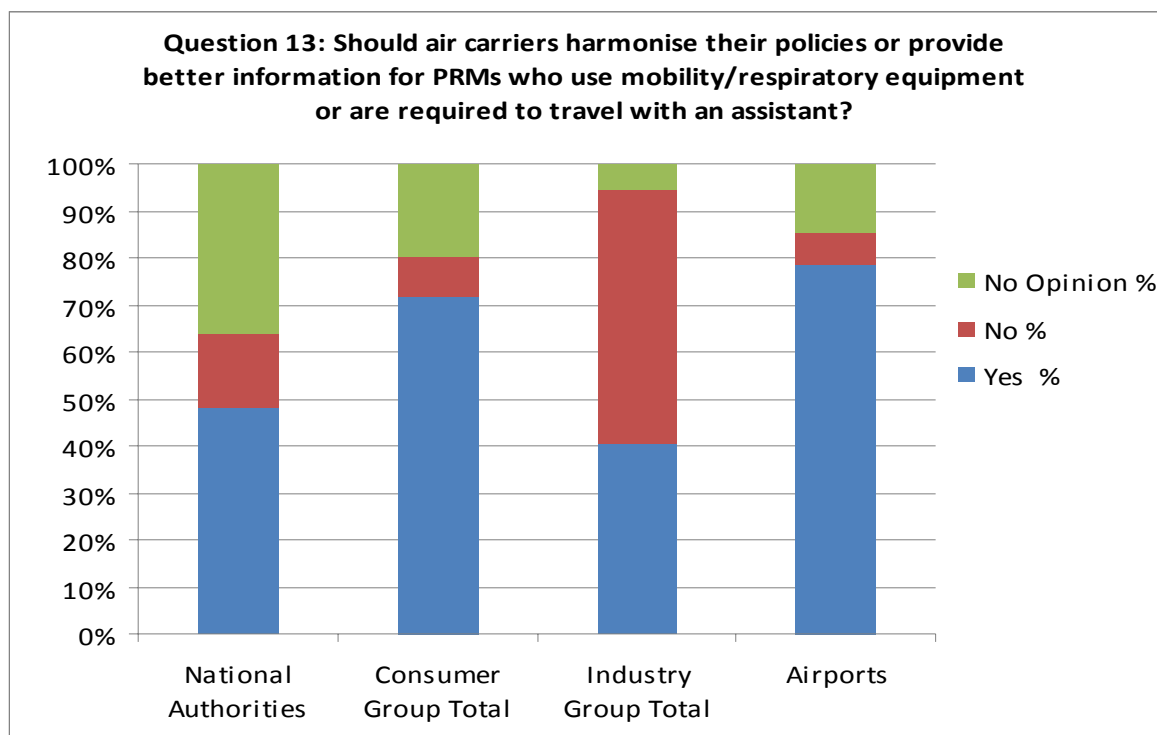
1. Complaint templates as well as deadlines should be differentiated according to the ground and nature of the complaint.
2. The notion of 'extraordinary circumstances' should be clearly defined.
3. A 'key facts' document should be handed to consumers at the point of sale.
4. Measures should be taken to ensure that complaints of passengers and letters of the NEBs are delivered to airlines.
5. An APR 'Pre-Action Protocol' could be established to enable a smooth 'first contact' complaint between the consumer and airline, imposing obligations on the parties and enabling any subsequent judicial process to analyse the efforts of the parties to comply with the APR Regulation.
6. Air carriers should be required to provide passengers with information about the competent NEB not only in correspondence concerning complaints but also on internet sites and in general conditions of carriage.
7. Administrative sanctions should be imposed in case of repeated delays to answer the complaint.
8. Sanctions should only apply when the air carrier blatantly disregards and fails to respond to genuine complaints of consumers or to comply with a direction issued by the relevant authority.

## 4 QUESTIONS RELATING TO THE PRM REGULATION (1107/2006)

**Question 13: For PRMs using mobility or respiratory equipment or required to travel with an assistant during flights, do you think that air carriers should harmonise their policies or provide better information on these issues?**

Overall 64% of respondents favour harmonisation of policies with regard to PRMs using mobility or respiratory equipment or required to travel with an assistant during flights. From the consumer group, many favoured such harmonisation (72%). National authorities generally seem to support harmonisation (48%) although many expressed no opinion on the matter (36%). Airports appear to be strongly in favour of harmonisation (79%). Among the industry group, opinions were divided with 40% in favour and 54% against harmonisation.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>48.0%</b>	<b>16.0%</b>	<b>36.0%</b>	<b>25</b>
Consumer Organisations	82.9%	4.9%	12.2%	41
Individuals	69.4%	9.3%	21.2%	193
<b>Consumer Group Total</b>	<b>71.8%</b>	<b>8.5%</b>	<b>19.7%</b>	<b>234</b>
Employee Associations	60.0%	40.0%	0.0%	5
Industry Associations	40.7%	51.9%	7.4%	27
Private Companies	37.5%	57.5%	5.0%	40
<b>Industry Group Total</b>	<b>40.3%</b>	<b>54.2%</b>	<b>5.6%</b>	<b>72</b>
<b>Airports</b>	<b>78.6%</b>	<b>7.1%</b>	<b>14.3%</b>	<b>14</b>
Other	66.7%	20.0%	13.3%	15
<b>Total All Respondents</b>	<b>63.9%</b>	<b>18.6%</b>	<b>17.5%</b>	<b>360</b>



## Overview of additional comments received

### Policies should be harmonised for PRMs using mobility or respiratory equipment or required to travel with an assistant

#### *Benefits of harmonisation*

Several consumer organisations and one airport commented that PRMs are a vulnerable group and that harmonisation would protect their rights, encourage equality of access, and guarantee a non-discriminatory service.

Several respondents, including one employer association and one national authority believed that harmonisation would provide clarity, and make travelling easier for PRMs. Two national authorities also stated that it is crucial to ensure that PRMs can expect a similar service in flights operated by various air carriers. One individual referred to a European research project currently being carried out in this area ([www.accessonwheels.eu](http://www.accessonwheels.eu)).

One consumer organisation also commented that harmonisation would be cost-effective for airlines.

However, according to one national authority and one airline association, a comprehensive study should be carried out to ascertain whether harmonisation is actually viable along with a safety impact assessment and cost-benefit assessment. Moreover, according to one PRM organisation and one airline, the EU should liaise with industry stakeholders and representatives from the PRM community and consult airlines, airports, and IATA in respect of any such harmonisation. One industry association suggested that such harmonisation should be considered at an international level.

#### *Mobility Equipment*

Two PRM organisations stated that there was a need to urgently ensure that mobility equipment is handled with care by trained personnel. They added that these procedures should be clearly stated in Regulation EC 1107/2006 (the PRM Regulation), and that it should be the airport's responsibility to ensure that such equipment is safely taken on and off the aircraft. Furthermore, such procedures must be developed in close cooperation with PRM representatives. They also commented that PRMs who depend on their mobility equipment must be allowed to use this equipment as long as possible, preferably until the moment when the passengers board the aircraft. The same respondents emphasised that a minimum of two pieces of mobility equipment must be allowed according to the

PRM Regulation with no weight restrictions, and that passengers should be entitled to bring necessary medical equipment in addition to their mobility equipment.

#### *Respiratory Equipment*

One national authority highlighted the fact that the carriage of respiratory equipment is not covered by the PRM Regulation and that airlines implement their own policies. Several PRM organisations stated that the right to bring or use oxygen should be provided by air carriers free of charge and should be added to the Annex II on the obligations of air carriers. Two of those organisations referred to the US Air Carrier Association of America (ACAA) final ruling from May 2008 requiring airlines to provide free in-flight medical oxygen.

Two PRM organisations noted that abuse of free oxygen supply could be avoided through better customer information about the availability of oxygen for all passengers in emergency situations; asking passengers who need oxygen to provide a medical certificate or training for personnel.

#### *Provision for PRM assistants*

One PRM organisation stated that assistants should be permitted to travel free of charge. Two other PRM organisations mentioned that for passengers required by the air carrier to travel accompanied, there must be safety considerations based on legislation. One national authority referred to its national guidelines on the relevant legislation, which sets out when airlines may require a personal assistant to travel with a PRM. One airline believed that carriers should provide full information to PRMs regarding the carriage of respiratory devices and the circumstances in which they will be required to travel with assistants. The same airline noted that in the US, the Department of Transport provides specific guidance on the circumstances under which carriers (including non-US carriers) may require a passenger with a disability to travel with a safety assistant. Two other airlines and one employer's association commented that provision for PRM assistants was currently being analysed by the European Air Safety Agency (EASA).

One airline and one industry association noted that passengers should be required upon booking to indicate that he/she is using mobility or respiratory equipment or will be travelling with an assistant.

#### *Safety*

One private (rail) company stated that harmonisation might be justified for safety reasons.

#### *Other*

One consumer organisation noted that current restrictions such as a limited number of allowed PRMs per flight should be monitored and sanctioned.

### **Policies should not be harmonised**

#### *Harmonisation difficult/ impractical*

It was noted by one airline and one industry association that harmonisation would need to take into account the various types of aircraft used by airlines and this may make harmonisation difficult due to different specifications and configurations.

Harmonisation of PRM policies was viewed by many respondents to be difficult or impracticable, largely due to the various operational differences between airlines for example different aircraft types, technical specifications and configurations, storage facilities, flight distances, business models (short/long haul/business/economy class etc), ground processes and other practicalities such as the local availability of necessary equipment (for example medical oxygen in overseas bases). Several industry associations suggested that allowing passengers to carry their own portable oxygen cylinders or battery powered oxygen concentrators could perhaps be standardised (e.g. a permitted size) but not air carriers' own provisions. One airline stated that PRMs have specific requirements very much depending on what mobility limitations they have therefore a common process would not be very helpful. Two private companies and one airline association added that imposing harmonised policies would be likely to result in a reduction of assistance in order to comply with the weight, capacity and safety limitations of smaller aircrafts.

### *Costs and efficiency*

However, one industry association and one private company expressed concern that smaller airlines may not be able to afford harmonisation. One private company added that the competitive environment may suffer as a result.

### *Legal provisions already in place*

It was noted that the PRM Regulation already prescribes minimum requirements for airline policies on assistance to PRMs, such as creating a comprehensive web-page detailing their policies and procedures for the carriage of PRMs. One industry association highlighted that PRMs currently have a right to transport two pieces of mobility equipment, and stated that only physical limitations (such as small doors and small baggage compartments on smaller aircraft, or the need to physically lift equipment that is excessively heavy) should restrict this right. It was also commented that respiratory equipment regulations in non-EU countries must be respected, for example, the US Air Carrier Access Act.

### *Safety considerations*

A number of airlines, industry associations and one individual commented that respiratory equipment involving compressed oxygen is a dangerous good, and therefore this is a safety rule which must be applied without exception. Some airlines stated that this area is also subject to safety restrictions such as international safety rules including Instructions for Continued Airworthiness (ICAO) and Regulation No. 3922/91 Annex III (EU-OPS).

### *Commercial considerations*

One industry association and one airline believed that the harmonisation of policies on PRM equipment would interfere with the competitiveness of the market (for example it might restrict airlines' ability to offer specific or enhanced services). Other respondents including airlines and industry associations stated that harmonisation would be likely to be inconsistent with applicable competition law. One industry association also noted that ensuring passenger awareness of their procedures for such cases is in the interest of airlines, as it renders requirement of regulatory intervention unnecessary. They also stated that it would create unjustified regulatory costs. One industry association and one national authority stated that different airlines offer different services, and passengers have a wide range to choose from.

### *No evidence that harmonisation is required*

One industry association commented that the consultation provides no evidence that any differences in policy actually do cause significant complications for PRMs.

### *Waiting times for PRMs*

One airline stated that it should be acceptable that PRMs wait at a staffed gate without a service employee assisting him or her for 30 minutes. Maximum waiting times for PRMs according to the European Civil Aviation Conference (ECAC) standards should remain. If flight operation allows it, PRMs should not have to wait.

### *Other*

One respondent supported the harmonisation of air carriers' policies concerning hand luggage. <sup>They stated</sup> <sup>that</sup> problems currently arise due to different hand luggage rules (passengers and PRMs travelling with US carriers have a free hand luggage allowance of 18 kg which causes local handling problems in the EU).

According to one NGO, a code of conduct could be developed in partnership with airlines to define common quality standards taking their constraints into account.

## **Comments regarding providing better information on these issues**

### *Need for better information*

Several respondents including one airport and one national authority specified a need for better information to be provided. Another national authority pointed out that it should be done in sufficient time. Another consumer organisation questioned the accuracy of information provided by air carriers.

One PRM organisation pointed out the problem of staff not being provided with the correct information and training. Moreover, PRM organisations also stated that it was very confusing for PRMs, including the blind and visually impaired, not to know what to expect from different airlines and at different airports. One private company underlined that confusion arose with regard to different policies concerning mandatory companions. One airport stated that carriers should provide the fullest possible information on their policies to enable the consumer to select the carrier that best meets their requirements.

According to one airline, the Commission could launch a campaign informing PRMs about their rights when travelling. PRMs should inform airlines in advance whether and what kind of assistance they need. This would contribute to better understand the requirements from both parties and would help to avoid misunderstanding. One industry association suggested that there should be an incentive for Tour Operators/travel agents to relay information on PRM passengers to the air carrier.

#### *Accessibility of information*

One PRM organisation commented that an airline's rules can be difficult to find out if information is not provided in accessible formats, a very serious issue that is not yet covered in all countries.

#### *Current information is sufficient*

Several airlines stated that adequate information for PRMs is available, via for example, air carriers' web sites and telephone. According to one airline and one consumer organisation, passengers with special needs tend to ask airlines about assistance before they travel. However, another respondent pointed out that it is important to improve and make information freely available to passengers. According to one national authority, such information should be provided in due time and several industry associations noted that it would allow passengers to make an informed choice.

### **Conclusions**

Many PRM organisations and several consumer organisations identified a need for more accurate, timely and uniform information, as well as staff training to assist PRMs. Moreover, many of these respondents believed that harmonising air carrier policies, particularly with regard to mobility and respiratory equipment, would provide clarity and help to simplify journeys for PRMs, as well as encourage equality of access and non-discrimination. Several PRM organisations also indicated that clearer policies are required in respect of the rules and responsibilities regarding equipment and the provisions for assistance. However, the main concerns within the airline industry include the potential effects of harmonisation on costs and competitiveness, along with safety and implementation difficulties arising from various operational differences between airlines.

### **Recommendations**

#### *General recommendations*

1. A comprehensive study should be carried out to ascertain whether harmonisation is actually viable along with a safety impact assessment and cost-benefit assessment.
2. The EU should liaise with industry stakeholders and representatives from the PRM community and consult airlines, airports, and IATA in respect of any such harmonisation.
3. Harmonisation should be considered at an international level (within ICAO).
4. The Commission could launch a campaign informing PRMs to notify airlines of any assistance they might require in advance.
5. A code of conduct should be developed in partnership with airlines to define common quality standards taking their constraints into account.
6. Current restrictions such as limiting the number of PRMs per flight should be monitored and sanctioned if appropriate.
7. There should be an incentive for Tour Operators/travel agents to relay information on PRM passengers to the air carrier.
8. Maximum waiting times for PRMs according to the European Civil Aviation Conference (ECAC) standards should remain and, if flight operation allows it, PRMs should not have to wait



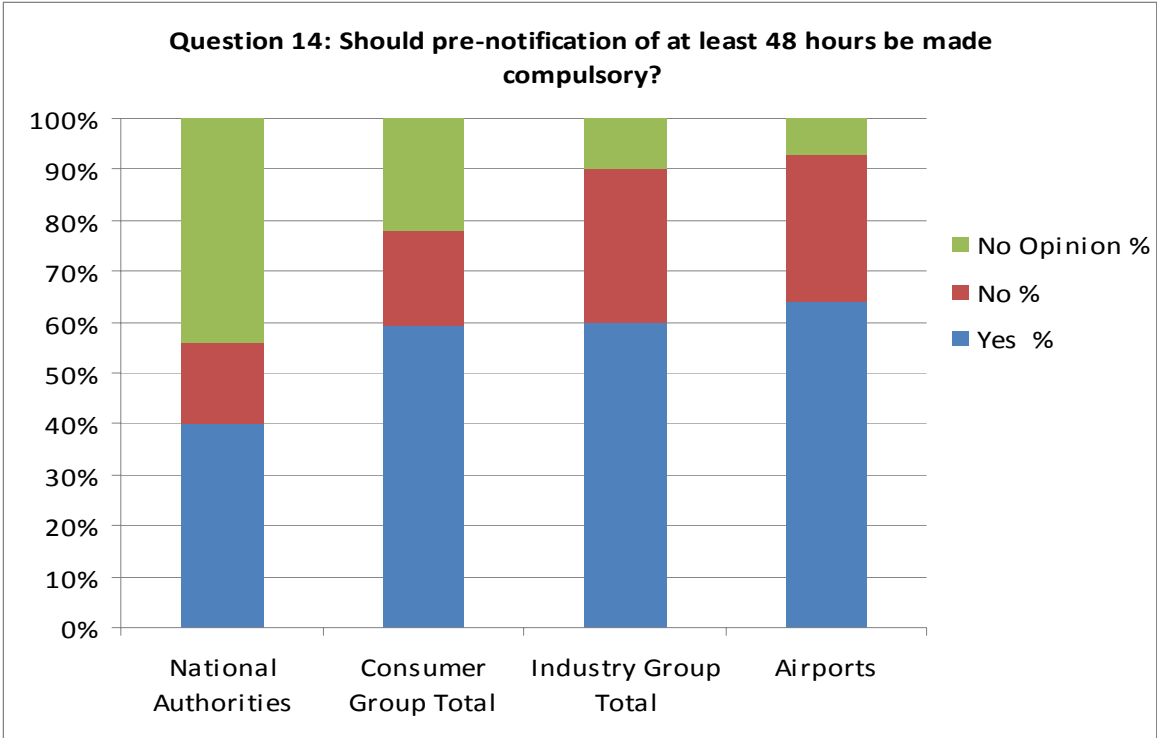
*Mobility equipment, respiratory equipment and PRM assistance*

1. PRMs who depend on their mobility equipment must be allowed to use this equipment as long as possible, preferably until the moment when the passengers board the aircraft.
2. Boarding and disembarking of mobility equipment must follow strict procedures and handling must be carried out by trained staff. These procedures must be developed in close cooperation with representative organisations or persons with reduced mobility.
3. A minimum of two pieces of mobility equipment must be allowed under the PRM Regulation with no weight restrictions. Passengers should be entitled to bring necessary medical equipment in addition to their mobility equipment
4. Passengers should be required when booking to indicate that he/she is using mobility or respiratory equipment or will be travelling with an assistant.
5. Assistants should be permitted to travel free of charge.
6. Carriers should provide full information to PRMs regarding the carriage of respiratory devices and the circumstances in which they will be required to travel with assistants (maybe based on US Department of Transport's guidance).
7. The right to bring/use oxygen should be added to Annex II on the obligations of air carriers and should be permitted free of charge.
8. Abuse of free oxygen supply may be avoided through:
  - a) better customer information about the availability of oxygen for all passengers in emergency situations;
  - b) asking passengers who need oxygen to provide a medical certificate or;
  - c) training for personnel.

***Question 14: Do you think the pre-notification at least 48 hours encouraged by regulation 1107 should be made compulsory, in order to provide better assistance to PRMs?***

Overall 57 percent of respondent are in favour of the pre-notification at least 48 hours being made compulsory. The consumer group and industry group generally supported this measure (60% for each group) and airports also seemed to be in favour (64%). Amongst national authorities, only 40% were in favour of this measure, although 44% of this group had no opinion on the question.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>40.0%</b>	<b>16.0%</b>	<b>44.0%</b>	<b>25</b>
Consumer Organisations	56.1%	29.3%	14.6%	41
Individuals	60.1%	16.1%	23.8%	193
<b>Consumer Group Total</b>	<b>59.4%</b>	<b>18.4%</b>	<b>22.2%</b>	<b>234</b>
Employee Associations	80.0%	20.0%	0.0%	5
Industry Associations	48.1%	37.0%	14.8%	27
Private Companies	65.0%	27.5%	7.5%	40
<b>Industry Group Total</b>	<b>59.7%</b>	<b>30.6%</b>	<b>9.7%</b>	<b>72</b>
<b>Airports</b>	<b>64.3%</b>	<b>28.6%</b>	<b>7.1%</b>	<b>14</b>
Other	33.3%	46.7%	20.0%	15
<b>Total All Respondents</b>	<b>57.2%</b>	<b>22.2%</b>	<b>20.6%</b>	<b>360</b>



## Overview of additional comments received

### Pre-notification at least 48 hours should be made compulsory

#### *Improved service and efficiency*

One airport, one consumer organisation and several individuals commented that compulsory pre-notification would improve service and efficiency among air carriers, with one airline stating that this would result in lower costs and benefits to all passengers. One private (rail) company commented that such provisions already exist within current rail regulations.

#### *Time constraints*

One industry association noted that airlines need a minimum period of time to arrange all necessary logistical details and several respondents underlined that this extra time would allow airlines to provide a better service to PRMs. Other respondents felt that 48 hours was not enough to ensure that PRMs are provided with appropriate equipment and assistance. One airline argued that in cases of travel packages, customers may not always know the identity of the airline they are going to travel with and it usually takes a longer time for the travel agent to pass this information to the tour operator, who must then inform its carrier. Moreover, one private company noted that some passengers do not recognise their needs for assistance until arrival at their departure airport. Several industry associations noted that the latter point related particularly to the elderly.

#### *Shortcomings of PRM Regulation*

Several industry associations pointed out that whilst the intent of the PRM Regulation is supported, since its introduction costs have risen dramatically while safety levels have fallen.

#### *Other*

Several private companies and industry associations suggested that there should be an incentive to encourage PRMs to pre-notify, such as priority being given to those who do pre-notify.

One industry association and one consumer organisation suggested that greater publicity should be given to 48 hour pre-notification. Another industry association suggested that an EU information campaign should be carried out to inform PRMs about their rights. Several consumer organisations and one national authority pointed out that PRMs should be informed about the 48 hour pre-notification when purchasing their ticket, and that flexibility should be used to take into account sudden PRM concerns arising prior to departure.

One airline also suggested that exceptions for notifications of less than 48 hours should be introduced, for example with regard to short flights in which complicated assistance is not required.

### Pre-notification at least 48 hours should not be made compulsory

#### *Potential inconsistency with other jurisdictions*

Several airlines expressed concern over the potential conflict between the PRM Regulation and PRM laws in non-EU jurisdictions, such as the US. One airline specifically stated that obligations on air carriers under EU law should not be inconsistent with other (non-EU) jurisdictions. The same airline identified Chapter 14, Part 382 of the US Code of Federal Regulations which requires PRMs to provide 48 hours notice to airlines when requesting certain specialised assistance, and prohibits airlines from requiring any notice when a PRM requests the assistance listed in Annex 1. Furthermore, it mentioned the risk that the US Department of Transport may hold airlines accountable if airport authorities (responsible for providing assistance to PRMs in EU airports) require PRMs to provide advance notice contrary to Part 382.

One airline questioned its obligations where a passenger gives less than the compulsory 48 hours notice.

#### *Potentially prejudicial*

Several respondents and individuals questioned whether 48 hour pre-notification could be prejudicial against PRMs wishing to make last minute travel plans or those who may not have realised that they

need assistance, particularly when compared with the option of able-bodied passengers to travel at any time. Another consumer organisation believed that 48 hours might be too long. Several individuals believed that those in need of assistance should not have any more onerous conditions imposed on them compared to other passengers.

Moreover, several industry associations believed that an effect of compulsory prior notification would be that airports and air carriers would not be obliged to provide assistance if notification was less than 48 hours.

#### *Lack of flexibility*

One airline association referred to particular situations which would make the 48 hour period inappropriate, such as cases of PRMs who may not travel frequently and may not be aware of the requirement or even inform the airline of their specific needs; PRMs who purchase a fare or change a reservation within the 48-hour window; and passengers who may become injured or disabled within the 48 hour window. A number of respondents including one airline and industry associations also stated that the proposal limits the possibility of carriers to arrange assistance within 48 hours.

### **Conclusions**

There was a general consensus among respondents that a compulsory pre-notification period of 48 hours would improve efficiency, reduce costs and allow airlines and airports sufficient time to make the necessary arrangements for PRMs. However, there is a risk of potential inconsistencies between PRM laws in other jurisdictions, particularly in the US system, which could make such pre-notification difficult to implement. Other arguments against a fixed time period include a lack of flexibility and potential prejudice against PRMs wishing to make last minute travel plans or recognising their reduced mobility only directly prior to travelling.

### **Recommendations**

1. PRMs should be encouraged to pre-notify, an incentive might be a priority treatment for those who do so.
2. Greater publicity should be given to 48 hour pre-notification for example through an EU information campaign to inform PRMs about their rights.
3. PRMs purchasing tickets in any form (via Internet directly from the airline or through an intermediary) should be informed of the pre-notification requirement.
4. Obligations imposed on air carriers under EU law should not be inconsistent with other (non-EU) jurisdictions.

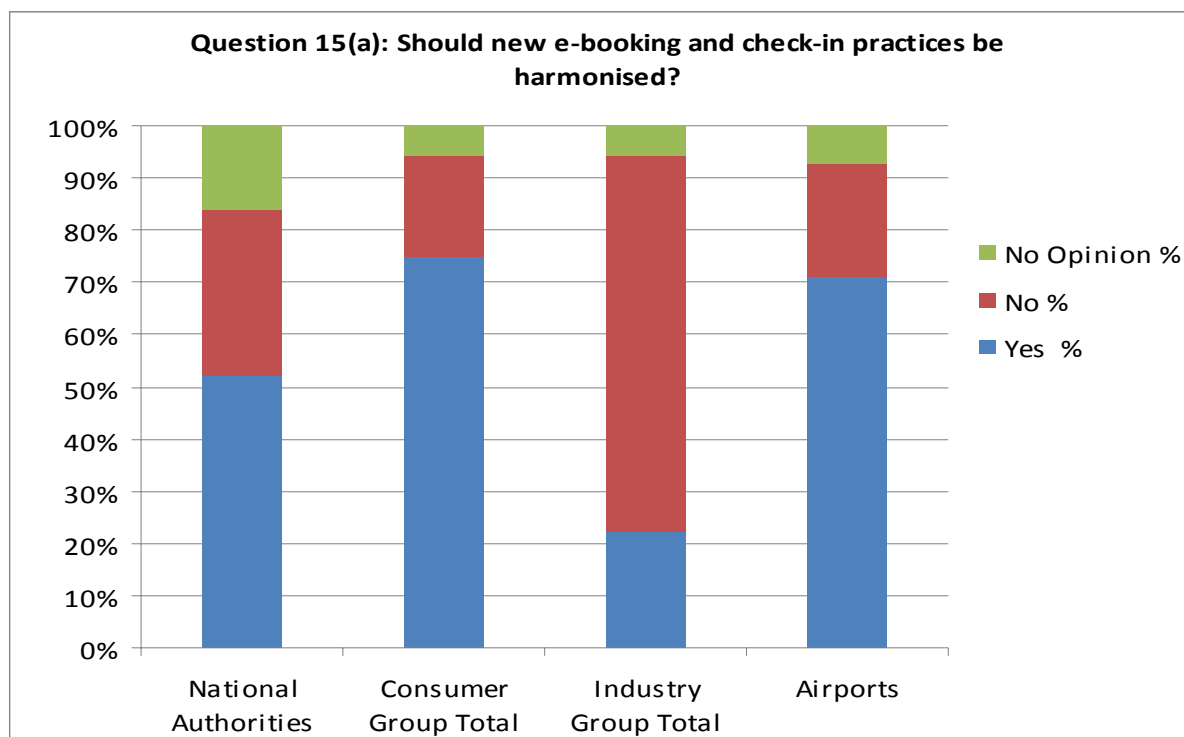
## 5 BUSINESS PRACTICES WHOSE IMPACT ON PASSENGERS MAY MERIT THE COMMISSION'S ATTENTION

### 5.1 Reservation and check-in on-line

*Question 15(a): Do you think that the new e-booking and check-in practices introduced by air carriers should be harmonised?*

Overall sixty-two percent of respondents support harmonising new e-booking and check-in practices. Consumers were mostly in favour of such harmonisation (75%) while airports (71%) were also positive. National authorities were more divided on the issue, with 52 percent in favour of harmonisation. A high amount of respondents representing industry were against harmonisation (72%).

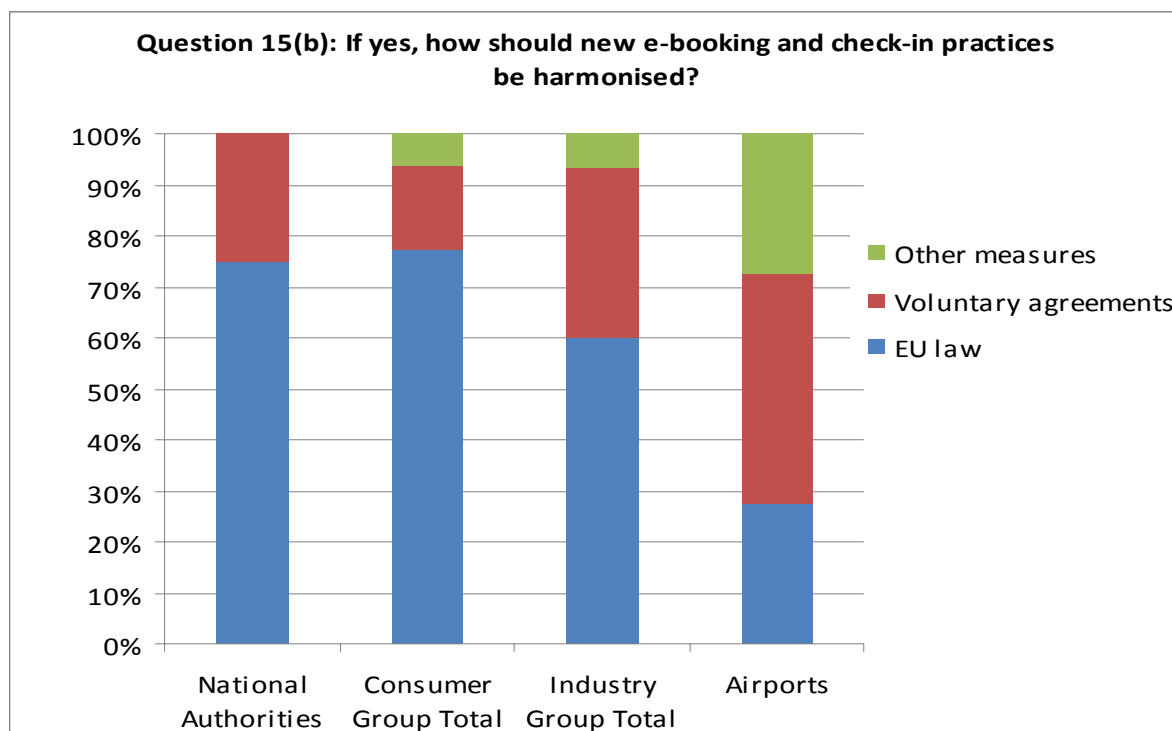
Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>52.0%</b>	<b>32.0%</b>	<b>16.0%</b>	<b>25</b>
Consumer Organisations	82.9%	12.2%	4.9%	41
Individuals	73.6%	20.7%	5.7%	193
<b>Consumer Group Total</b>	<b>75.2%</b>	<b>19.2%</b>	<b>5.6%</b>	<b>234</b>
Employee Associations	20.0%	80.0%	0.0%	5
Industry Associations	29.6%	63.0%	7.4%	27
Private Companies	17.5%	77.5%	5.0%	40
<b>Industry Group Total</b>	<b>22.2%</b>	<b>72.2%</b>	<b>5.6%</b>	<b>72</b>
<b>Airports</b>	<b>71.4%</b>	<b>21.4%</b>	<b>7.1%</b>	<b>14</b>
Other	53.3%	26.7%	20.0%	15
<b>Total All Respondents</b>	<b>61.9%</b>	<b>31.1%</b>	<b>6.9%</b>	<b>360</b>



**Question 15(b): If yes should they be harmonised through EU law or voluntary agreements?**

Seventy four percent of respondents supported harmonising new e-booking and check-in practices through EU law, whilst 19% favoured harmonisation through voluntary agreements.

Category of stakeholder	EU law	Voluntary agreements	Other measures	Number of Respondents
<b>National Authorities</b>	<b>75.0%</b>	<b>25.0%</b>	<b>0.0%</b>	<b>12</b>
Consumer Organisations	76.5%	17.6%	5.9%	34
Individuals	77.6%	16.1%	6.3%	143
<b>Consumer Group Total</b>	<b>77.4%</b>	<b>16.4%</b>	<b>6.2%</b>	<b>177</b>
Employee Associations	0.0%	0.0%	0.0%	0
Industry Associations	87.5%	12.5%	0.0%	8
Private Companies	28.6%	57.1%	14.3%	7
<b>Industry Group Total</b>	<b>60.0%</b>	<b>33.3%</b>	<b>6.7%</b>	<b>15</b>
<b>Airports</b>	<b>27.3%</b>	<b>45.5%</b>	<b>27.3%</b>	<b>11</b>
Other	87.5%	0.0%	12.5%	8
<b>Total All Respondents</b>	<b>74.0%</b>	<b>18.8%</b>	<b>7.2%</b>	<b>223</b>



## Overview of additional comments received

### Against harmonisation

#### *Part of airline's commercial strategy*

Many respondents including airlines, industry associations, several national authorities and individuals felt that check-in practices were part of the airline commercial strategy and should be regulated by the market, subject to price transparency. Further regulation may distort competition which, according to several respondents, has provided a stimulus for airlines to innovate and would stifle innovation.

It was also noted, mainly by private companies and industry associations that it was already in the interest of airlines to make it easier for passengers to use these services and that it was a question of customer service.

#### *Already rules and measures in place*

A concern of overregulation was raised by some airlines and two airline associations, whilst some respondents stated that there was no evidence that intervention was needed in this area, and no such regulations had been imposed in other sectors. One airline stated that they already had measures to ensure that passengers were well informed of the procedure.

Moreover, several respondents including airlines, one airline association, national authorities and consumer organisations pointed out that there was already legislation such as Regulation 1008/2008 governing e-booking and price transparency as well as harmonisation through IATA rules. It was not seen as a problem that passengers were faced with different types of systems. According to one national authority, it should first be ensured that airlines comply with the existing requirement of consumer protection legislation.

#### *Costly and impractical*

Several respondents including airlines and industry associations also underlined that costs of developing practices were high and would impact passengers. According to one private company, this would place a high burden on airlines as it would require many changes to operational systems. Several industry associations stated that check-in practices are also dependant on technology available and means proposed by airline to book tickets, making harmonisation difficult. Moreover, one private

company and one industry association stated that harmonisation would be impractical in the sense that in the charter airline market, tour operators are generally responsible for booking.

Amongst those respondents opposed to further regulation, a special reference was made to PRMs and that they should not be put at a disadvantage by the airline companies as far as check-in practices are concerned. One airline and one consumer organisation felt that there should be more information provided to passengers such as procedures for rectifying details of bookings and related costs.

### **In favour of harmonisation through EU law**

#### *Benefits of harmonisation*

Several consumer organisations and one airport commented that uniform rules would lead to more transparency, fewer errors, and allow passengers to make an informed choice. It would also, according to one consumer organisation, create wide consumer acceptance of online booking processes and benefit airport operational planning. Several respondents including one national authority and consumer organisations stated that it would lead to more certainty and clarity especially since most passenger complaints relate to lack of information regarding online services and lack of transparency regarding the final price of ticket. One individual highlighted that he found the different rules on airline websites confusing and non transparent.

One PRM organisation noted that it would make the process easier for the visually impaired.

#### *Types of rules*

Some respondents in favour of harmonisation specified that the rules should focus on the information that airlines have to provide to passengers during e-booking and check-in, including information about insurance linked to the tickets and the real final price of the tickets. According to one consumer organisation, online check-in practices should be harmonised to allow passengers to check-in at any stage between finalising their booking and their flight departure time rather than during a time bound period before the flight. The same respondent suggested that the action should be taken against airlines that charge unavoidable fees for online check-in in breach of article 23 of the Air Services Regulation. According to another consumer organisation, EU law should set requirements for airlines to state any compulsory airport development fees to be expected as well as requirements to provide Advance Passenger Information before travelling. One PRM organisation also mentioned that any web-based system should comply with the W3c/Web-Accessibility Initiative/Web-Content Accessibility Guidelines (WAI/WCAG 2.0) to ensure accessibility.

One national authority suggested that only limited aspects should be harmonised, including minimum requirements on information, and/or a "durable medium" requirement similar to the Distance Selling Directive.

### **Voluntary agreements**

Those respondents against voluntary agreements stated that they would infringe EU competition law and that airlines charging extra fees for checking-in at the airport would not follow the agreements. In addition, one consumer organisation noted that these agreements would lead to confusion as consumers would have to check the type of rules governing each airline.

One consumer organisation also noted that voluntary agreements may not be sufficient to clearly harmonise e-booking and check-in practices. Two national authorities mentioned the need to review evidence of consumer detriment before a voluntary agreement should be considered.

One consumer organisation in favour of voluntary agreements stated that they could promote competition on best practices. According to one airline, agreements could possibly be harmonised among allied carriers within alliances.

### **Conclusions**

Those respondents against harmonisation of e-booking and check-in practices introduced by air carriers commented that such practices were part of an airline's commercial strategy and that rules



and measures were already in place such as Regulation 1008/2008 governing e-booking and price transparency, as well as IATA standards. They also pointed out that such harmonisation would be costly and impractical. Most of these comments were made by private companies, industry associations and national authorities.

Respondents in favour of harmonisation through EU law highlighted the benefits of such measures including greater transparency, certainty and efficiency. Types of rules suggested include requiring airlines to provide appropriate information to passengers during e-booking and check-in and allowing passengers to check-in at any stage between finalising their booking and flight departure. Most comments in favour of harmonisation were made by consumer organisations and several national authorities.

## **Recommendations**

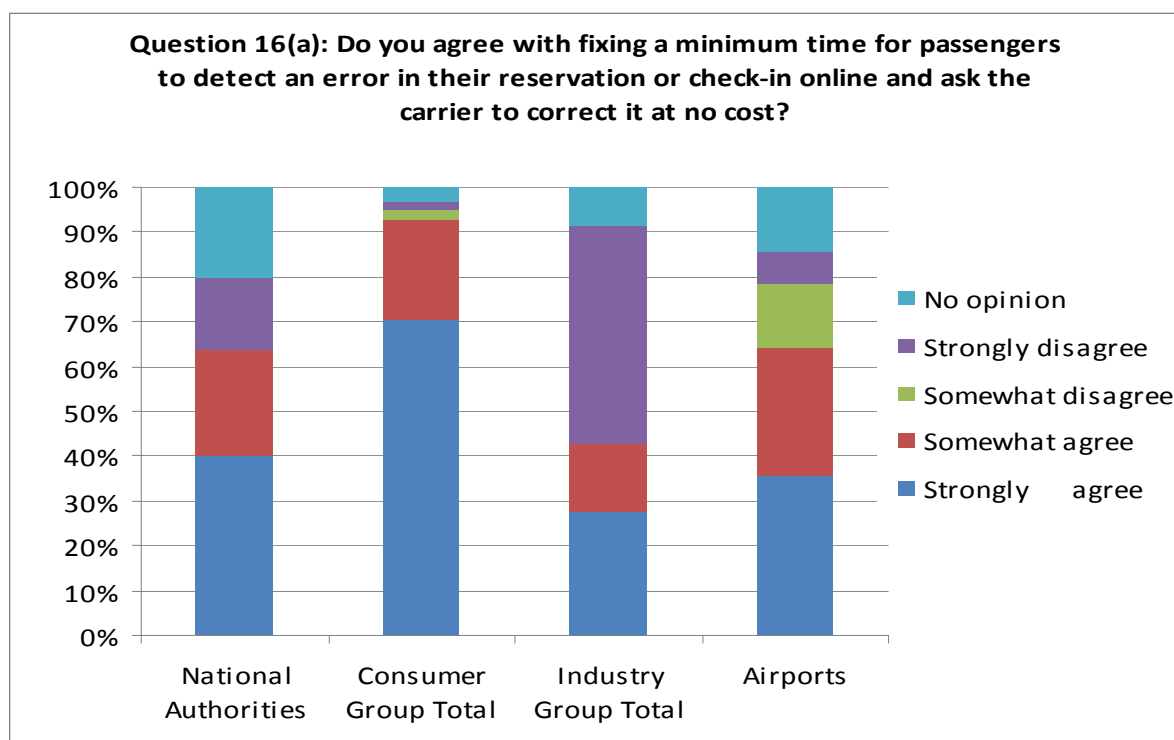
1. Abusive practices such as imposing commission charges for changes to bookings per each traveller rather than for whole booking should be tackled.
2. Online check-in practices should be harmonised to allow passengers to check-in at any stage between finalising their booking and their flight departure time rather than during a time bound period before the flight.
3. The Commission should take action against airlines that charge unavoidable fees for online check-in in breach of article 23 of the Air Services Regulation.
4. It should be ensured that airports do not restrict the number of desks they make available for self-check.
5. Any web-based system should comply with the W3c/Web-Accessibility Initiative/Web-Content Accessibility Guidelines (WAI/WCAG 2.0) to ensure accessibility.
6. EU law should set requirements for airlines to state any compulsory airport development fees to be expected as well as requirements to provide Advance Passenger Information before travelling.
7. Airport check-in should be included in the cost of the ticket.

***Question 16: Which kind of new specific measures to protect passengers in such cases could be introduced in the EU? Please give your views on:***

***a) Fixing a minimum time for passengers to detect an error in their reservation or check-in online and ask the air carrier to correct it at no cost?***

Overall fifty-eight percent of respondents strongly supported fixing a minimum time for passengers to detect an error in their reservation or check-in online and ask their carrier to correct it at no cost, whilst 21% somewhat agreed. Consumer groups were mostly in favour of this measure, with 70% strongly in agreement and 22% somewhat agreeing. National authorities were also relatively in favour of this measure, with 40% strongly agreeing and 24% somewhat agreeing. However, 48% of the industry group strongly disagreed with this measure.

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	No opinion	Number of Respondents
<b>National Authorities</b>	<b>40.0%</b>	<b>24.0%</b>	<b>0.0%</b>	<b>16.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	80.5%	12.2%	4.9%	0.0%	2.4%	41
Individuals	68.4%	24.4%	2.1%	2.1%	3.1%	193
<b>Consumer Group Total</b>	<b>70.5%</b>	<b>22.2%</b>	<b>2.6%</b>	<b>1.7%</b>	<b>3.0%</b>	<b>234</b>
Employee Associations	40.0%	0.0%	0.0%	40.0%	20.0%	5
Industry Associations	25.9%	11.1%	0.0%	51.9%	11.1%	27
Private Companies	27.5%	20.0%	0.0%	47.5%	5.0%	40
<b>Industry Group Total</b>	<b>27.8%</b>	<b>15.3%</b>	<b>0.0%</b>	<b>48.6%</b>	<b>8.3%</b>	<b>72</b>
<b>Airports</b>	<b>35.7%</b>	<b>28.6%</b>	<b>14.3%</b>	<b>7.1%</b>	<b>14.3%</b>	<b>14</b>
Other	53.3%	20.0%	20.0%	0.0%	6.7%	15
<b>Total All Respondents</b>	<b>57.8%</b>	<b>21.1%</b>	<b>3.1%</b>	<b>12.2%</b>	<b>5.8%</b>	<b>360</b>



## **Overview of additional comments received**

### **Against fixing a minimum time**

#### *Existing rules and measures are sufficient*

Several airlines and airline associations noted that airlines already correct genuine errors in booking and check-in and that there was no evidence to the contrary. Several airlines stated that they offered a service of rebooking to their passengers within 24 hours and this was deemed sufficient. This 24 hour period is, according to one airline association, provided in the voluntary Air Passenger Service Commitment. Another airline stated that it gave passengers the chance to make changes, especially with regard to errors of identity of passengers.

It was also stated by several airlines, one airline association and one individual that airlines normally instruct their clients to ensure all details given are correct. Several airlines also pointed out that they have a pricing structure allowing more or less changes to bookings for example changes allowed through 'flexible tickets'.

#### *Practical difficulties*

According to several industry associations, bookings made by an agent on a scheduled air carrier through a Central Reservation System are reported electronically to the air carrier on a daily basis and changes cannot be made after midnight.

Several airlines and one industry association commented that this needed to be assessed on case by case basis to assess legitimacy of claims.

### **In favour**

#### *Necessary measure*

Respondents in favour of this measure recounted examples of airlines making customers pay more or malfunctioning of the online check-in system. Individuals, consumer organisations and one national authority highlighted the difficulties in correcting an error without being charged or having to pay unreasonable amounts compared with the price of the ticket. According to one consumer organisation, this would be a good way to protect passengers. Another consumer organisation noted that Rail Europe already provides such a facility for online bookings.

#### *Conditions*

Two private companies thought that types of errors should be distinguished. For example, it would be acceptable for errors such as "typos" but not errors regarding date of the flight, tariffs, etc. One consumer organisation thought that this measure should be used when there is evidence that this is a significant issue for the passenger. Several airlines also noted that if the change was a change of date the difference in price should be borne by the customer. One private (rail) company added that the procedure for online booking should always allow customers to double-check their data before confirming.

According to one national authority the impact this would have on a company's reservation system would have to be assessed. One airline also agreed to this measure provided that the airline was consulted in determining the minimum time.

One airline in favour of this measure stated that the correction of such measures should be subject to time limits and limits regarding the nature and extent of permissible corrections. A concern was raised by another airline however that allowing time for passengers to detect an error may lead to abuses such as reselling tickets.

### **Minimum time**

Opinions varied on the concept of 'minimum time'. Some respondents, including one consumer organisation, one national authority and one individual, felt that a 24 hour cooling off period or up to the next business day was sufficient.

One airline felt that a period of one hour should be sufficient. One consumer organisation also called for a 60 minute grace period in which a passenger may rectify a clerical error.

Two industry associations stressed that this time should be kept to a minimum to encourage consumers to be cautious and not cause practical difficulties.

One consumer organisation, one national authority and one individual felt that there should not be a minimum time at all as some passengers were not familiar with reservation processes and may not be able to detect error in time.

### **Other**

One national authority suggested that it should be possible to detect a typing error whilst purchasing the ticket.

### **Conclusions**

Those respondents against fixing a minimum time for passengers to detect an error in their reservation or check-in online and ask the air carrier to correct it at no cost, noted that there are already adequate rules and measures, with several airlines pointing out that they already offered a service for rebooking within 24 hours which they regarded as sufficient. It was also pointed out that fixing a minimum time would lead to practical difficulties. These comments were made for the most part by industry associations and private companies.

Those respondents in favour of fixing a minimum time pointed out the current difficulties experienced with the online check-in system. Opinions diverged on the concept of 'minimum time' with several respondents agreeing that a 24 hour cooling off period would be sufficient.

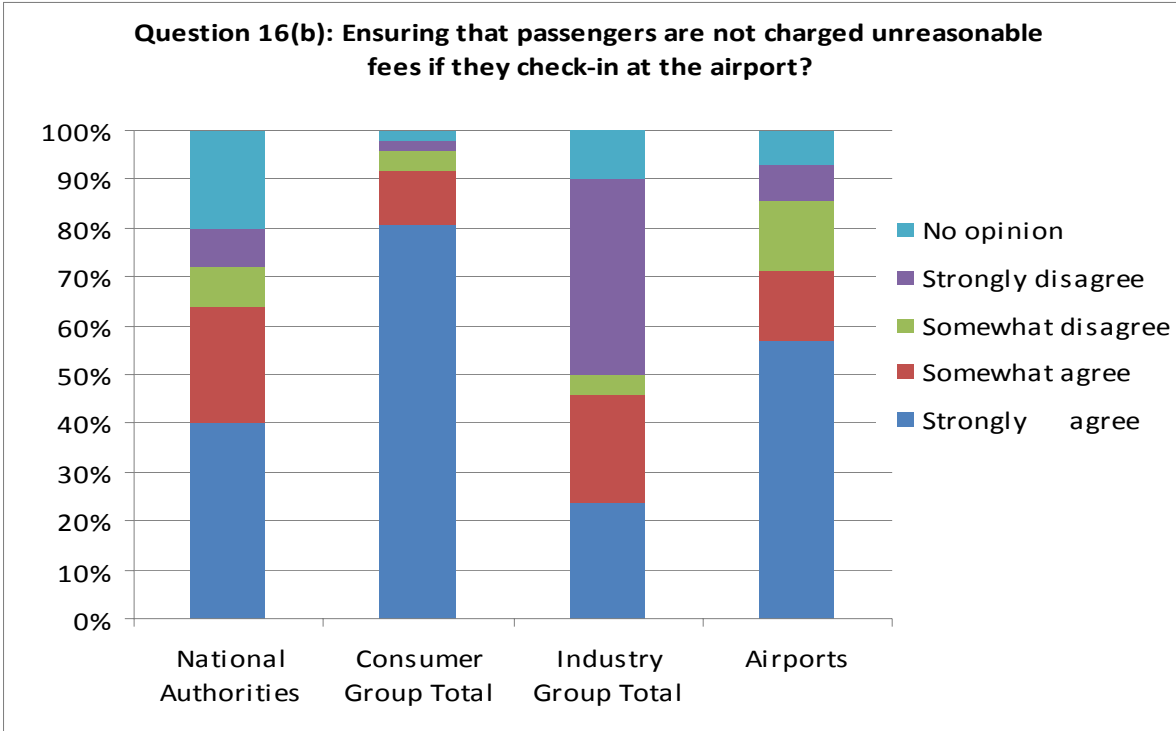
### **Recommendations**

1. The procedure for online booking should always allow customers to double-check their data before confirming.
2. Setting of a minimum cooling-off period could be done through a voluntary agreement.
3. It should be possible for a change of name to be made with a sensible add charge.
4. Airlines should be consulted in determining the minimum time.

#### ***(b) Ensuring that passengers are not charged unreasonable fees if they check in at the airport?***

A majority of respondents were in favour of the measure proposed to ensure that passengers are not charged unreasonable fees when checking in at airports (overall, 65% strongly agree, 15% agree). There is overwhelming support for this measure amongst the consumer group (81% strongly agree, 11% somewhat agree). National authorities support such a measure (40% strongly agree, 24% somewhat agree), whilst airports are also generally in favour (57% strongly agree, 14% somewhat agree). The industry group is more divided on this questions (40% strongly disagree whilst 24% strongly agree and 22% somewhat agree).

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	No opinion	Number of Respondents
<b>National Authorities</b>	<b>40.0%</b>	<b>24.0%</b>	<b>8.0%</b>	<b>8.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	87.8%	4.9%	2.4%	2.4%	2.4%	41
Individuals	79.3%	12.4%	4.1%	2.1%	2.1%	193
<b>Consumer Group Total</b>	<b>80.8%</b>	<b>11.1%</b>	<b>3.8%</b>	<b>2.1%</b>	<b>2.1%</b>	<b>234</b>
Employee Associations	40.0%	0.0%	0.0%	40.0%	20.0%	5
Industry Associations	29.6%	14.8%	3.7%	40.7%	11.1%	27
Private Companies	17.5%	30.0%	5.0%	40.0%	7.5%	40
<b>Industry Group Total</b>	<b>23.6%</b>	<b>22.2%</b>	<b>4.2%</b>	<b>40.3%</b>	<b>9.7%</b>	<b>72</b>
<b>Airports</b>	<b>57.1%</b>	<b>14.3%</b>	<b>14.3%</b>	<b>7.1%</b>	<b>7.1%</b>	<b>14</b>
Other	60.0%	33.3%	0.0%	0.0%	6.7%	15
<b>Total All Respondents</b>	<b>64.7%</b>	<b>15.3%</b>	<b>4.4%</b>	<b>10.3%</b>	<b>5.3%</b>	<b>360</b>



*Unnecessary measure*

One airline and several airline associations noted that the consultation provided no example of such fees, or no rationale as to why fees should not be applied in the competitive airline market.

One airline pointed out that it was already clear in the contract that fees apply. According to another airline, if passengers choose to fly low cost airlines, they should be prepared to incur fees. Moreover, one national authority felt that if a booking was made online, it was normal for the check-in to be

carried out in the same manner. One research institute noted that as long as the passenger had not encountered a problem whilst printing the boarding pass, the passenger should respect the terms of the contract.

Other respondents including airlines, one industry association, one national authority, one consumer organisation and several individuals felt the decision to impose fees should be left to the airline as part of their business model, as long as passengers were informed of these fees.

#### *Necessity of fees*

Several private companies and industry associations pointed out that the benefit of such fees was to encourage changes in passenger behaviour and cut costs. Several respondents highlighted the costs of providing check-in desks which would otherwise be passed on to the consumer.

#### *Importance of information*

A few airlines and one airline association complained about problems with the online check-in system. Some respondents commented that the main concern of individuals was to know in advance the final cost of their ticket and one airline pointed out that the focus should be on transparency. Several consumer organisations and one national authority highlighted that clear information should be given to passengers on air carriers' procedures for example key facts at the point of sale through an organisation.

#### *No fees for vulnerable passengers*

Many respondents including consumer organisations, several industry associations and some individuals highlighted the difficulties faced by consumers with no Internet access, passengers not accustomed to online check-in or the Internet, more senior persons without a computer or those not able to afford one, families and PRMs.

According to two industry associations, one consumer organisation and two airports, PRMs or passengers with small children should have additional fees waived. One PRM organisation pointed out that the fact that check-in machines are not accessible excludes disabled and vulnerable people.

#### *'Reasonable costs'*

Many respondents including airlines, two consumer organisations and one national authority questioned who would decide what a 'unreasonable' fee amounted to. One consumer organisation suggested that it should be limited to 25 euros per ticket.

One industry association noted that extra costs should be reasonable whilst another airline stated that it should be proportionate to the airline's costs. According to one individual, authorities should periodically audit this correspondence, and apply sanctions on air-carriers applying exaggerate charges.

Several industry associations referred to a Spanish ruling "Sentencia de Málaga" which affirms that check-in is an inherent requirement of the transport contract, therefore it should be forbidden to charge an extra fee for this.

Finally, one consumer organisation regarded extra fees as the exploitation of a loophole in Article 23 of the Air Services Regulation. Another consumer organisation mentioned the abuse of a loophole with regard to Article 5 (1) (c)(i) of the APR, where it seemed that some airlines informed passengers of cancelled flights at the final limits of the two weeks' prior notice point thereby avoiding the need to pay compensation.

## Conclusions

Many respondents agreed that measures should be taken to ensure that passengers are not charged unreasonable fees if they check in at the airport.

A particular reference was made to difficulties faced by passengers with no internet access and PRMs, with suggestions made that PRMs should have such check-in fees waived. The importance of information was also highlighted, especially information to the passenger on what the final price of the ticket would be. Such comments were made primarily by private companies, industry associations, consumer organisations, several national authorities and individuals.

Those against curbing such fees pointed out that they were necessary to encourage changes in passenger behaviour and to cut costs, and that airlines should be able to determine such fees as long as the passengers were informed of these. Comments made against regulating fees were made primarily by private companies and industry associations.

## Recommendations

1. Measures should be taken to ensure that there are no additional costs for assistance at the check-in counter for persons with disabilities.
2. There should be a facility for online check-in at the airport for those who may have forgotten to do so or do not have internet / printing facilities at home.
3. It should be ensured that passengers have the option to check-in by other means than online.
4. Check in with hand luggage only should always be free of charge.
5. Online check-in could be motivated by providing incentives such as first choice of seat on the plane or through discounts.

### *(c) Other measures*

Many individuals and several industry associations called for measures to address excessive credit card fees.

Several individuals stated that a telephone assistance service would be helpful.

One consumer organisation called for better monitoring of Regulation No. 1008/2008 to urge full compliance and enforcement measures if needed.

One airline and one individual stated that a self-service check-in system which involves reading of the credit card used for booking such as the one used in New Zealand should be established.

According to one national authority, air carriers should use the correct terminology for amounts of taxes (governmental only) and fees.

Finally, one private company suggested establishing a customer-friendly code of conduct for airlines to resolve any problem that has occurred during the booking or check-in process on line. It should be mandatory to publish this code of conduct on the website to be seen by the customer before he/she makes the booking.

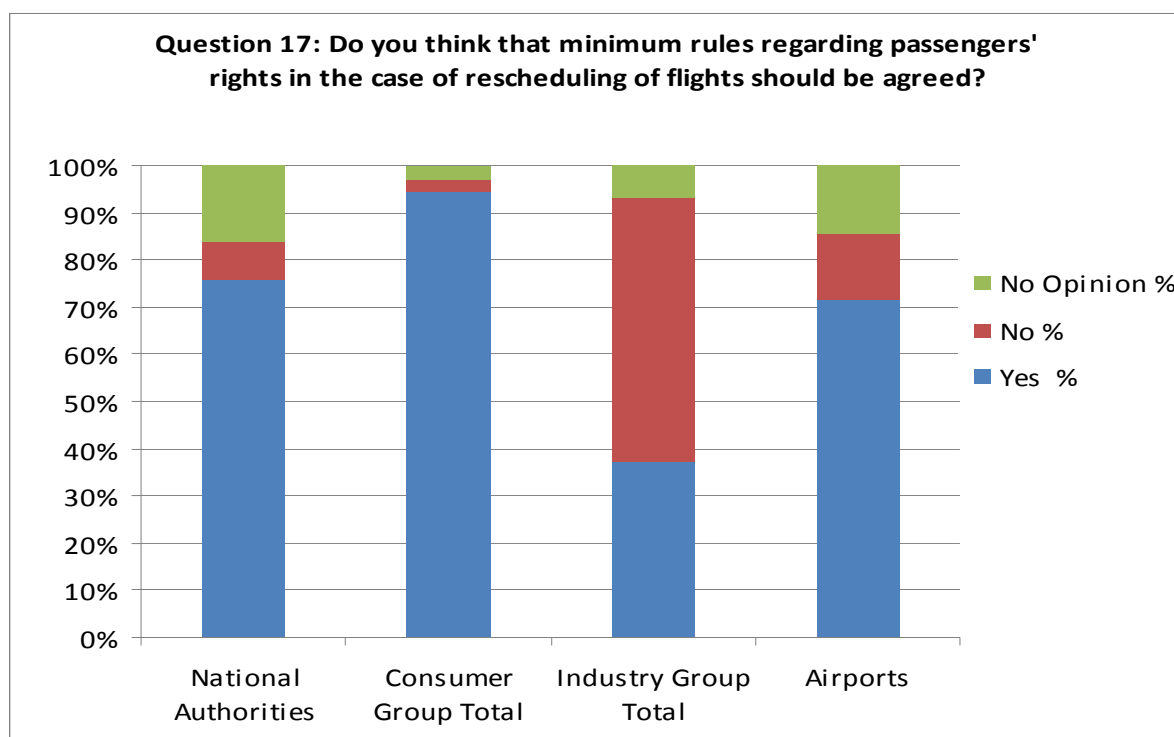
## 5.2 Rescheduling of flights

***Question 17: Do you think that minimum rules regarding passengers' rights in the case of rescheduling of flights should be agreed?***

Most respondents (80%) were in favour of establishing minimum rules regarding passenger's rights in the case of rescheduling of flights. Respondents from the consumer group were overwhelmingly in

favour of this measure (95%), and national authorities (76%) and airports (71%) were also highly in favour. The industry group was more divided on this issue with 56% against and 37% in favour of such a measure.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>76.0%</b>	<b>8.0%</b>	<b>16.0%</b>	<b>25</b>
Consumer Organisations	95.1%	2.4%	2.4%	41
Individuals	94.3%	2.6%	3.1%	193
<b>Consumer Group Total</b>	<b>94.4%</b>	<b>2.6%</b>	<b>3.0%</b>	<b>234</b>
Employee Associations	40.0%	60.0%	0.0%	5
Industry Associations	48.1%	44.4%	7.4%	27
Private Companies	30.0%	62.5%	7.5%	40
<b>Industry Group Total</b>	<b>37.5%</b>	<b>55.6%</b>	<b>6.9%</b>	<b>72</b>
<b>Airports</b>	<b>71.4%</b>	<b>14.3%</b>	<b>14.3%</b>	<b>14</b>
Other	66.7%	13.3%	20.0%	15
<b>Total All Respondents</b>	<b>79.7%</b>	<b>14.4%</b>	<b>5.8%</b>	<b>360</b>



## Overview of additional comments received

### *Already rules and measures in place*

According to several respondents including airlines, industry associations, one consumer organisation, one national authority and individuals, basic rules on rescheduling flights already exist, including



Regulation 261/2004. It was also noted that package travel passengers are protected under the Package Travel Directive. Several airlines and industry associations also mentioned that rules are stated in the general contract conditions and passengers should familiarise themselves with these. One industry association and airline pointed out that some changes to airline contracts have been required by European authorities under EU ‘business to consumer’ unfair contracts legislation. One industry association pointed out that the voluntary Air Passenger Service Commitment allows for a full refund if the passenger cannot be offered a flight at a time that is acceptable to the passenger. According to one airline association, IATA’s recommended conditions of carriage (Article 9: Schedules, delays) address such issues.

#### *Not seen as necessary*

Several airline associations, one airline and one employer association commented that there was no evidence that this was necessary or that rescheduling of flights has increased, and one industry association stated this assertion went against their own findings. One airline noted that this was not a contentious point with their customers and that they met their customers’ expectations on this issue. Another airline pointed out that they already have measures.

Moreover, several airlines, airline associations and individuals pointed out that taking into account passenger rights with regard to rescheduling of flights was already in the airline’s interest and was an element of market differentiation.

One airline also noted that airlines needed flexibility to adjust schedules. According to another airline, regulation in this area may have the effect of discouraging airlines from issuing schedules well in advance of travel, thus reducing passenger choice. One airline suggested that EU law should specifically target operators who indulge in such practices rather than imposing a blanket legislation on industry.

#### *Costs and difficult practical implementation*

Several industry associations and one private company noted that this would add to costs which would be transferred to passengers and may create practical difficulties for example in the case of package holidays bought from a tour operator. Another industry association stressed that as such it would be difficult and expensive to implement and therefore new rules should be reasonable.

#### *External factors*

Two airlines and one industry association noted that rescheduling can be caused by external factors outside an airline’s control. One research institute noted that external factors leading to rescheduling should exonerate airline liability. According to one airline, in case of external factors, it is still appropriate to inform passengers of the risk of delay rather than merely let them turn up at the airport to find this out.

One private company also noted that the impact of rescheduling would differ between passengers according to their purpose of trip.

### **Minimal rules should be agreed through EU law**

#### *Benefits*

Respondents in favour of minimal rules in case of rescheduling flights felt that this would reduce the amount of rescheduled flights and that although the APR Regulation has strengthened passenger rights for delayed and cancelled flights there are still gaps in legal protection for passengers which these minimum rules for rescheduling flights will close. According to one airport, uniform rules would increase transparency and competition on price and quality and one national authority pointed out that these would help clarify what are deemed to be unfair contract terms.

One consumer organisation also noted that whilst most carriers have a policy of giving passengers the option of claiming a refund of the ticket in the event of a “significant” change, the interpretation of “significant” may vary.

Several national authorities felt that passengers should be reimbursed for rescheduling as the time of departure is part of the contract. Moreover, one private (rail) company commented that it would put airlines on an equal footing with other forms of transport such as rail.

#### *Criteria for rules*

Several consumer organisations and one national authority suggested that the rules for rescheduling should be similar to those applied to long delays and cancellations if rescheduling is announced less than 2 weeks before departure.

Moreover, one consumer organisation respondent referred to the growing problem of rescheduled charter flights which are not covered by the APR Regulation.

Another consumer organisation and one national authority also commented that schedule changes led to unplanned expenditure for consumers such as accommodation, new transfers and losing pre-paid hotel bookings. According to one research institute, one consumer organisation and several individuals, compensation should cover extra accommodation, food and general inconvenience as well as costs for connecting flights. One respondent noted that passengers should be offered the best available alternative schedule at the carrier's expense as an alternative to a full refund. One individual noted that passengers should have the choice to book with another airline and have the costs reimbursed if the alternative departure proposed is not to the passenger's convenience. Moreover, a consumer organisation suggested that where an airline seeks to reschedule the flight after a set point in time the consumer could be entitled to fixed compensation if the change to their departure time is going to exceed 3 hours.

One consumer organisation warned that a clause in an airline's terms & conditions stating that it is a point-to-point airline must not lead to a complete waiver of the liability to redress.

According to one national authority, minimum rules should take into account the length of journey and time between notification of rescheduling and departure. One research institute suggested that account should be taken of the class of the travel the passenger had opted for. One airline stated that refunds should only be offered in cases of rescheduling less than 15 days before departure.

According to one individual and one consumer organisation, such measures should take into account additional inconvenience if flights are rescheduled to "unsociable" hours. One airline pointed out that the development of such rules should involve a detailed consultative process with airlines and IATA.

#### *Importance of information*

Several respondents, including one consumer organisation and one airport stressed the need to make sure that consumers are adequately informed of rescheduling. One consumer organisation also noted that awareness of passengers on their rights should be raised, including through a written document which airlines should be able to prove they have sent. One national authority stated that new measures should be limited to requirements on informing passengers in cases of rescheduling of flights.

#### *Other*

One airline noted that the Commission should consider imposing identical requirements on other transport providers to ensure fair and open competition. Another airline suggested that Regulations on IATA/ICAO level should be developed to create a level playing field for EU- and Non-EU Airlines rather than EU law.

#### **Voluntary agreements:**

Two airlines specified that they supported a voluntary agreement as long as the change of schedule was within the control of the airline.

However, concerns were raised by respondents including one consumer organisation and individuals that voluntary agreements were not a strong enough instrument. One industry association noted that there were already voluntary agreements in place to help passengers to get to their destination.

## **Conclusions**

Many airlines and industry associations pointed out that there were already rules and measures in place with regard to rescheduling of flights and highlighted that the costs of any such measure would be transferred to passengers. It was also pointed out by these respondents that external factors out of an airline's control can also lead to rescheduling.

Respondents in favour of setting minimal rules for rescheduling, which included many consumer organisation and several national authorities, highlighted the benefits this would have such as increased transparency. Suggestions were put forward to take the following issues into account, when setting up minimum rules: length of journey, time between notification of rescheduling and departure and whether flights are rescheduled at unsociable hours. The importance of effectively informing passengers of rescheduling was also flagged by consumer organisations and airports.

## Recommendations

1. Regulations on IATA/ICAO level should be developed to create a level playing field for EU- and Non-EU Airlines rather than EU law.
2. EU law should specifically target operators who indulge in such practices rather than imposing a blanket legislation on industry.
3. Identical requirements should be imposed on other transport providers to ensure fair and open competition.
4. Passengers should have the choice to book with another airline and have the costs reimbursed if the alternative departure proposed is not to the passenger's convenience.
5. Where the airline seeks to reschedule the flight after a set point in time the consumer could be entitled to fixed compensation if the change to their departure time is going to exceed 3 hours.
6. The decision of the ECJ of 19 November 2009 should be introduced into EU law.

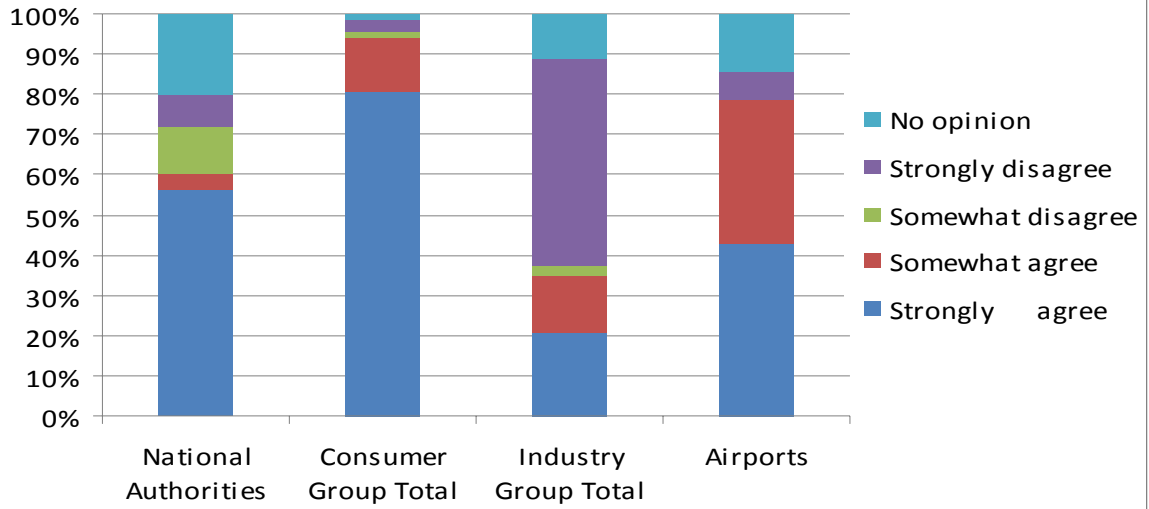
**Question 18: What kind of new, specific measures to protect passengers in such cases could be introduced in the EU? Please give your views on:**

- (a) Giving passengers whose departing flight is rescheduled by more than 5 hours the choice of not flying and being reimbursed the price of the whole ticket, including the return flight whenever the passenger has a return ticket.**

Sixty-five percent of respondents were strongly in favour of this measure, with 13% somewhat agreeing with it. Thirteen percent of all respondents strongly disagreed with this measure. The consumer group was strongly in favour of this measure with 81% strongly in agreement and 13% somewhat agreeing. Airports were also mostly supportive of this measure, with 43% strongly agreeing with it and 36% somewhat agreeing. Only 21% of the industry group strongly agreed with this measure, with 51% strongly disagreeing with it.

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	No opinion	Number of Respondents
<b>National Authorities</b>	<b>56.0%</b>	<b>4.0%</b>	<b>12.0%</b>	<b>8.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	85.4%	12.2%	0.0%	0.0%	2.4%	41
Individuals	79.8%	13.5%	2.1%	3.1%	1.6%	193
<b>Consumer Group Total</b>	<b>80.8%</b>	<b>13.2%</b>	<b>1.7%</b>	<b>2.6%</b>	<b>1.7%</b>	<b>234</b>
Employee Associations	0.0%	40.0%	0.0%	40.0%	20.0%	5
Industry Associations	18.5%	3.7%	0.0%	59.3%	18.5%	27
Private Companies	25.0%	17.5%	5.0%	47.5%	5.0%	40
<b>Industry Group Total</b>	<b>20.8%</b>	<b>13.9%</b>	<b>2.8%</b>	<b>51.4%</b>	<b>11.1%</b>	<b>72</b>
<b>Airports</b>	<b>42.9%</b>	<b>35.7%</b>	<b>0.0%</b>	<b>7.1%</b>	<b>14.3%</b>	<b>14</b>
Other	73.3%	6.7%	0.0%	13.3%	6.7%	15
<b>Total All Respondents</b>	<b>65.3%</b>	<b>13.3%</b>	<b>2.5%</b>	<b>13.3%</b>	<b>5.6%</b>	<b>360</b>

**Question 18(a): Do you agree with giving passengers whose flight is rescheduled by more than 5 hours the choice of not flying and being reimbursed the price of the whole ticket, including the return flight when the passenger has a return ticket?**



## **Overview of additional comments received**

### **Against proposed measure**

#### *Existing rules and procedures*

Several airlines and industry associations stated that they already had procedures in place for rebooking and refunding in cases of rescheduling, for example offering passengers whose flight is delayed the option of not flying and being reimbursed the return ticket. This is a right imposed by the APR Regulation in case the delay is of more than 5 hours. One private company referred to the ABTA voluntary code which regards a change in flight time of more than 12 hours as likely to amount to a major change, but even then, this may depend upon individual circumstances. Several industry associations felt that it should be left to airlines to decide on a case by case basis, especially as effects on the consumer and circumstances vary.

Several respondents also stated that this would not be appropriate in cases of chartered air transport as passengers have bought a package holiday.

### **In favour of proposed measure**

One consumer organisation and one private company saw it as a good way to protect passengers and a few individuals complained of airlines rescheduling flights to less than five hours to avoid having to pay compensation.

One consumer organisation called for clarification of Regulation 261/2004 especially since the ruling on long delays of the ECJ of 19 November, 2009 (joined cases C-402/07 and C-432/07). Several respondents mentioned that the decision of the ECJ of November 19 2009 should be introduced in EU law.

#### *In line with ECJ case law*

One consumer organisation and one national authority noted that this was in line with the APR Regulation and the above mentioned ECJ judgment, according to which situations of long delayed (three hours and more) and cancelled flights should be assimilated. One national authority felt that such comparison should also be made with timetable changes.

### **Five hour period?**

Among respondents both against and in favour of this measure, many comments focused on the setting of a five hour period.

One airline association pointed out that setting a five hour period would leave many passengers who would normally benefit from some airline's more liberal approach to be dissatisfied. Other respondents including industry associations, airlines, and one national authority pointed out that a five hour period was arbitrary and that the rule should instead reflect the purpose of travel of the passenger rather than setting an arbitrary 5 hour period or should be determined on its own merits. Another respondent felt that due account should be taken of time between notification and flight departure as well as external factors outside an airline control.

One research institute suggested that a four hour period would be preferable, whilst two industry associations suggested a longer period of 10 hours for long haul flights. The same industry association highlighted that under the Package Travel Directive, the consumer could withdraw in cases of substantial change to the contract (such as departure time). Setting a five hour limit for other passengers therefore creates a discrepancy.

Two national authorities and several individuals considered that the threshold of 5 hours too long especially for shorter flights and stated that the circumstances of passengers should be taken into account. One individual stated that where flights have been rescheduled for a period of more than two hours, passengers should have the option to travel with another carrier.

Due to the different impact of rescheduled times on passengers, one consumer organisation suggested that this ‘5 hour period’ should be subject to discussion.

## Conclusions

Many respondents agreed that passengers whose departing flight is rescheduled by more than five hours should be given the choice of not flying and being reimbursed the price of the whole ticket. Most comments in favour of such measures were made by consumer organisations, individuals as well as a private company which noted that such a measure would protect passengers.

Comments were made by airlines and industry associations asserting that rules and procedures were already in place and this should be determined on a case by case basis as effects on the consumer may vary. Moreover, many comments focused on the question of the ‘five hour period’, with many respondents noting that this was an arbitrary period.

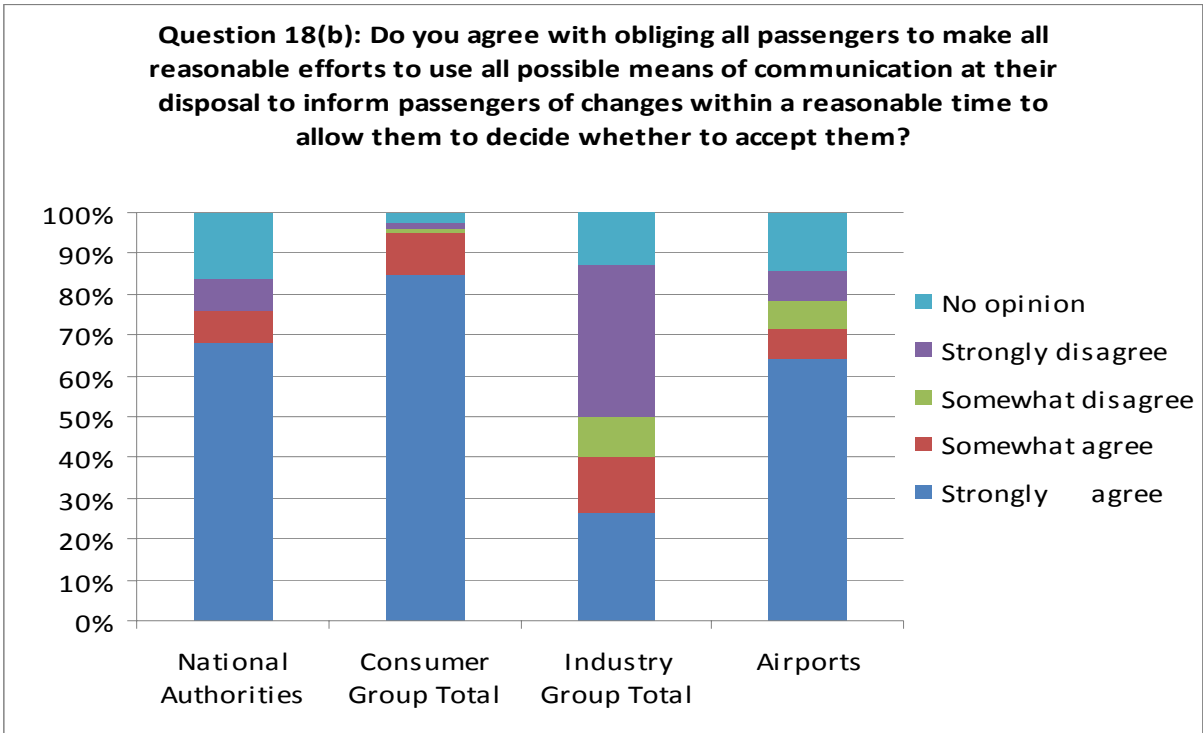
## Recommendations

1. A longer period than five hours should be set for long haul flights.
2. Due to the different impact of rescheduled times on passengers, the ‘5 hour period’ after which passengers, whose flight has been rescheduled, may have the choice of not flying and being reimbursed the price of the whole ticket should be subject to discussion.
3. The circumstances of passengers should be taken into account when determining the period after which passengers may choose not to fly and be reimbursed the price of the whole ticket.

***(b) Obliging air carriers to make all reasonable efforts to use all possible means of communication at their disposal to inform passengers of changes within a reasonable time to allow them decide whether to accept them.***

Seventy-one percent of respondents strongly agreed with obliging air carriers to make reasonable efforts to use all possible means of communication at their disposal to inform passengers of changes within a reasonable time, and 10% somewhat agreed. There was overwhelming support for this measure amongst the consumer group, with 85% strongly agreeing with the measure and 10% somewhat agreeing with it. Support was also high among national authorities (68% strongly in agreement) and among airports (64% strongly in agreement). The industry group was more divided on the issue, with 26% strongly agreeing and 14% somewhat agreeing, whilst 10 percent somewhat disagreed and 37 percent strongly disagreed.

Category of stakeholder	Strongly agree	Somewhat agree	Somewhat disagree	Strongly disagree	No opinion	Number of Respondents
<b>National Authorities</b>	<b>68.0%</b>	<b>8.0%</b>	<b>0.0%</b>	<b>8.0%</b>	<b>16.0%</b>	<b>25</b>
Consumer Organisations	85.4%	9.8%	0.0%	0.0%	4.9%	41
Individuals	85.0%	10.4%	1.0%	1.6%	2.1%	193
<b>Consumer Group Total</b>	<b>85.0%</b>	<b>10.3%</b>	<b>0.9%</b>	<b>1.3%</b>	<b>2.6%</b>	<b>234</b>
Employee Associations	0.0%	20.0%	20.0%	40.0%	20.0%	5
Industry Associations	37.0%	7.4%	3.7%	37.0%	14.8%	27
Private Companies	22.5%	17.5%	12.5%	37.5%	10.0%	40
<b>Industry Group Total</b>	<b>26.4%</b>	<b>13.9%</b>	<b>9.7%</b>	<b>37.5%</b>	<b>12.5%</b>	<b>72</b>
<b>Airports</b>	<b>64.3%</b>	<b>7.1%</b>	<b>7.1%</b>	<b>7.1%</b>	<b>14.3%</b>	<b>14</b>
Other	86.7%	0.0%	0.0%	6.7%	6.7%	15
<b>Total All Respondents</b>	<b>71.4%</b>	<b>10.3%</b>	<b>2.8%</b>	<b>9.4%</b>	<b>6.1%</b>	<b>360</b>



**Overview of additional comments received**

*Already existing measures*

Several airlines and industry associations pointed out that they already had measures such as advising passengers that they can be contacted by text or email of any flight changes or cancellations. One airline noted that it had a Reservation Operation Centre (ROC) which is responsible for pro-actively informing and rebooking the passengers in cases of operational irregularities. Another airline noted that it already contacts passengers by phone or email in case of irregularities. Other airlines and one



airline association also commented that it was already part of customer care and market differentiation and in the airline's interest to do so.

#### *Practical limitations*

According to several respondents, it is not always possible to contact passengers as there is no obligation to provide contact details and such information may be unreliable. One consumer organisation noted that passengers should be required to provide contact details including phone number or email address. One individual noted that passengers should give two means of being contacted.

It was also noted by one airport that problems in this area arise with regard to charter flight carriers. Several respondents including one industry association and private companies stated that airlines do inform travel agencies about schedule changes but travel agents are very reluctant to reveal passengers' contact details. Several airlines also commented that travel agents only communicated the names of passengers. Other respondents including consumer organisations and one private company noted that travel agents/tour operators/charters would have to commit to transfer the contact information of passengers to airlines accurately and within reasonable time for this measure to work.

According to several respondents, the requirement to communicate should also apply to intermediaries such as travel agents, especially as cases where tickets are sold through an intermediary can lead to confusion. Two private companies stated that in the case of charter flights, the requirement should apply only to intermediaries.

One consumer organisation recognised that it was difficult to establish whether an email had been sent or received. According to one airline, the demand on the airline should be to make 'reasonable' efforts to contact the passenger.

According to one industry association, harmonising this practice would encourage confusion and differences in interpretation by judicial authorities, as has already been experienced with Regulation 261/2004. One private company also noted that such a measure would be difficult and expensive. One industry association noted that the degrees of inconvenience caused may vary between passengers

#### *Conditions*

One airport suggested that such a measure could depend on how customers booked their tickets (online or through an agency). Moreover, according to one consumer organisation, it should not be seen as an exclusive action. Another consumer organisation pointed out that the method for such communication would have to be defined.

According to one consumer organisation and one individual, it should be up to the contracting party to prove that information has been provided. One individual stressed that there should be no extra charge for the information.

One airline favoured this measure as long as it was limited to essential terms of contract such as schedule changes and destination airports.

### **Conclusions**

Several respondents including industry associations and private companies highlighted that there were already internal measures in place ensuring that air carriers inform passengers of changes of schedule.

Moreover, practical limitations of obliging air carriers to inform passengers were underlined by private companies, industry associations, several national authorities and consumer organisations, particularly with regard to the difficulty of contacting passengers and obtaining passenger information from intermediaries such as travel agents and operators.

## Recommendations

1. Passengers should be required to provide contact details including phone number or email address.
2. Travel agents/tour operators/charters should also be required to transfer the contact information of passengers to airlines accurately and within reasonable time.
3. A range of options should be included within voluntary commitments, backed by effective enforcement of existing consumer law.

### *(c) Other measures*

#### *Voluntary agreements*

One national authority thought that a range of options should be included within voluntary commitments, backed by effective enforcement of existing consumer law.

Several airlines and one airline associations also pointed out that a voluntary agreement would be sufficient. One consumer organisation however felt that it would lead to airlines making cartels and breaking the rules.

One national authority mentioned that an air carrier in Norway had introduced an effective system where the consumer has to confirm that he/she accept the offered rescheduling of the flight by e-mail.

According to one national authority, the passenger affected by a rescheduling should also be allowed to make changes to his booking in regard to his return flight(s) free of charge, subject only to availability of seats.

One individual noted that passengers should be allowed to take a flight the following day and not be forced to accept a night flight. Another individual pointed out that there should be an obligation to refund credit card and other booking fees as well as the cost of the ticket. According to one individual, air carriers should have a representative available at the airport at all times to deal with these situations. Another suggested a free telephone number to call.

### **Overall recommendations**

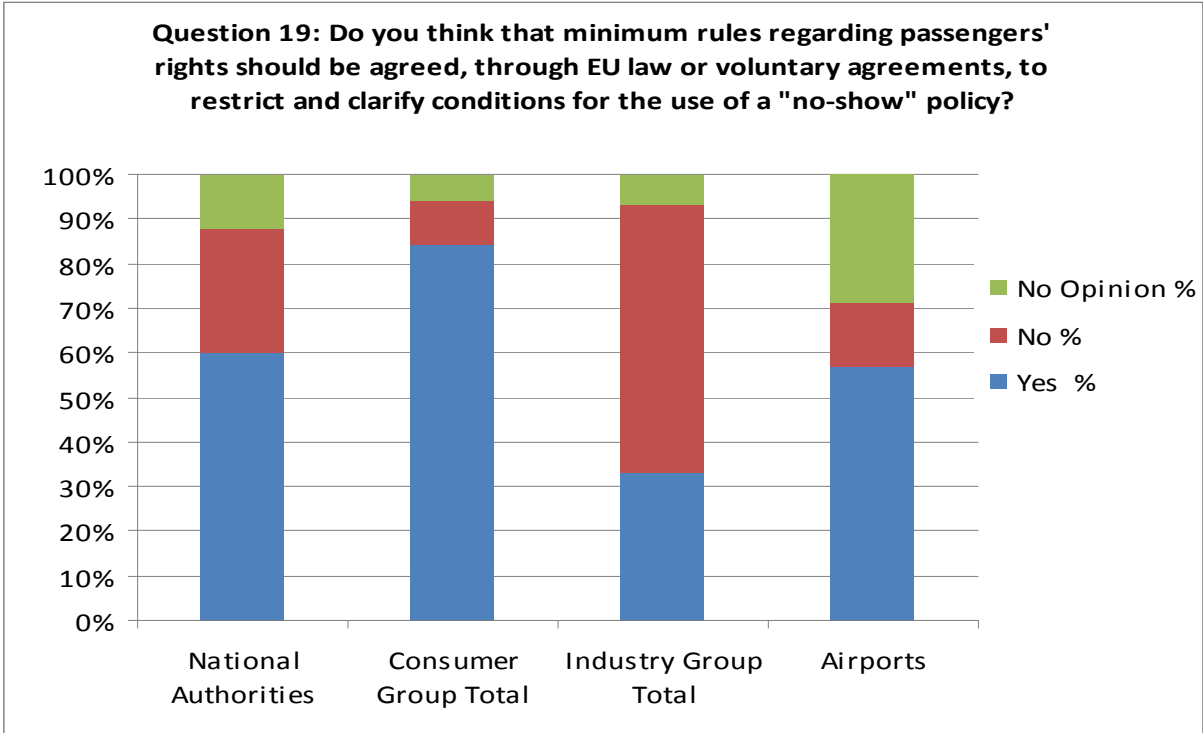
1. A range of proposals should be evaluated before any specific measure is proposed.
2. A 'significant change' provision similar to the one for the Package Travel Directive could be applied to delays, 'forward re-scheduling', denied boarding and cancellation. There would be a need to define fully what constitutes a significant change and the rights that flow therein.

## **5.3 The so called "no-show policy"**

***Question 19: Do you think that minimum rules regarding passengers' rights should be agreed, through EU law or voluntary agreements, to restrict and clarify conditions for the use of a "no-show policy"?***

Seventy percent of respondent were in favour of minimum rules regarding the 'no-show policy'. Respondents from the consumer group were highly in favour of this measure (84%), whilst national authorities (60%) and airports (57%) somewhat supported this measure. Sixty percent of the industry group was against this measure, with high opposition from private companies (75%).

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>60.0%</b>	<b>28.0%</b>	<b>12.0%</b>	<b>25</b>
Consumer Organisations	85.4%	7.3%	7.3%	41
Individuals	83.9%	10.4%	5.7%	193
<b>Consumer Group Total</b>	<b>84.2%</b>	<b>9.8%</b>	<b>6.0%</b>	<b>234</b>
Employee Associations	40.0%	60.0%	0.0%	5
Industry Associations	51.9%	37.0%	11.1%	27
Private Companies	20.0%	75.0%	5.0%	40
<b>Industry Group Total</b>	<b>33.3%</b>	<b>59.7%</b>	<b>6.9%</b>	<b>72</b>
<b>Airports</b>	<b>57.1%</b>	<b>14.3%</b>	<b>28.6%</b>	<b>14</b>
Other	66.7%	13.3%	20.0%	15
<b>Total All Respondents</b>	<b>70.6%</b>	<b>21.4%</b>	<b>8.1%</b>	<b>360</b>



## Overview of additional comments received

### In favour

Seventy-one percent of respondents felt that minimum rules should be agreed to clarify conditions on the use of the 'no-show policy'. The following comments in favour of this measure were made:

One consumer organisation pointed out that it had seen many complaints from passengers not being able to return having not taken the first part of their journey. Another consumer organisation also suggested that such cancellation of ticket should only be made with the agreement of passengers and the rules should be communicated to passengers more clearly.

One consumer organisation commented that this was a very unfair practice as it frequently happened that passengers could not use the first segment of a ticket due to personal reasons. One national authority noted that the current situation was confusing as different airlines applied different policies for different tickets and it was therefore difficult for passengers to get an overview of the rules.

One industry association supported the introduction of minimum rules, except for passengers on package holidays where it should not be expected that the airline keep the passenger's return seat.

One national authority suggested differentiating between no-shows where passengers have missed a connection owing to a previous delay or cancellation. Where there is no apparent reason for a no-show, the onus could be on the passenger to contact the airline to explain the circumstances and confirm that they would be taking the return flight. According to the same national authority, the "no-show policy" should not apply where a passenger has to make alternative arrangements to get to his destination as a result of the schedule change. The air carrier should give passengers the opportunity to notify whether they will use their return flight or not (where appropriate).

One consumer organisation referred to a judgment in Spain condemning the no-show policy and requiring the airline to pay the passenger, who had not been able to use the first leg of his ticket due to back pain, to be reimbursed for the new return flight he had been forced to purchase (Commercial Court No. 1 Bilbao). In this case, the policy was regarded as violating the Law of General Conditions Recruitment, General Law for the Protection of Consumers and Users Directive 93/13 EEC.

### Against

Twenty-one percent of respondents were against this measure. Most comments against such a measure were made by airlines and airline associations:

#### *Resource optimisation tool*

According to one airline association, airlines have "no-show" policies to allow them to efficiently optimise the use of aircraft and allow the maximum passengers to fly where possible, at the lowest possible cost to the traveller. Several airlines and industry associations pointed out that this is a resource optimisation policy and interfering in this rule would lead to higher fares for all travellers. One airline referred to the US 2001 General Accounting Office study stating that restricting the no-show policy "could have unintended consequences, including higher air fares and decreased service for consumers".

Allowing a passenger to break such a contract would also, according to one airline, break business principles and airlines would be unable to sell the seats at short notice. According to one industry association, such interference would also stifle competition.

#### *Part of the contract*

One airline also noted that passengers need to abide by the contract, especially since individual tickets are more expensive than a return or multiple leg ticket. According to another airline, the complete and sequential use of coupons is an element of the agreement knowingly accepted by the passenger. It was also noted by airline associations, national authorities, one employer association one private company

that an airline's "no-show" policy is included in its Contract of Carriage and passengers should read these rules.

One airline commented that the no-show policy has been recognised by national courts, but acknowledged that other jurisdictions have ruled against such practices. Therefore additional clarification would be welcome, without necessarily further regulation. According to one airline association, the main concern is transparency and making sure the passenger is informed of this policy.

One airline also noted that passengers had the choice of purchasing flexible tickets. Two industry associations pointed out that many airlines do not cancel the return flight if the airline is advised in advance, in accordance with conditions of carriage under IATA's RP1724 (s. 3.3.6).

#### *Essential to indirect flights*

One airline also referred to the problem of multi-leg tickets where a carrier has to compete with many other airlines. According to one industry association, fares differ by point of origin, destination, intermediate stopping or connecting points and the actual characteristics of the journey. Several airlines also pointed out that passengers are given the option to take cheaper indirect flights. However, without a 'no-show policy', passengers, who are not genuine indirect passengers, may travel on indirect tickets by starting their journey at an intermediary point and, therefore, 'no-show' on that first sector. For this reason, no-show policy is necessary; otherwise prices of indirect flights would have to go up.

### **Conclusions**

Many consumer organisations favoured establishing minimum rules to restrict and clarify conditions for the use of a 'no-show policy', on the basis that the current situation was confusing and could be unfair if people could not use the first segment of their ticket for personal reasons. Respondents against minimum rules in this field, including mostly industry associations and airlines, pointed out that this was a resource optimisation tool and that interference in this rule would increase fares for passengers. It was also pointed out that the no-show policy rule was included in the terms of contract and that the no-show rule was essential to keep prices of indirect flights low.

### **Recommendations**

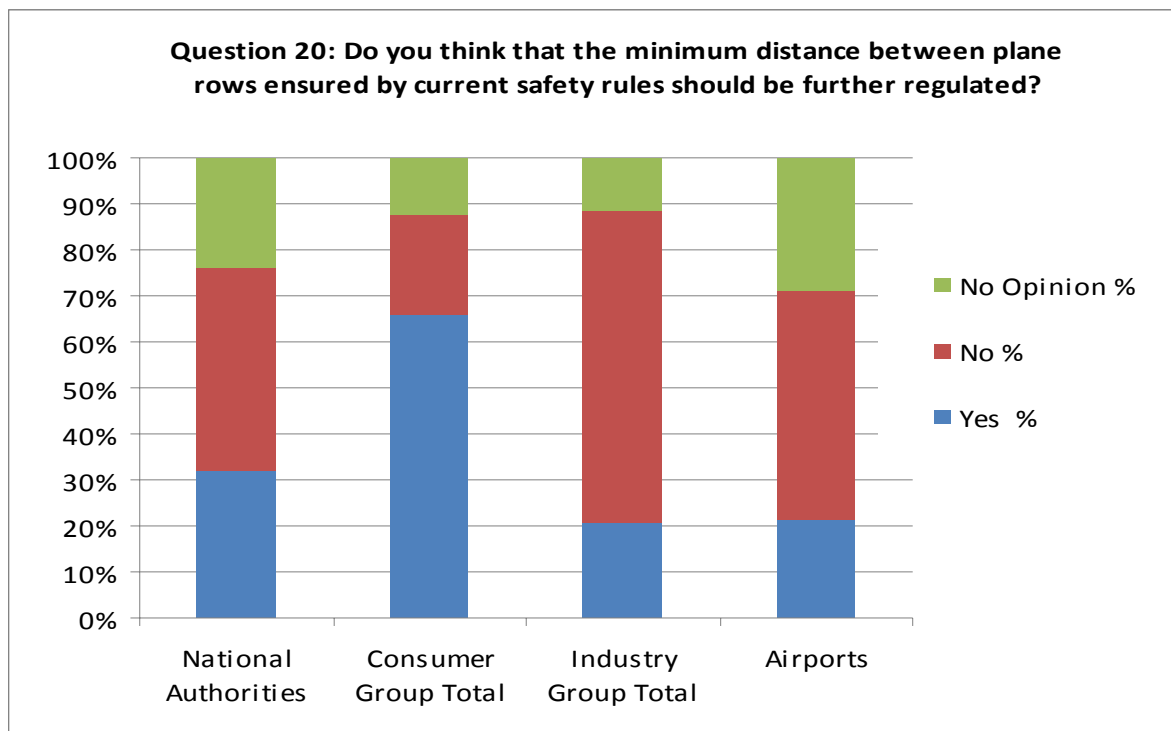
1. The cancellation of a ticket after a no-show situation should only be made with the agreement of passengers, and the rules should be communicated to passengers more clearly.
2. There should be a differentiation between no-shows where passengers have missed a connection owing to a previous delay or cancellation.
3. If there is no apparent reason for a no-show, the onus could be on the passenger to contact the airline to explain circumstances and confirm that they would be taking the return flight.

## 5.4 Reduced space between plane rows

*Question 20: Do you think that the minimum distance between plane rows ensured by current safety rules should be further regulated?*

Opinions were relatively divided on the issue of whether distance between plane rows should be further regulated, with 52% of all respondents in favour and 34% against. Consumer groups were somewhat in favour of further regulation in this area (66%), whilst only 21% of airports favoured this measure and 32% of national authorities. Among the industry group, 68% were against further regulation.

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>32.0%</b>	<b>44.0%</b>	<b>24.0%</b>	<b>25</b>
Consumer Organisations	51.2%	29.3%	19.5%	41
Individuals	69.4%	20.2%	10.4%	193
<b>Consumer Group Total</b>	<b>66.2%</b>	<b>21.8%</b>	<b>12.0%</b>	<b>234</b>
Employee Associations	40.0%	60.0%	0.0%	5
Industry Associations	18.5%	66.7%	14.8%	27
Private Companies	20.0%	70.0%	10.0%	40
<b>Industry Group Total</b>	<b>20.8%</b>	<b>68.1%</b>	<b>11.1%</b>	<b>72</b>
<b>Airports</b>	<b>21.4%</b>	<b>50.0%</b>	<b>28.6%</b>	<b>14</b>
Other	53.3%	33.3%	13.3%	15
<b>Total All Respondents</b>	<b>52.5%</b>	<b>34.2%</b>	<b>13.3%</b>	<b>360</b>



## Overview of additional comments received

### Against:

#### *Airline commercial policy*

According to many respondents including airlines and airline associations, although each aircraft must be conceived according to safety and certification standards, beyond minimum standards this issue should be left to airline commercial policy and airlines should have the freedom to compete with each other. Many respondents including airlines, airline associations and one national authority noted that this was part of market differentiation and passengers can choose airlines with higher or lower quality of seats.

#### *Costs*

According to several airlines, one airline association, one national authority and several individuals, total harmonisation may stifle competition and also has an effect on costs and prices. According to one airline and several individuals, setting regulations would have costly consequences for airlines as it is costly to refurbish an aircraft cabin. Several airlines also noted that regulating the minimum distance between plane rows would lead to reduced seating and therefore reduced profitability for the airline and increased air fares and that it may also force low-cost operators out of business.

#### *Existing regulations and measures in place*

Many respondents including mainly airlines, industry associations and national authorities noted that there were already safety measures in place regarding seating, and revisions should only be made for safety reasons. Two airlines pointed out that they already comply with requirements laid down by the European Aviation Safety Agency (EASA) commensurate with safe evacuation. According to one airline, EASA should have the main role here.

One industry association mentioned that the UK imposes seat pitch rules on safety grounds to allow for aircraft evacuation in a timely manner. Moreover, one consumer organisation noted that most airlines allow a minimum of 28 inches between the back support cushion of a seat and the back of the seat in front, which is more than the minimum 26 inches set out in legislation. One private company pointed out that airlines use Customer Service Questionnaires to monitor their product.

Moreover, several airlines and one airline association saw no rationale for further intervention and one private company saw no evidence that airlines are losing customers because of seating configurations when compared against competitor sectors like the low cost carriers. According to one airline, this would amount to overregulation. Several airlines also noted that there was no such regulation in other forms of transport. One national authority stated that as long as PRMs were respected no further regulation was needed.

*Other:* One airline pointed out that from an environmental perspective, it was beneficial to maximise on use of space available.

Another respondent favoured minimum distance between seat rows, especially in terms of health and safety, but thought it should be dealt with through international agreements rather than EU law or voluntary agreements.

***If yes, through:  
EU law:***

***Benefits***

According to one national authority it would be beneficial to have a minimum distance to ensure adequate conditions for passengers and one consumer organisation noted that it was important for minimum comfort. Another consumer organisation noted that according to their surveys seat comfort was a key issue for consumers.

***Question of health and safety***

One individual and one consumer organisation stated that it was also important for security and health. Several individuals were concerned that a too small distance between rows may lead to serious problems such as thrombosis. A large number of individuals complained that the distance between rows was insufficient for tall persons, and evoked health and security reasons to justify a review of the current measures. One individual even suggested having the option of paying 10 or 20% extra for increased leg room.

One consumer organisation and one individual were concerned that passengers would not have the ability to move in an emergency and that the issue is about safety.

***Adequate seating for PRMs***

According to one PRM organisation, one consumer organisation, one airport and several individuals, there should be sufficient seating for PRMs and a choice of different seating, taking into account special needs of each disability. One PRM organisation noted that extra space should be given to guide-dog users. One individual stated that persons who are oversized due to genetic problems should be considered disabled for this purpose. Another individual noted that the seats by the doors should automatically be reserved for PRMs.

**Minimum distance**

It was suggested by one consumer organisation that reclining seat arrangements should have a minimum spacing of 35" and fixed seat arrangements should have a minimum spacing of 37". One individual stated that there should be a minimum seat pitch of no less than 30 inches.

According to one consumer organisation, rules on minimum distances between plane rows should take into account flight distances, safety and health considerations. One airline noted that rules should take into account type of aircraft, rules and passenger comfort. Another consumer organisation and several individuals noted that space requirements should reflect the changing size and shape of consumers and one national authority also noted that any change of current safety rules including plane row distance should be preceded by researches of the weight of population.

**Information**

One national authority and one individual pointed out that minimum distance was not known at the time of purchase of a ticket, and according to one private company and two consumer organisations, such information could be announced to passengers. One industry association, one private company,



two consumer organisations and one NGO noted that it should at least be mandatory for airlines to provide information on this so that customers can make an informed choice when making a booking. One airline however pointed out that airlines already published this information on their website.

### **Other**

According to one airline, changes of minimum distance should be reasonable and take account of current industry practice.

One national authority, one industry association and several individuals suggested that this should be regulated on an international level.

### **Voluntary agreements:**

According to several airlines and industry associations, voluntary agreements would not be allowed under competition law.

One consumer organisation noted that voluntary commitments could be a first step leading to potential further legislation. It was also stated by one individual that voluntary agreements should be made in cases of flights lasting over five hours.

### **Conclusions**

Many respondents were against further regulation of minimum distance between plane rows. Comments against such measure were mainly made by private companies, industry associations as well as several national authorities. It was noted that setting the distance between rows above the minimum required by EU safety legislation is part of an airline commercial policy and market differentiation, and that further regulation would increase costs and stifle competition. Moreover, it was stressed that EU safety regulations on this area already exist, such as seat pitch requirements set by EASA as well as seating allocation requirements justified by safety considerations.

Comments made in favour of further regulation were made mainly by consumer and PRM organisations and several national authorities. These respondents noted that seat comfort was a key issue for passengers and a question of health and safety. Emphasis was placed on adequate seating for PRMS. It was also suggested that appropriate information on the distance between rows should be given to passengers when making a booking.

### **Recommendations**

1. It should be ensured that there is sufficient seating for PRMs and a choice of different seating, taking into account special needs of each disability.
2. Rules on minimum distances between plane rows should take into account flight distances, safety and health considerations as well as type of aircraft.
3. It should be mandatory for airlines to provide information on distance between rows, at least on airlines' websites, so that customers can make an informed choice when making a booking.
4. Any change of current safety rules including plane row distance should be preceded by researches of the weight of population.
5. Changes of minimum distance should be reasonable and take account of current industry practice.

## 6 ANNEX ON AIRLINE INSOLVENCY

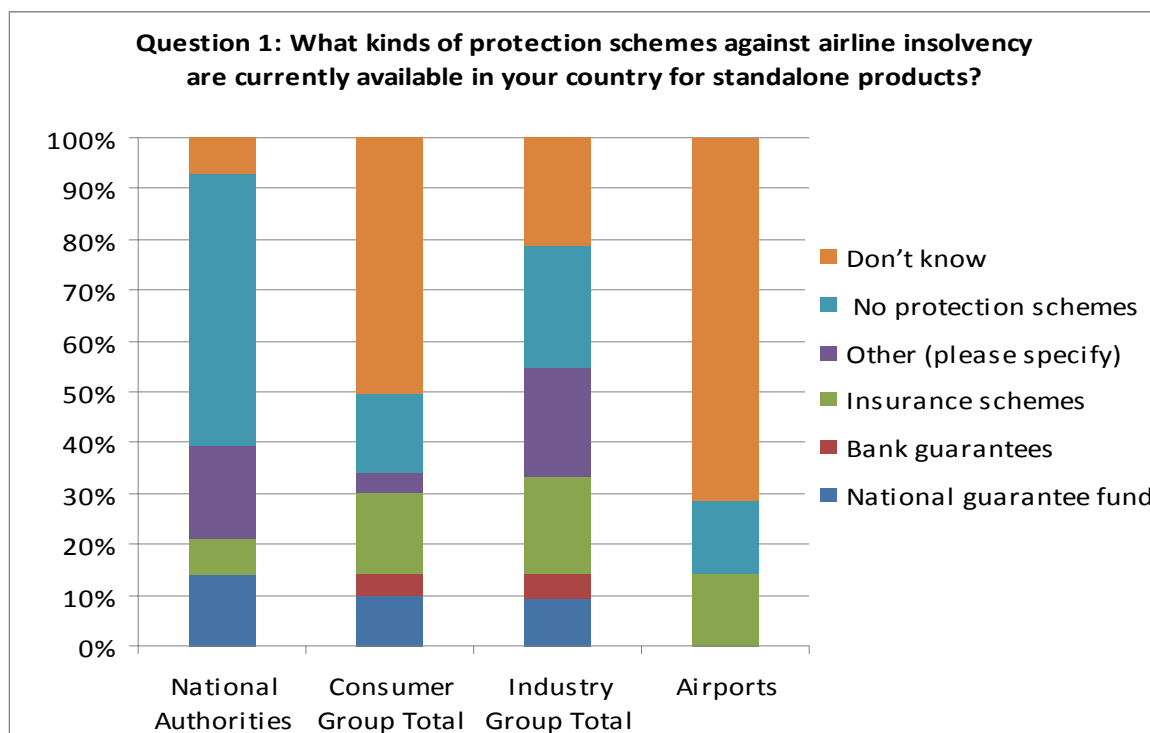
### 6.1 SECTION A: THE CURRENT SITUATION AS TO INSOLVENCY

1. *What kinds of protection schemes against airline insolvency are currently available in your country for standalone products? (tick all that apply)*

2. *If you have chosen more than one scheme (in Q1), please estimate the market share for each scheme in your country.*

Forty per cent of all respondents do not know if there is a protection scheme against airline insolvency for standalone products in their country, while 20% consider that there are no such protection schemes in their country. It should be underlined that the percentage of ‘negative’ response (both don’t know and no scheme) reached 85.7% of respondents for airports and 65.7% for the consumer group. Out of the respondents who specified types of protection schemes, the responses are somewhat mixed. National authorities considered national guarantee fund to be the most commonly available, while the consumer group and airports designated insurance schemes, and the industry group identified ‘other schemes’, closely followed by ‘insurance schemes’.

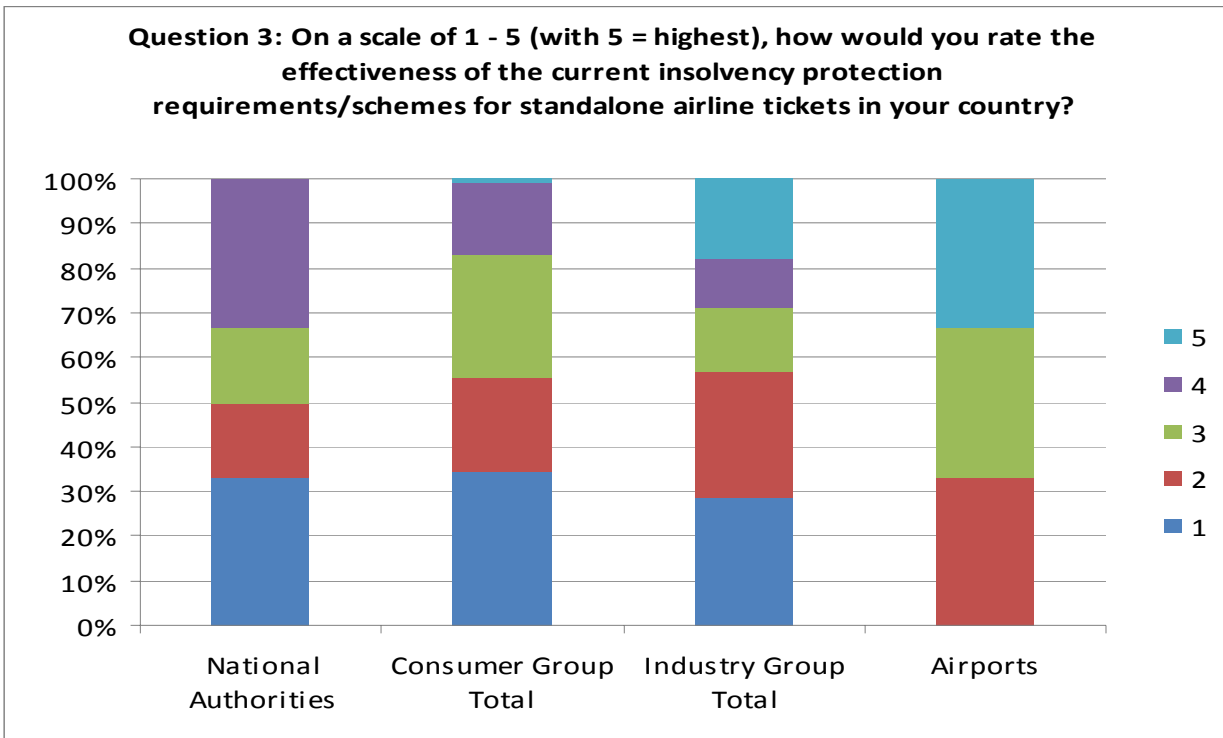
Category of stakeholder	National guarantee fund	Bank guarantees	Insurance schemes	Other (please specify)	No protection schemes	Don't know	Number of Respondents
<b>National Authorities</b>	<b>14.3%</b>	<b>0.0%</b>	<b>7.1%</b>	<b>17.9%</b>	<b>53.6%</b>	<b>7%</b>	<b>28</b>
Consumer Organisations	8.3%	4.2%	22.9%	8.3%	39.6%	17%	48
Individuals	10.0%	4.7%	14.7%	2.8%	9.5%	58%	211
<b>Consumer Group Total</b>	<b>9.7%</b>	<b>4.6%</b>	<b>16.2%</b>	<b>3.9%</b>	<b>15.1%</b>	<b>51%</b>	<b>259</b>
Employee Associations	0.0%	0.0%	16.7%	50.0%	16.7%	17%	6
Industry Associations	10.0%	0.0%	13.3%	26.7%	23.3%	27%	30
Private Companies	10.4%	8.3%	22.9%	14.6%	25.0%	19%	48
<b>Industry Group Total</b>	<b>9.5%</b>	<b>4.8%</b>	<b>19.0%</b>	<b>21.4%</b>	<b>23.8%</b>	<b>21%</b>	<b>84</b>
<b>Airports</b>	<b>0.0%</b>	<b>0.0%</b>	<b>14.3%</b>	<b>0.0%</b>	<b>14.3%</b>	<b>71%</b>	<b>14</b>
Other	11.1%	5.6%	16.7%	5.6%	33.3%	28%	18
<b>Total All Respondents</b>	<b>9.7%</b>	<b>4.2%</b>	<b>16.1%</b>	<b>8.4%</b>	<b>20.3%</b>	<b>41%</b>	<b>403</b>



**3. On a scale of 1 – 5 (with 5 = the highest), how would you rate the effectiveness of the current insolvency protection requirements/schemes for standalone airline tickets in your country?**

Current insolvency protection requirements/schemes for standalone airline tickets are not seen as very effective. 32.6% ranked the effectiveness as 1 and only 4.9% as 5 on a scale of 1-5 (with 5 = highest). Responses from the national authorities, the consumer group and the industry group broadly reflect this trend although the responses from the industry group is more nuanced, with 28.6% for 5 and 4, and 17.9% for 5. The responses from airports are equally distributed between 2, 3 and 5 (33.3%).

Category of stakeholder	1	2	3	4	5	Number of Respondents
<b>National Authorities</b>	<b>33.3%</b>	<b>16.7%</b>	<b>16.7%</b>	<b>33.3%</b>	<b>0.0%</b>	<b>6</b>
Consumer Organisations	40.0%	40.0%	13.3%	6.7%	0.0%	15
Individuals	33.7%	17.4%	30.2%	17.4%	1.2%	86
<b>Consumer Group Total</b>	<b>34.7%</b>	<b>20.8%</b>	<b>27.7%</b>	<b>15.8%</b>	<b>1.0%</b>	<b>101</b>
Employee Associations	0.0%	0.0%	0.0%	33.3%	66.7%	3
Industry Associations	33.3%	33.3%	22.2%	0.0%	11.1%	9
Private Companies	31.3%	31.3%	12.5%	12.5%	12.5%	16
<b>Industry Group Total</b>	<b>28.6%</b>	<b>28.6%</b>	<b>14.3%</b>	<b>10.7%</b>	<b>17.9%</b>	<b>28</b>
<b>Airports</b>	<b>0.0%</b>	<b>33.3%</b>	<b>33.3%</b>	<b>0.0%</b>	<b>33.3%</b>	<b>3</b>
Other	0.0%	0.0%	0.0%	0.0%	0.0%	0
<b>Total All Respondents</b>	<b>32.6%</b>	<b>22.9%</b>	<b>25.0%</b>	<b>14.6%</b>	<b>4.9%</b>	<b>144</b>



Responses as to the kinds of protection schemes available varied widely between countries and categories of respondents.

**No protection scheme**

Twenty per cent of respondents including national authorities, consumer organisations, airlines and industry associations indicated that no such protection schemes exist in their country, with two industry associations representing the travel industry stating that there is no protection scheme in the vast majority of countries. Other respondents indicated that the available protection schemes vary between countries and between its airline members. Specified countries without such schemes included Sweden, Portugal, Germany, Italy, Belgium, Switzerland, Estonia, Ireland, UK, Czech Republic, Latvia, France, and Estonia. One travel agency confirmed that standalone sales are unprotected in the UK, while another travel agency confirmed that there was no insolvency protection scheme for ticket only in any of their source markets at the moment.

**National guarantee fund/scheme**

Ten per cent of respondents indicated that National Guarantee funds were available for standalone products in their country.

*UK ATOL System*

Several respondents referred to the Air Travel Organiser’s Licence (ATOL) bond system currently in operation in the UK. It should be noted that the responses are not consistent, as shown below.

One insurance association, one travel agency association and one national authority indicated that the ATOL system applies only on flights sold as part of a package holiday.

Two national authorities mentioned that the system does cover some standalone products. Noting that the system is similar to a national guarantee fund, providing insolvency protection for air package holidays as required by [Council Directive 90/314/EEC](#) on package travel, package holidays and package tours, they add that it covers also some 'flight only' sales not made directly by airlines. There are an estimated 6 million 'flight only' sales protected by ATOL, out of 39 million flight only sales per year.

One travel agency noted that according to the UK Civil Aviation Authority, 20.3 million passengers were protected under the ATOL scheme in 2009 – these included air inclusive package holiday sales as well as seat-only sales. They also stated that seat only sales by ATOL holders probably represent no more than 4 to 5 million of the ATOL protected sales. This compares with a total leisure market of some 57.9 million passengers (2008 figures – small decline in 2009) – i.e. less than 10% of sales are protected.

One consumer organisation indicated that the ATOL system only covers standalone sales of seats on charter airline flights (which is a very small proportion of the overall market). Another respondent indicated that a national guarantee scheme was restricted to refunds for, or repatriation from, flights that are purchased as part of a package, or through a UK ATOL registered travel agent. One national authority also stated that consumers are confused and there is huge consumer detriment which has been evidenced by the recent collapses in the UK of several carriers.

One travel agency noted that in the UK, although there is no scheme where the seat is sold by a carrier, the ATOL scheme applies not only in respect of carriers, but also in respect of intermediaries selling flight seats on a standalone basis (unless that intermediary is selling them on what is called a ticket provider basis.) . The same travel agency added that some leisure airlines give protection to their passengers through the insolvency scheme of the tour operator.

Finally, two national authorities underlined that passengers not covered by ATOL have the following options for airline insolvency protection: a) payment by credit card in some circumstances, under the UK Consumer Credit Act 1974; b) purchasing Scheduled Airline Failure Insurance (SAFI), which is included in an increasing number of travel insurance policies or can be brought separately c) Some travel agents provide insurance for their sales; d) The UK government has an informal arrangement with UK airlines to provide special repatriation fares for passengers affected by airline insolvency. No information is available about the number of passengers using these options.

This being said, both national authorities stated that the effectiveness of the UK current arrangements for insolvency protection for flight-only sales is proportionate to the risks involved and that it would not be consistent with the principles of better regulation to seek to eliminate 100% of risks to passengers in this context.

#### *Norwegian system*

With regard to Norway, one national authority underlined that some standalone air tickets are protected under the current Norwegian package travel legislation. Another national authority stated that consumers ordering “seat only” through a package tour operator will be protected by the same rules as for package travellers. Consumers are then protected by a national travel guarantee fund.

#### *Denmark Travel Guarantee Fund*

One industry association referred to the Danish Travel Guarantee Fund (DTGF) to cover flight-only insolvency of airlines (and sales channels). Travel providers and retailers for foreign travel providers established in Denmark may offer and sell stand-alone airline tickets only if they are registered with the Travel Guarantee Fund. The effect is that many airlines and sales channels operating on the Danish market can therefore escape from registration at the DTGF. According to these respondents, the Danish unilateral setup is therefore unfeasible in term of relevant consumer protection and for that part – providing a penalty on Danish operators for being Danish. Any such (potential) legislation should be applied on EU-basis (if at all) – eventually through revision of Package Travel Directive.

One airline stated that a problem with the Danish system is that there are difficulties with operators that only sell tickets via the internet and do not have a selling office or some other kind of representation in Denmark. They went on to say that this puts Danish air carriers at a competitive disadvantage. They also stated that they have made a large investment in developing an IT-system that allows them to offer travel insurance to all their leisure passengers travelling to and from Denmark. They also filed a mandatory costly guarantee which insures the TGF against financial losses if SAS should end up in an insolvency situation.

## **Bank schemes/guarantees**

Four percent of respondents indicated that bank guarantees were available in their country for standalone products. One respondent noted that bank schemes are restricted to refunds where a credit card has been used for the purchase of ticket, not to repatriation at no additional cost.

A number of respondents including consumer organisations, national authorities and several airlines pointed out that payment by credit card would be covered in some circumstances (according to one industry association, in most circumstances). Several consumer organisations and one national authority specified that where flights are purchased for more than 100GBP in the UK, the credit card company is jointly liable for breach of contract or misrepresentation, and as such consumers paying by this method will be able to reclaim costs from their card-issuing bank. One airline mentioned that certain credit card companies offer a so called “charge-back” policy where passengers can claim back money spent on consumer products purchased, but not enjoyed. The customer has the option to make use of such credit card facility.

## **Insurance schemes**

Sixteen per cent of respondents stated that insurance schemes were available for standalone products. Insurance schemes were viewed by one respondent as a purely voluntary personal decision, since most travel insurance policies do not automatically provide this level of cover. One travel agency association stated that voluntary insurance schemes are available but only for certain airlines, noting that there is no compulsory protection for passengers who buy flight only, and this needs to be resolved. Two national authorities noted that some travel agents provide insurance for their sales.

One airline association commented that the Scheduled Airline Failure Insurance (“SAFI”) was available on a voluntary basis. Two industry associations representing the travel industry indicated that it was only available on selected airlines. One airline association indicated that some airlines feature SAFI on their websites but only as part of a complete travel insurance policy and not as a “stand alone”. Two national authorities indicated that SAFI is being included in an increasing number of travel insurance policies or could be bought separately. One consumer organisation estimated that SAFI is a standard inclusion in around 41% of travel insurance policies, but also added that end user supplier failure insurance (including all elements of an independently booked holiday apart from the flight) is part of about 79% of insurance policies. One airline noted that it is offered to customers by all European Low Fare Airline Association (ELFAA) members and that repatriation fares were offered by ELFAA carriers in the event of airline insolvency. One industry association representing the travel industry expressed concern that SAFI take up does not achieve complete protection for consumers purchasing standalone products. A number of industry associations representing the travel industry also noted that cover was excluded for any airline in US Chapter 11 or equivalent.

Three industry associations representing the travel industry stated that self insurance taken by passengers are available in some countries, notably Sweden, the UK and Belgium. Two of them noted that in Belgium, self insurance is for sale in one travel agency. Two airlines stated that the insurance market offers today individual and facultative insurance to consumers looking for coverage of situations like delay or loss of baggage, flight delays and also bankruptcy of the air carrier incurring need for repatriation of the passenger to his/her domicile and the reimbursement of the ticket. One of them added that insurance is generally available gratis to a passenger where the passenger purchases the ticket with a major credit card, as is often the case.

Finally, two airline associations and one airline stated that it is extremely important to realize that imposing upon airlines an insurance protection plan would mean that they would pay twice as it is highly unlikely that the card schemes would drop the cardholder guarantee they offer as part of their private contract rules.

## **Other**

### *Government provisions*

Two national authorities stated that for passengers not covered by ATOL, the government has an informal arrangement with UK airlines to provide special repatriation fares for passengers affected by airline insolvency.

### *Existing IATA schemes*

Two airline associations and one airline referred to existing IATA schemes. The IATA Programme incorporates a Billing and Settlement Plan (BSP). Agents make one single payment to the BSP (remittance), covering sales on all BSP Airlines. The BSP makes one consolidated payment to each airline, covering sales made by all agents in the country/region. Where a member becomes insolvent, the industry association immediately instructs the agents to stop issuing tickets on behalf of the airline but to settle outstanding billings. The association opens a central bank account where the withheld money from all BSPs involved in the suspension are placed. Once a refund agreement is negotiated with the airline (or the appointed administrator), the non-flown tickets can be reimbursed to the agencies who then deal with the reimbursement requests of their customers.

They also highlighted another level of protection through their interlining system. Under this system, travel agents are able to issue tickets involving more than one airline (these tickets have several coupons: one for each segment of the trip). These multi-coupon tickets are issued by one airline on behalf of all airlines participating in the journey (provided that the issuing airline has entered into the MITA (Multilateral Interline Traffic Agreement) with the other airlines. The issuing airline (through the BSP system described above) receives the money from the agent and, importantly, retains the money until such time as passengers fly. The carrying airline after 'lifting' the flight coupon then bills (through the industry association's Clearing House) the issuing carrier for the service provided. Should the carrying airline become insolvent the issuing airline will have retained the money and will be able to settle with the purchaser. Should it be the issuing airline that becomes insolvent the lifting airline should still accept the passenger and attempt to settle via the industry association's Clearing House (this provided the lifting airline did not withdraw its MITA agreement prior to the ticket issue date).

### *Up-coming national legislation*

One regional authority noted that there is a legislative proposal in their country for businesses which provide services in Catalonia and obliges these enterprises to guarantee the reimbursement through financial or insurance entities when payment has to be made totally or partially in advance.

### *Licence system – insolvency guarantee*

One industry association stated that in countries that require all travel sellers to have a licence, e.g. France, Belgium, Spain and Ireland, airlines may have to provide some insolvency guarantee which will vary in nature from one country to the other.

## **Conclusions**

Overall, twenty per cent of respondents indicated that there was no protection scheme in their country, while forty one per cent did not know what protection schemes were available. The majority of respondents, particularly consumer organisations, considered that the current insolvency protection schemes in their countries are not effective. Among those schemes available, insurance schemes were believed to be the most widely available form of protection and the availability of such schemes appears to vary between Member States.

Comments on national guarantee fund/scheme were made mostly by national authorities, industry associations and private companies and related mainly to the UK Air Travel Organiser's Licence guarantee system and the Denmark Travel Guarantee Fund. Several consumer organisations criticised the UK ATOL system. Apart from comments from two private companies, there were almost no comments on the effectiveness of the current insolvency protection requirements/schemes for standalone tickets. Comments on bank schemes made by private companies, national authorities and consumer organisations were restricted to general remarks on credit card refund systems without

estimation of market share. No estimation was provided either with regard to insurance schemes, for which most comments, mainly from industry associations, private companies and consumer organisations focus on the Scheduled Airline Failure Insurance.

## **6.2 SECTION B: THE POSSIBLE FUTURE AS TO INSOLVENCY**

***4) Rules on airlines' financial fitness have been recently reinforced. To which extent do you consider that they address the problem of airline insolvency effectively? Have you noticed improvements since they came into force? Please give reasons for your answer***

### **Financial fitness rules effectively address problem of airline insolvency**

Several respondents including one national authority and a few airlines felt that the new stricter rules were sufficient for authorities to assess the financial viability of airlines to prevent airline insolvency. One consumer organisation noted that since the legislation entered into force, NEBs seemed to be more confident in making decisions and one airline noted that financial situations of NEBs are more thoroughly controlled. One consumer organisation and one national authority pointed out that new regulations have enabled to look more closely into air carrier's financial situations.

Three airlines referred to the insolvency case where German authorities grounded the operating licence of an air carrier because of financial concerns to demonstrate that the regulation is being applied.

Two national authorities pointed out that the new financial fitness criteria set out in Regulation 1008/2008 on common rules for the operation of air services in the Community (the Third Package Regulation) should help ensure that new and established EU airlines have a sound financial basis and provide for regular monitoring by regulators. These should serve to reduce insolvencies and give early warning of potential problems that may lead to insolvency.

One national authority recognised that although the financial fitness rules had not helped insolvency problems, more recent and a greater amount of information on this is available which enables cases to be detected more quickly. One airline also noted that insolvencies are never a surprise; passengers should inform themselves before entering into a contract.

### *No need for more rules*

According to one airline, adding new compulsory rules or measures would only result in higher costs for all the consumers, to protect comparatively a small number of passengers in the exceptional event of a bankruptcy. Several airlines pointed out that Member States must be urged to properly use the already available tools and revoke operating licences in due time if the financial requirements for an operating licence are not met.

### *Too soon to assess*

Several respondents including industry associations, national authorities, consumer organisations and one airline noted that it may be too soon to assess the impact of the rules and one insurance association suggested that it would be prudent to give further time for the measures to set in to allow for a more accurate assessment. One regional authority and two national authorities also highlighted the difficulty of assessing the impact of such measures given that they came into force in the midst of the financial crisis when many airline bankruptcies were occurring, especially among low-costs.

### *Difficult to prevent all insolvencies*

Two national authorities noted that the financial fitness criteria cannot prevent all airline insolvencies as external factors come into play. Another national authority and one consumer organisation supported this last point noting that despite legislation and strict monitoring of it, the possibility to predict or prevent bankruptcy is limited.



## **Lack of effectiveness and improvement**

### *Rules have not reduced bankruptcies*

Many respondents including consumer organisations and industry associations representing the travel industry noted that the new rules have not helped improve airline's financial fitness and referred to cases where the rules had been ineffective to prevent ceasing of operations or bankruptcy. Moreover, one consumer organisation referred to the recent collapse of one airline which highlighted continuing problems concerning the lack of financial protection for passengers booked to travel with airlines which become insolvent.

### *Consumers are not more protected or confident*

One respondent noted that the new rules put consumers on the same level as other creditors and no special privileges were conferred to consumers. One consumer organisation highlighted that consumers did not have faith that their claims would be successful. Another consumer organisation mentioned that many consumers were not aware of these rules and that their confidence needed to be restored. One regional authority also noted that by the time the consumer was aware of the airline insolvency, usually through the mass media, it was too late to change a reservation.

According to one travel agency association, consumers are still vulnerable and it is essential that complete protection is compulsory for all airlines irrespective of how and where the ticket is purchased. According to another travel agency association, in order to grant passengers an adequate level of protection, a compensation mechanism is necessary. One national authority suggested that a decision on the method of protection should be preceded by an analysis of the costs of all methods and their influence on the market.

### *Other*

One industry association noted that such rules do not really add to additional protection against insolvency, since key information will be held back from the market as stock exchange information is subject to substantial restrictions and rules of formality.

Another industry association mentioned that tour operators are being left with significant costs.

### *Criticism of the financial fitness rules*

According to several respondents including one consumer organisation, one national authority, one travel agency and two industry associations representing the travel industry, the financial fitness rules do not adequately address the problem of an airline's finances deteriorating and its downstream consequences on passengers. In the event that a regulator decides to take action, the net effect would be that customers would be left without financial protection.

Moreover, according to two industry associations representing the travel industry, the fact that the rules provide that national authorities should monitor airlines' financial fitness creates a flawed system as it leads to variations in application and is limited by political factors.

One airline mentioned that the insurance solution is currently unacceptable since there is nothing to stop a free market insurer withdrawing cover from an airline. Even if the airline is not in financial difficulties the bad publicity resulting from the insurer withdrawing cover on that airline can be sufficient to cause a financial failure of the airline through loss of consumer confidence.

### *Role of regulatory bodies*

Three industry associations including one airline association noted that airline solvency is the responsibility of the national regulator, who should monitor continuously airlines' liquidity, and impose special reporting measures, where justified, to prevent passengers being exposed to the risk of advance ticket purchase on a financially-struggling carrier. One airline noted that closer oversight of the financial position of airlines is needed from the national aviation authorities, especially where media reports indicate that an airline is in financial difficulties.

Several respondents including airline associations, airlines, one employer association and one consumer organisation noted that the root of the problem relates to application and implementation as

regulatory bodies are not strict enough in restricting airlines trading when they know they have limited funds.

Moreover, one airline noted that rules were not applied equally by all NEBs. One travel agency pointed out that the effectiveness of the rules varies a lot from Member State to Member State. One national authority noted that it was not clear how these should be enforced and clarification was needed on this.

One airline mentioned that the national competent authority in the UK already monitors airlines' financial fitness both at inception of the operating licence and throughout the currency of the licence including reviewing annual audited accounts, budget and cash flow forecast and supporting assumptions and management accounts. Additionally, the competent authority may at any time assess the financial performance of the carrier by requesting the relevant information as more fully set out in Annex I to the Regulation.

One consumer organisation noted that the financial requirements imposed by national authorities are not sufficient, and it should be an external agency ensuring compensation for tickets booked in advance in cases of insolvency.

#### *Already effective measures taken by airline*

One airline noted that airline insolvency is addressed at licensing level.

### **Conclusions**

Overall, comments were divided on the question of whether the reinforced financial fitness rules effectively address the problem of airline insolvency between those who felt that they did effectively address the problem, those who highlighted the lack of effectiveness and improvement and those who thought it was too soon to make such an assessment.

Several respondents seemed to think that the new stricter rules were sufficient and allowed national authorities to look more closely into an airline's financial situation, or at least that more information was available regarding the risk of insolvency which would help more rapid detection of such a risk. It was also noted that adding more rules would increase costs for consumers. Most of these comments were made by airlines and several national authorities.

Other respondents contended that the new rules have not led to a reduced amount of bankruptcies and that consumers are not more protected or confident in the system. The financial fitness rules were also criticised, with several respondents noting that they do not adequately address the downstream consequences of airline insolvency on passengers. Many of these comments were made by consumer organisations and several national and regional authorities.

Finally, several respondents noted that the root of the problem relates to the application and implementation of the financial fitness rules and that national regulators are responsible for monitoring the airlines' financial situation and should oversee these financial situations more closely. These comments were put forward by many airlines and airline associations as well as several consumer organisations.

### **Recommendations**

1. Member States must be urged to properly use the already available tools and revoke operating licences in due time if the financial requirements for an operating licence are not met.
2. Complete protection should be compulsory for all airlines irrespective of how and where the ticket is purchased.
3. A decision on the method of protection in the event of insolvency should be preceded by an analysis of the costs of all methods and their influence on the market.

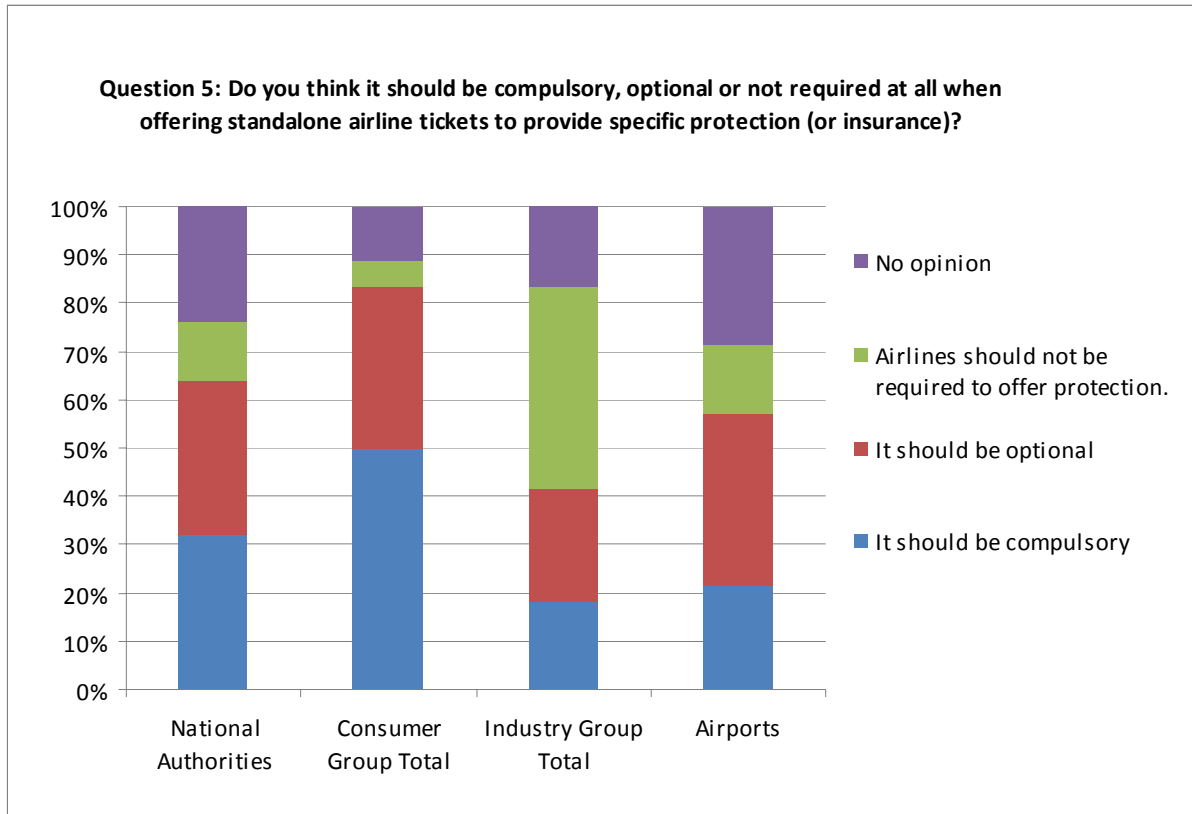
4. The national regulator should be encouraged to monitor continuously airlines' liquidity, and special reporting measures should be established to prevent passengers being exposed to the risk of advance ticket purchase on a financially-struggling carrier.
5. Clarification should be provided on the application of insolvency rules by NEBs.
6. An external agency should be appointed to ensure that compensation for tickets booked in advance in cases of insolvency is provided.

**5) Do you think it should be compulsory, optional or not required at all when offering standalone airline tickets (i.e. not as part of a package) to provide specific protection (or insurance) so that passengers would be reimbursed for money paid over or repatriated if the airline went bankrupt.**

**Note:** The comments to Question 9 (*'In your experience, what would be the benefit of the different insolvency protection schemes (see Q5 and Q6) for the industry, public authorities and passengers? Please quantify if possible'*) have been incorporated into comments made for Questions 5 and 6 for the purpose of clarity.

A relatively limited number of respondents (14.7%) had no opinion on the question. This global figure reflects a clear preference of the consumer group for a compulsory obligation to provide specific protection and include it in the price (50%, and 56.1% if to take only consumer organisations) while the industry group is clearly in favour of an absence of requirement (41.7% and 47.5% if to take only private companies). National authorities and airports have provided mixed opinion, although the highest percentage of responses from airports go to an optional alternative, while for national authorities the highest percentage of response apply to both compulsory and optional alternative (32%).

Category of stakeholder	It should be compulsory and included in the price	It should be optional (passengers may choose whether to buy, but all airlines must offer it, i.e. optional insurance). Go to Q7	Airlines should not be required to offer protection. Go to Q7	No opinion	Number of Respondents
<b>National Authorities</b>	<b>32.0%</b>	<b>32.0%</b>	<b>12.0%</b>	<b>24.0%</b>	<b>25</b>
Consumer Organisations	56.1%	31.7%	2.4%	9.8%	41
Individuals	48.7%	33.7%	6.2%	11.4%	193
<b>Consumer Group Total</b>	<b>50.0%</b>	<b>33.3%</b>	<b>5.6%</b>	<b>11.1%</b>	<b>234</b>
Employee Associations	20.0%	20.0%	60.0%	0.0%	5
Industry Associations	33.3%	18.5%	29.6%	18.5%	27
Private Companies	7.5%	27.5%	47.5%	17.5%	40
<b>Industry Group Total</b>	<b>18.1%</b>	<b>23.6%</b>	<b>41.7%</b>	<b>16.7%</b>	<b>72</b>
<b>Airports</b>	<b>21.4%</b>	<b>35.7%</b>	<b>14.3%</b>	<b>28.6%</b>	<b>14</b>
Other	0.0%	0.0%	0.0%	0.0%	15
<b>Total All Respondents</b>	<b>41.4%</b>	<b>30.6%</b>	<b>13.3%</b>	<b>14.7%</b>	<b>360</b>



## Overview of additional comments received

### Specific protection should be compulsory

One travel agency pointed out that specific protection would provide comprehensive cover to passengers at a low cost. According to one consumer organisation, consumers would feel more confident, and legal certainty will be improved as compared with the current situation. One consumer organisation stated that for consumers, protection schemes would provide transparency and financial security. Other respondents including consumer organisations, one national authority and one industry association stated that such schemes would improve consumer rights, protection and confidence. According to one travel agency, it would also prevent airlines from setting high credit card charges.

One industry association representing the travel industry felt that the protection of passengers should be ensured regardless of how they have booked their travel and such protection should extend to standalone airline tickets and scheduled carriers.

The same respondent and two other industry associations representing the travel industry noted that there was an uneven treatment between scheduled airlines and charter airlines/air travel booked as part of a package. There should either be a ‘catch all’ or a ‘catch none’ system in order to ensure a level playing field for aviation players to compete on equal terms. Two industry associations representing the travel industry also noted that compulsory insurance would ensure a level playing field between package travel organisers and air transport service providers.

One consumer organisation felt that this protection should be obligatory for long-haul flights.

On the other hand, one national authority against compulsory schemes pointed out that it would cause prices for airline tickets to increase significantly. One insurance association pointed out that experience shows that the introduction of compulsory insurance schemes can negatively affect consumers by destabilising the insurance market and making it difficult to address consumer compensation. According to the same respondent, compulsory insurance cover would also require passengers to pay for additional cover where they already have annual travel insurance.

## Optional schemes

One travel agency noted that an optional scheme would not address the issue of a lack of consumer awareness of financial protection, and would risk leaving consumers unprotected.

One airline association pointed out that airlines offer passengers the possibility of purchasing insurance cover, including scheduled airline failure insurance (SAFI). However, because the Third Package Regulation prohibits this being offered on an opt-out basis, in order to enhance customer choice, most passengers elect not to take such cover on an opt-in basis.

## Not required

Two national authorities noted that every customer can choose between different airlines and can take into account risks of insolvency.

One airline underlined that airline insolvencies are a rare event and only affect a very small percentage of EU airline passengers in any year, likely to be well below 1%. Given this, any compulsory protection schemes covering all EU airlines or passengers departing EU airports are likely to be disproportionately costly.

### *Already other measures*

A few airlines and one national authority also pointed out that consumers have other means of protection, including insurance through their credit card provider. Moreover, two airline associations and one airline highlighted that imposing upon airlines an insurance protection plan would mean that they would pay twice as it is unlikely that the card schemes would drop the cardholder guarantee they offer as part of their private contract rules.

## Conclusions

Many comments, particularly from consumer organisations, were made in favour of a compulsory insurance scheme, including that it would bring more legal certainty and financial security to consumers and increase consumer confidence. Moreover, the importance of having a level playing field between package travel organisers and air transport service providers was also noted by several industry associations.

Several respondents, mainly airlines, airline associations and several national authorities, pointed out that insurance schemes were not necessary, particularly as passengers can choose which airline they go on taking into account risks of insolvency and that such risks are rare anyway. These respondents also noted that measure were already in place such as insurance through credit card providers for example.

## Recommendations

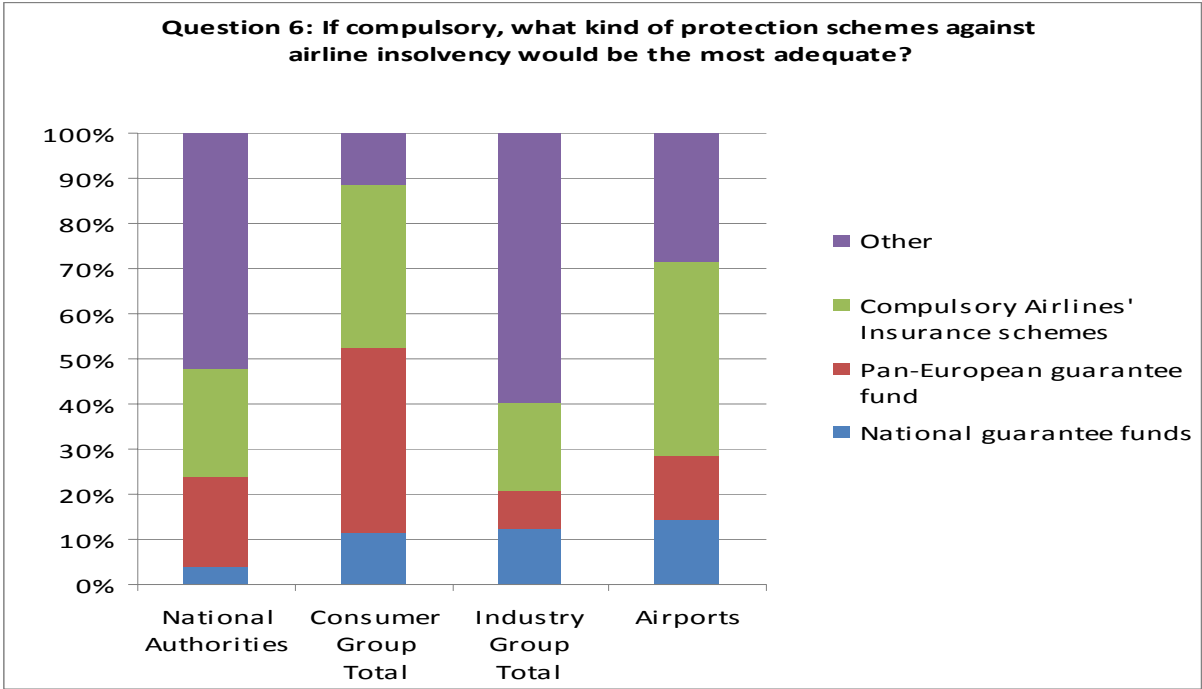
1. Compulsory protection should be obligatory for long-haul flights.
2. There should either be a 'catch all' or a 'catch none' system in order to ensure a level playing field for aviation players to compete on equal terms.
3. Compulsory insurance is not required as every customer can choose between different airlines and can take into account risks of insolvency.

**6) If compulsory, what kind of protection schemes against airline insolvency would be the most adequate? Please choose only one option.**

Responses to this question are quite mixed, with a pan-European guarantee fund and compulsory airlines' insurance schemes being the favoured schemes (31.7% and 31.1% respectively). Considering in detail the responses from various groups of stakeholders, national authorities and the industry group's preferred option is the fourth one (other), respectively 52% and 59.7%. A pan-European

guarantee fund is the option favoured by the consumer group (41%) followed by the option of compulsory airlines' insurance schemes (35.9%). This last option is the preferred one for the airports (42.9%).

Category of stakeholder	National guarantee funds	Pan-European guarantee fund	Compulsory Airlines' Insurance schemes	Other	Number of Respondents
<b>National Authorities</b>	<b>4.0%</b>	<b>20.0%</b>	<b>24.0%</b>	<b>52.0%</b>	<b>25</b>
Consumer Organisations	17.1%	34.1%	29.3%	19.5%	41
Individuals	10.4%	42.5%	37.3%	9.8%	193
<b>Consumer Group Total</b>	<b>11.5%</b>	<b>41.0%</b>	<b>35.9%</b>	<b>11.5%</b>	<b>234</b>
Employee Associations	0.0%	0.0%	20.0%	80.0%	5
Industry Associations	14.8%	11.1%	7.4%	66.7%	27
Private Companies	12.5%	7.5%	27.5%	52.5%	40
<b>Industry Group Total</b>	<b>12.5%</b>	<b>8.3%</b>	<b>19.4%</b>	<b>59.7%</b>	<b>72</b>
<b>Airports</b>	<b>14.3%</b>	<b>14.3%</b>	<b>42.9%</b>	<b>28.6%</b>	<b>14</b>
Other	0.0%	0.0%	0.0%	0.0%	15
<b>Total All Respondents</b>	<b>11.4%</b>	<b>31.7%</b>	<b>31.1%</b>	<b>25.8%</b>	<b>360</b>



## **Overview of additional comments received**

### **General comments against a guarantee fund**

According to one airline, a guarantee fund would not solve any problems and would mean that passengers would not have to check the economic liability of the carrier and could book on any financially unstable airline. According to the same respondent, it would reduce the airline's incentive for saving their economic survival.

One airline noted that insolvency is a risk inherent in a liberalised market, and sharing this risk is without precedent in a free market economy. One employer association considered that it would increase costs for passengers and would encourage predatory and irresponsible behaviour by companies. Another airline underlined that it was unfair to require responsible airlines to have to pay because of low cost airlines lacking financial capacity.

### **National guarantee fund**

#### *Benefits to industry*

According to one national authority, a national guarantee fund would level the playing field for all airlines (if they all had to participate in the scheme). One travel agency association also noted that for travel agencies and tour-operators, such a fund would reduce cash problems in the event of an airline going bankrupt, considering the fact that travel agencies and tour-operators are being asked to pay for tickets at an ever earlier stage.

#### *Benefits to passengers*

According to one travel agency association, a national guarantee fund would provide adequate coverage in the event of insolvency and fair treatment between those passengers who purchased their ticket as part of a travel package and those who purchased it individually. According to several respondents including one consumer organisation, one airline association and one industry association representing the travel industry, benefits of bringing airlines into national guarantee funds include an increase in consumer confidence clarity and certainty that they will be either repatriated or refunded in the event of failure.

Another respondent pointed out that airlines pay substantial fees to credit card companies for processing of card payments which allows the credit card company to hold a reserve in case it has to refund money to customers if the airline becomes insolvent. By removing the obligation for credit card companies to do this, and creating a national fund instead, this would afford protection to all customers regardless of how they pay for their ticket and the costs for such a scheme would be very similar. This would also according to one airline remove the risk of airlines failing because of credit card providers withholding their revenue.

Several respondents including one national authority and one insurance association noted that the UK Air Travel Organiser's Licence scheme (ATOL), which protects consumers who buy package holidays including a flight by requiring airlines to put in place bonding in addition to collecting a consumer levy, should be extended to cover flight only sales as it would offer consumers a transparent form of protection. One consumer organisation however highlighted the difficulties experienced by consumers with the ATOL scheme regarding the question of qualifying for payment from the scheme.

According to one consumer organisation, if there are different schemes, practices that work well in one state could be used in other states.. One national authority stated that in Norway, the national guarantee fund ensures the consumers rights in a cost-efficient way. The fund covers the consumer's original costs, and also gives the consumer the possibility to get covered extra costs caused by the insolvency.

However, one consumer organisation noted that a national guarantee fund could not be sufficient to cover reimbursement of all affected passengers. Moreover, one industry association stated that if national schemes are operated, then there is a risk that some national schemes may end up bearing more costs than others.

## **Pan-European guarantee fund**

### *Beneficial for passengers*

One national authority and one airline stated that a pan-European guarantee fund would ensure equal treatment and less discrimination of consumers within the EU. One industry association and one airline stated that it would allow for quicker reimbursement to consumers. Another consumer organisation mentioned that an EU administered fund would contain standard rules and have universal applicability and prevent some airlines from centring their operations because one Member State had a more favourable scheme. This would, according to the same respondent, create greater clarity for consumers and airlines, and would promote a wider acceptance on the need for good protection.

### *Beneficial for airlines*

One airline noted that since the airline industry is strongly competitive across borders it is important that the same rules apply to all EU countries. Another national authority stated that it would ensure an efficient administration and investigation of the economy of international airlines. In addition, it would ensure equal treatment of airlines within the EU. One travel agency association noted that such a fund would enhance public confidence on the financial viability of airlines.

### *Beneficial for national authorities*

One consumer organisation stated that one simple scheme, administered on a pan-European basis, with the requirement that it would be a compulsory element in all air ticket sales, has benefits for national authorities. Another consumer organisation specified that national authorities would be freed of the burden of administering a national scheme and could concentrate on other issues, such as financial fitness of airlines.

### *Other*

Another consumer organisation felt that such a fund should be based on the system available for package travel.

One airline suggested that such a fund should be financed by a small surcharge on each ticket for travel originating from an EU airport. The surcharge should apply without discrimination to leisure and package tour air services.

## **Compulsory airline's insurance schemes**

### *Beneficial for national authorities?*

One travel agency noted that in following certain airline failures national governments have had to intervene to repatriate customers stranded overseas, without being able to recover costs. Governments would therefore benefit from having a "safety net" of protection and a voluntary solution would not achieve these objectives.

### *Beneficial for passengers?*

One consumer organisation stated that under a compulsory scheme, passengers would benefit from the additional peace of mind, whilst consumer organisations, one national authority and two industry associations representing the travel industry stated that it would increase consumer confidence, transparency and legal certainty of consumers being entitled to reimbursement or repatriation. One national authority noted that all air passengers would be treated equally, and two industry associations representing the travel agency and one consumer organisation agreed that this would be the case irrespective of whether they bought a package travel or a standalone ticket. Furthermore, two industry associations representing the travel industry added that it would limit disruptions experienced by passengers in case of airline failure. One national authority pointed out that recent collapses of airlines have caused consumers to lose considerable amounts of money. One airline and one airline association mentioned that compulsory insurance would allow for a more efficient reimbursement procedure by an insurer with no need to wait for a long process of compensation to resume if from a public fund.



One travel agency also stated that compulsory protection should reduce the cash requirements of credit card merchant acquirers. As a result, airlines would not be able to impose large charges for credit or debit card usage, depriving them of income, but this would be a consumer benefit.

However, one airline and one industry association noted that it would be difficult to foresee any benefit of such a compulsory system as it would only entail additional costs for the consumers. One industry association and one national authority noted that today many tickets are low priced and the obligatory insurance might exceed the ticket price. One insurance association suggested that compulsory insurance schemes can negatively affect consumers by destabilising the insurance market and making it difficult to address consumer compensation.

#### *Beneficial for airlines*

Two industry associations noted that a compulsory airline insurance scheme would help maintain sales of airlines experiencing temporary difficulties and would also limit the amount of airline debts in case of insolvency. One respondent noted that the industry would benefit since there would be less of a moral obligation on other airlines to help with the repatriation process, perhaps at some cost to them. One consumer organisation commented that horizontal insolvency protection across all industry actors would ensure fair competition conditions, by putting them on an equal footing.

One consumer organisation supported the option of requiring airlines to insure against the risk of bankruptcy as a licensing condition. This would be easier to administer than other schemes and would help address concerns expressed by airlines that a universal protection scheme would have the effect of denying stronger carriers the competitive advantage that comes with being perceived by passengers as financially sound. However, the same respondent also noted that the practicability of such a scheme would need further analysis, especially regarding whether insurance companies would be in a position to cover costs associated with a major airline bankruptcy.

#### **Other**

One consumer organisation pointed out that all the measures suggested in the questionnaire could coexist, if the air carrier provides evidence that it has sufficient cover to be able to refund customers in the case of insolvency.

Another consumer organisation suggested that the airlines could provide bank guarantees.

One national authority suggested an extension of the Norwegian package travel protection scheme, which consists of a compulsory guarantee provided by the tour operator (airline/ticket seller) in favour of the traveller (passenger).

Several airlines and one employer association mentioned that airlines could inform passengers on commercial providers offering insurance to the general public.

According to one airline, local/international insurance companies offering travel insurance should include coverage for repatriation cost in case of insolvency of the operating carrier.

#### **Conclusions**

Many comments, made in particular by consumer organisations and one airline, were made in favour of a pan-European guarantee fund, with these stakeholders highlighting that it would be beneficial for passengers as it would allow for more efficient reimbursement for customers, greater clarity and wider acceptance on the need for protection. It was also seen by one airline and consumer organisations to be beneficial for airlines, particularly as it would ensure equal treatment of all airlines in the EU and enhance public confidence on the financial viability of airlines. One consumer organisation also felt that a pan-European fund would be beneficial for national authorities as it would release them of administrative burdens.

Comments made in favour of a national guarantee fund by private companies, industry associations, consumer organisations and several national authorities mainly focused on the benefits such a fund

would have on passengers. Several industry associations from the UK suggested that the UK ATOL scheme which currently applies to package holidays should be extended to flight only sales. Concerns were however raised by a consumer organisation that a national guarantee fund would not be sufficient to cover reimbursement for passengers or that some national schemes may end up bearing more costs than others. Comments made against guarantee funds by airlines and one airline association included that insolvency was a risk inherent in a liberalised market and that it was unfair to require responsible airlines to pay for other airlines financial insecurity.

Compulsory airline insurance schemes were also regarded as beneficial to passengers by national authorities and airlines, and these stakeholders argued that such schemes would help reduce airline insolvency. Reservations against such a scheme included that it would lead to additional costs for consumers

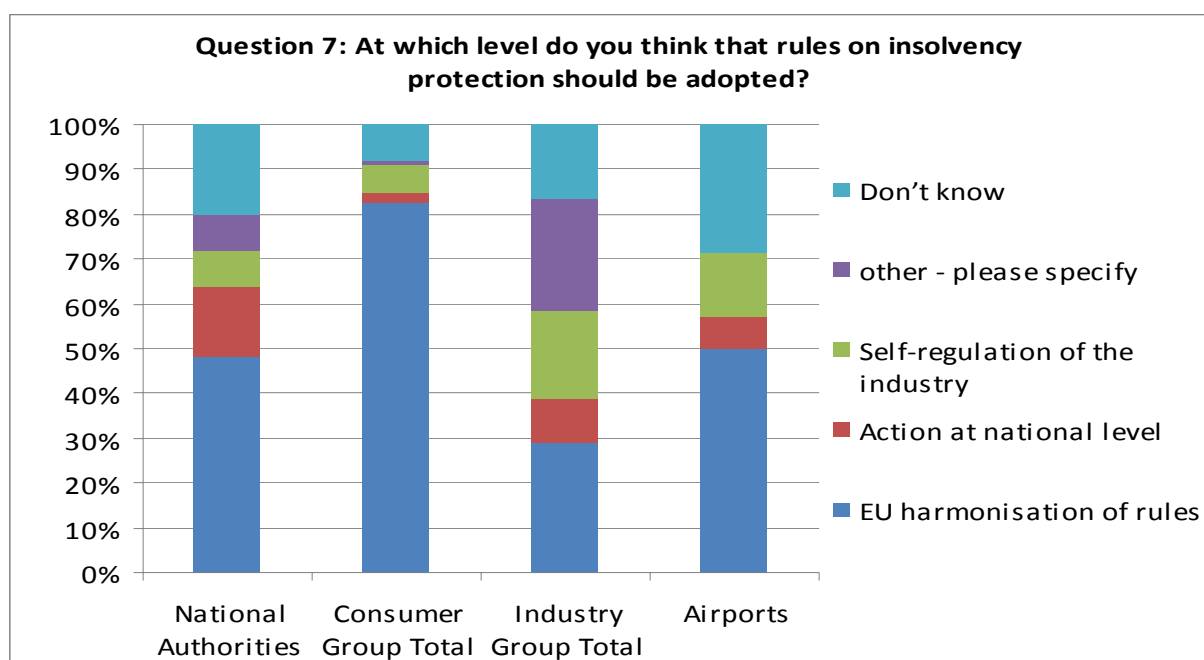
## **Recommendations**

4. The UK Air Travel Organiser's Licence scheme (ATOL) should be extended to cover flight only sales as it would offer consumers a transparent form of protection.
5. A pan-European guarantee fund should be based on the system available for package travel.
6. A pan-European guarantee fund should be financed by a small surcharge on each ticket for travel originating from an EU airport. The surcharge should apply without discrimination to leisure and package tour air services.
7. Airlines should be required to insure against the risk of bankruptcy as a licensing condition.
8. Airlines could inform passengers on commercial providers offering insurance to the general public.

### ***7) At which level do you think that rules on insolvency protection should be adopted?***

The majority of respondents (66.9%) favoured a harmonisation of the rules on insolvency protection at the EU level, with 12.8% without opinion. This result is influenced by the high percentage (82.5%) of respondents in favour of this solution within the consumer group. National authorities and airports also favoured harmonisation at the EU level although to a lesser extent (respectively 48% and 50%). Results with regard to industry are more mixed with 29.2% in favour of EU harmonisation, almost 20% for self-regulation and 25% favouring 'other'.

Category of stakeholder	EU harmonisation of rules	Action at national level	Self-regulation of the industry	other - please specify	Don't know	Number of Respondents
<b>National Authorities</b>	<b>48.0%</b>	<b>16.0%</b>	<b>8.0%</b>	<b>8.0%</b>	<b>20.0%</b>	<b>25</b>
Consumer Organisations	82.9%	4.9%	2.4%	0.0%	9.8%	41
Individuals	82.4%	2.1%	6.7%	1.0%	7.8%	193
<b>Consumer Group Total</b>	<b>82.5%</b>	<b>2.6%</b>	<b>6.0%</b>	<b>0.9%</b>	<b>8.1%</b>	<b>234</b>
Employee Associations	20.0%	0.0%	20.0%	60.0%	0.0%	5
Industry Associations	33.3%	3.7%	11.1%	25.9%	25.9%	27
Private Companies	27.5%	15.0%	25.0%	20.0%	12.5%	40
<b>Industry Group Total</b>	<b>29.2%</b>	<b>9.7%</b>	<b>19.4%</b>	<b>25.0%</b>	<b>16.7%</b>	<b>72</b>
<b>Airports</b>	<b>50.0%</b>	<b>7.1%</b>	<b>14.3%</b>	<b>0.0%</b>	<b>28.6%</b>	<b>14</b>
Other	0.0%	0.0%	0.0%	0.0%	0.0%	0
<b>Total All Respondents</b>	<b>66.9%</b>	<b>5.3%</b>	<b>8.9%</b>	<b>6.1%</b>	<b>12.8%</b>	<b>360</b>



## Overview of additional comments received

### *EU harmonisation*

One industry association representing the travel industry supported an EU wide scheme and voiced the concern that without harmonisation some Member States may be disadvantaged against others. One consumer organisation felt that harmonisation would help avoid consumer confusion and another consumer organisation noted that it was important for consumer confidence. One airport noted that if this is not done by means of regulation, it could create different standards across the EU.

Two industry associations representing the travel industry recommended an EU set of rules establishing the level and scope of passenger protection against air carriers' failure. These rules should apply to Community carriers, and to the farthest extent possible to third country air carriers. As for the organisation of protection in case of airline failure, Member States should remain free to decide this. One travel agency suggested that it should be decided according to the market situation.

One consumer organisation noted that it could potentially put carriers at a competitive disadvantage to those registered in some countries outside the EU. However, this was regarded by the same respondent as preferable to action at national level which would potentially put carriers registered in that country at a competitive disadvantage to airlines registered in all the countries that do not have similar rules.

#### *Other*

One private company assisting passengers highlighted the difficulty of ascertaining the financial stability of an airline and suggested that a website could be created allowing passengers to evaluate the risk of bankruptcy. This would however lead to difficulties as airlines will not voluntarily disclose financial information.

One airline association supported an ICAO based guarantee fund, and together with other respondents underlined that rules at international level would ensure that passengers are all protected. One industry association suggested that rules on insolvency protection should be adopted as IATA standards.

### **Conclusions**

Most comments made regarding the level at which rules on insolvency protection should be adopted focused on the harmonisation through EU law, which was regarded by consumer organisations and one airport as an effective way to increase clarity and consumer confidence. Two travel associations and private company remarked that EU rules should set the level and scope of passenger protection but Member States should be allowed to decide on the organisation of such protection.

### **Recommendations**

1. An EU set of rules establishing the level and scope of passenger protection against air carriers' failure should be developed and apply to Community carriers, and to the farthest extent possible to third country air carriers. Member States should remain free to decide on the organisation of protection in case of airline failure.
2. A website should be created allowing passengers to evaluate the risk of bankruptcy.
3. Rules on insolvency protection should be adopted as IATA standards.

### ***8 In your experience, what would be the cost of the different insolvency protection schemes (See Q5 and Q6) for the industry, public authorities and passengers? Please quantify if possible.***

A large number of respondents were unable to comment on the cost of the different insolvency protection schemes, due to a lack of information. Several respondents addressed the question by taking a very broad approach and discussing the cost without referring to a specific protection scheme. Other respondents commented solely on their preferred protection schemes.

### **General effect on costs of the different schemes**

One consumer organisation stated that to-date it is the consumer who pays the premium for different protection schemes and thereby offsets the aforementioned costs and that the different insurance schemes suggested would result in differing levels of protection and costs among consumers. One industry association noted that protection schemes are costly for airlines (information campaigns, changes in booking platforms, reporting to authorities etc) and also burdensome for regulators (since they must spend resources on registration, guarantees, control, administration etc). One travel agency

stated that the cost would vary from country to country and would also depend on the type of scheme that is adopted.

One airline mentioned that the cost of any measure other than industry self regulation would be disproportionate to the scale of the problem and expected benefits to the consumer. For example a €1 insolvency payment per passenger would generate €700m per annum or €100,000 per stranded passenger assuming 7000 passengers were affected by airline bankruptcy in any one year.

### **Costs of compulsory protection scheme**

One consumer organisation noted that compulsory insurance would probably be the least costly for all parties but that there was a risk of the insurance company refusing payment if the airline did not meet any of the required conditions under the policy. One insurance association noted that any compulsory insurance scheme would be more expensive for the industry, public authorities and passengers than an optional scheme.

#### *Effect on costs - for passengers*

One consumer organisation underlined that the cost of setting up and funding a compulsory insurance scheme would likely be transferred to passengers. According to a number of respondents, including one insurance association, another industry association and one national authority, this would be imposed by means of increased ticket price. One industry association noted that airlines reject additional external costs for insurance, because they would be forced to pass the costs on to the passengers.

Two industry associations representing the travel industry mentioned that the cost of a compulsory passenger protection against airline failure would be lower than if it was optional due to economies of scales and better risk spreading. Two consumer organisations noted that the low-cost effect of risk spreading was confirmed when implementing the insolvency protection for tour-operators and travel agents under Article 7 of the Package Travel Directive.

#### *Effect on costs – for the airline industry*

Several respondents including one airline, one airline association and one consumer organisation noted that this would mean higher costs for the industry, one airline stating that it would be very difficult if not impossible to find insurers. Moreover, one airline commented that the funds would be frozen for several years, which would deepen the financial burden for airlines. One consumer organisation noted that it would also threaten low-cost air companies, because flying would become too expensive for some passengers.

One industry association and one national authority also noted that financially stable airlines would be forced to invest in a compulsory system, which may lead to a distortion of competition because third country airlines would not be affected by such a system. One insurance association commented that air carriers would face obligations they might not be in a position to fulfil.

#### *Effect on costs - for public authorities*

One consumer organisation mentioned that depending on the form of protection scheme implemented at national level, public authorities may bear the cost to manage or supervise the scheme or simply to check airline compliance with future requirements, causing higher costs.

However, two industry organisations representing the travel industry also noted that public authorities would significantly save on interventions to repatriate unprotected stranded air passengers. One travel agency noted that governments would benefit from having a “safety net” of protection. One insurance association highlighted that public authorities would still need to set up an enforcement procedure and a scheme for those cases where no cover was available.

### **Costs of national guarantee fund**

Several respondents including two travel agency associations and one consumer organisation noted that the cost of a guarantee fund for insolvency cases would be minimal for the industry, public

authorities and passengers, by charging a small nominal amount per ticket. One national authority commented that a bank guarantee from the fund's members would be required, in addition to a yearly fee of approximately 250 Euros to be paid by the members. One travel agency association suggested that the airlines could pass this cost to the passenger and create a national guarantee fund, increasing prices of tickets by approximately 1 Euro. In case of insolvency of a certain airline, consumers would be reimbursed and/or repatriated by the Member State of the airline licence.

### **Costs of Pan-European scheme**

One research institute stated that the cost of insurance would be a fixed price for a premium paid to a pan-European Fund when buying an airline ticket and depending on the class of ticket.

### **Conclusions**

Many respondents from across all stakeholder categories noted that they were unable to comment on the costs of insolvency protection schemes because they had insufficient information at hand. Several comments were made by national authorities, the consumer group, the industry group and airports however on perceived effects costs of the different protection schemes.

With regard to the effects of costs related to compulsory protection schemes, several respondents including national authorities, industry associations, private companies and consumer organisations commented that these schemes would increase costs for consumers. It was also noted by several private companies that a compulsory insurance scheme would increase costs for the industry and may distort competition as non-EU countries would not be subject to such rules. However two (travel) industry associations argued that costs would be lower if protection was compulsory due to economies of scale and several consumer organisations suggested that similar schemes for package tour operators had not led to increased costs. Two travel associations also suggested that compulsory schemes would save public authorities from repatriating unprotected stranded air passengers.

With regard to the costs of national funds, mainly industry associations suggested that the costs could be passed on to the passenger by charging a small nominal amount per ticket.

### **Recommendations**

1. Airlines could pass the cost of a national guarantee fund to the passenger, increasing prices of tickets by approximately 1 Euro.
2. The cost of insurance should be a fixed price for a premium paid to a pan-European Fund when buying an airline ticket and depending on the class of ticket.

### ***9. 'In your experience, what would be the benefit of the different insolvency protection schemes (see Q5 and Q6) for the industry, public authorities and passengers? Please quantify if possible'***

The comments relating to question 9 have been incorporated into questions 5 and 6 (see above).

### ***10. How much do you think the price of a single air ticket might increase as a result of introducing protection (guarantee fund or insurance) against airlines going bankrupt to cover repatriation, reimbursement of money paid prior to departure and accommodation and meals where necessary?***

One industry association noted that it was difficult to quantify how much a ticket would increase as a result of introducing protection against airline insolvency and one national authority and one airline noted that an impact assessment study would need to be carried out on this. Several respondents including one consumer organisation, one industry association and one national authority noted that the premium payable would depend on analysis of the risk to an individual airline made by an insurance expert .

### *Increase in air tickets*

Two airlines referred to insurance company studies indicating that air ticket would increase from 3 to 15 euros per passenger and flight leg.

Many respondents including industry associations, airlines, national authorities, consumer organisations and individuals commented that prices would range between 1 to 10 euros, depending on the market and scheme. One consumer organisation, who suggested that the increase would be between 5 and 10 euros, specified that this was taking into account the price of a regular travel insurance policy, which amongst other things caters for reimbursement and repatriation in certain circumstances, combined with the fact that the policy would be limited to repatriation only and would not include costs related to issues such as loss of items or injury and would be purchased in bulk by the airline.

Two industry associations representing the travel agency based themselves on work with IATA from 1999 to 2002 on a project for an industry protection scheme for passenger protection against airline failure, which was abandoned by airlines in 2002, and considered that the cost per ticket of passenger protection against airline failure could be around 0.75 to 1 euro.

In percentages of the ticket, several respondents including two national authorities, two consumer organisations, one airline and several individuals noted that it would represent between 2 and 15% of the price, whereas one research institute and several individuals commented that it would represent less than 5% of ticket.

Many individuals felt that the cost should be borne by the airline and not reflected in ticket prices.

According to one industry association representing the travel industry, the travel industry is highly competitive and the market generally decides the costs that airlines can sell their tickets for. It is therefore quite likely that whilst some airlines may increase their costs in part it is unlikely that the full costs would be passed on to the consumer in total.

### *Comparison with package travel industry*

Two consumer organisations, one travel agency and one national authority noted that the price would not increase much especially based on experience from the package travel industry.

One consumer organisation and one national authority noted that currently the cost of the Air Travel Organiser's Licence (ATOL) for financial protection of UK package holidays is £2.50 per passenger. The same national authority noted that the price is already included in the tickets and customers would be willing to pay this.

One insurance association pointed out that useful information with regard to ticket increases might be found in the on-going Package Travel Directive (PTD) review exercise.

## **Conclusions**

The increase of the price of a single air ticket as a result of introducing protection against airline insolvency was viewed by several respondents including industry associations, private companies, national authorities and consumer organisations as difficult to quantify and necessary to be subject to an impact assessment. Several respondents put forward suggestions of what such increases may be, with suggestions ranging from an increase of between 1 to 10 euros or 2 to 15% of the price of the ticket. These suggestions were mainly put forward by several private companies and consumer organisations. Not so clear who says what here.

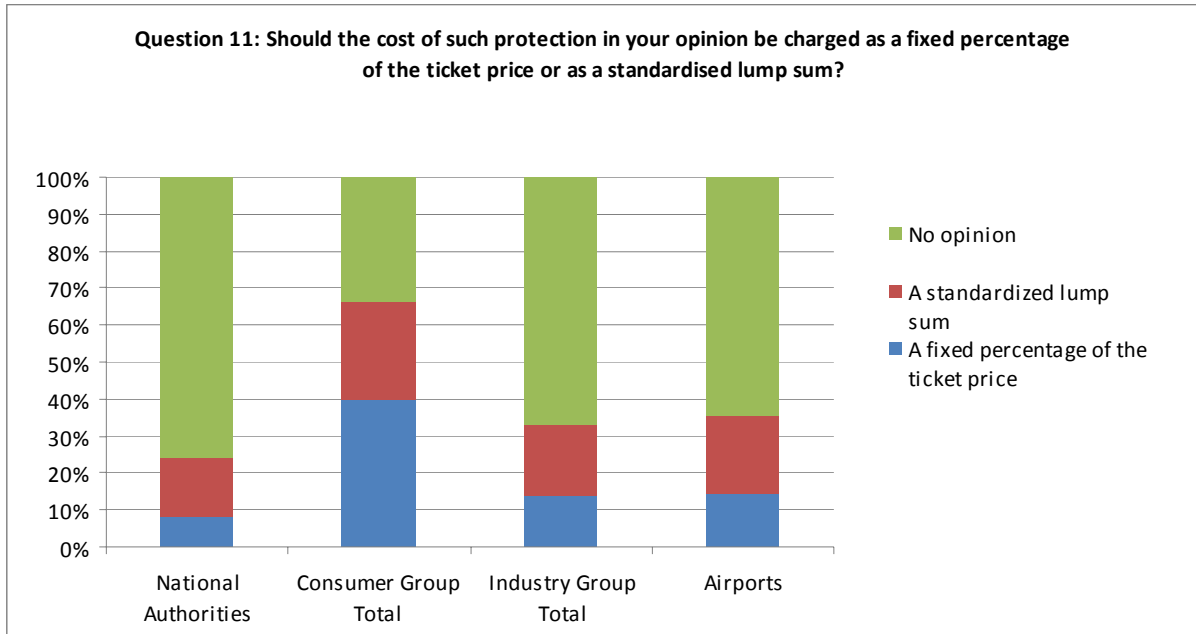
Several comments were also made, mainly by consumer organisations as well as one national authority, one private company and one industry association, suggesting that the increase in price would be similar to the experience from the package travel industry.

**11. As to the answer to question 10, should the cost of such protection in your opinion be charged as a fixed percentage of the ticket price or as a standardised lump sum?**

The responses concerning this question were quite divided, with overall 31% of all respondents suggesting that the cost of protection should be charged as a fixed percentage of a ticket, 25% thinking that it should be as a standardised lump sum and 44% expressing no opinion on this question. A high number of national authorities expressed no opinion on this question (76%). 34 % respondents from the consumer group did not express an opinion either, although among those who did these generally favoured protection charged as a fixed percentage of the ticket price (40%). A high number from the industry group and from airports did not express an opinion on this question (67% and 64%, respectively) and among those who did responses were divided but tended to lean towards protection through a standardised lump sum (19% and 21%, respectively).

Category of stakeholder	Fixed price of the ticket %	Standardised lump sum %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>8.0%</b>	<b>16.0%</b>	<b>76.0%</b>	<b>25</b>
Consumer Organisations	36.6%	22.0%	41.5%	41
Individuals	40.4%	27.5%	32.1%	193
<b>Consumer Group Total</b>	<b>39.7%</b>	<b>26.5%</b>	<b>33.8%</b>	<b>234</b>
Employee Associations	20.0%	40.0%	40.0%	5
Industry Associations	7.4%	33.3%	59.3%	27
Private Companies	17.5%	7.5%	75.0%	40
<b>Industry Group Total</b>	<b>13.9%</b>	<b>19.4%</b>	<b>66.7%</b>	<b>72</b>
<b>Airports</b>	<b>14.3%</b>	<b>21.4%</b>	<b>64.3%</b>	<b>14</b>
Other	20.0%	46.7%	33.3%	15
<b>Total All Respondents</b>	<b>30.6%</b>	<b>25.0%</b>	<b>44.4%</b>	<b>360</b>





*Standardised lump sum*

Several respondents including one travel agency noted that a standardised lump sum would be a simpler option than a percentage of the ticket price particularly when recognising the practical difficulties in calculating the ticket price as a proportion of a package holiday price. One airline was also in favour of a standardised lump sum as it would ensure that the same rules were applied in all EU countries.

One consumer organisation noted that standardising the cost to be paid would ensure transparency and minimise the confusion amongst passengers. According to the same respondent, a standard optional charge can be offered at the outset of the ticket booking process whereas a fixed percentage would most likely be calculated at the end of the booking process. Consumer research has indicated that air passengers prefer charges to be presented up front at the beginning of the booking process. One consumer organisation also noted the benefit of fixed price similar to the ATOL Air Passenger Charge of allowing passengers to be aware of the charge.

One industry association noted that a lump sum would help build up some sort of guarantee fund.

One consumer organisation suggested that the protection should vary according to the type of flight (intracommunity, transatlantic etc.)

Another respondent considered that the protection required for low cost short haul flight would be different to that required for a long haul premium class flight therefore standardisation would be difficult.

*Percentage of ticket*

One consumer organisation suggested that the protection be charged as a percentage of the ticket price but with a ceiling of a maximum amount.

One consumer organisation suggested differentiating between 3 or 4 categories according to the ticket price. For example, from 2-200€, 200-500€ and 500€ or more.

However, one travel agency association noted that a fixed percentage of the ticket price was not a good solution as several low-cost airlines carry out a policy of very low fares for the air tickets, but add extra fees onto the ticket price. In such cases, the amount levied as a percentage of the ticket price would not be enough to properly fund a guarantee scheme.

### *Other*

One insurance association noted that this should be left to the discretion of the service provider so as not to restrict competition whilst one travel agency noted that both types of protection could be applied.

### **Conclusions**

Comments in favour of the cost of protection being charged as a standardised lump sum, made mostly by consumer organisations, private companies and one industry association, mainly focused on the fact that it would be a simpler option for the passenger, that it would ensure transparency and minimise confusion, and ensure that charges were known at the booking process stage which was more beneficial to consumers. One respondent against a standardised lump sum pointed out that the required protection would differ for example for long haul flights, thereby making standardisation difficult.

Few comments in favour of the cost of protection being charged as a fixed percentage of the ticket price were made, with one consumer organisation suggesting that the cost of protection should be charged as a fixed percentage of the ticket price, but with a maximum ceiling.

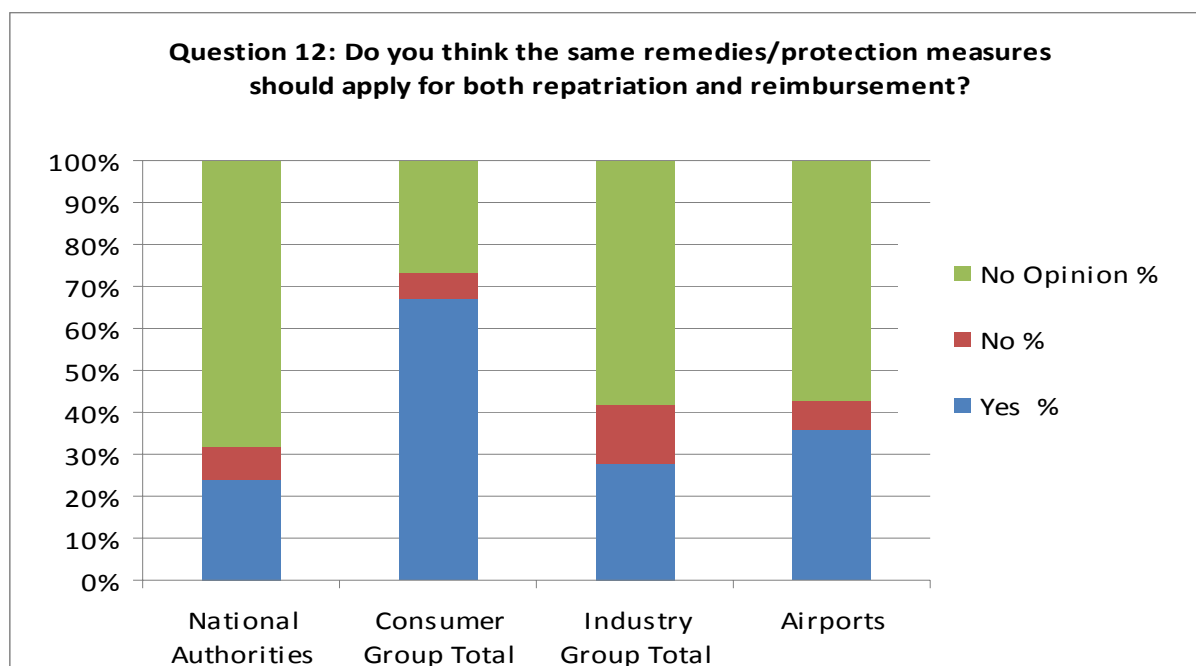
### **Recommendations**

1. A fixed price system similar to the ATOL Air Passenger Charge would allow passengers to be aware of the charge.
2. Protection should vary according to the type of flight, for example whether it involves intra-community or transatlantic travel.
3. If the protection is charged as a percentage of the ticket price, a ceiling of a maximum amount should be established.

### ***12. Do you think the same remedies/protection measures should apply for both repatriation and reimbursement? If not, please identify which aspects should be modified for each item.***

Whilst a relatively high number of respondents did not express an opinion on this question (37.5%), among those who did 55% overall felt that the same remedies/protection measures should apply for both repatriation and reimbursement. Many national authorities expressed no opinion on this question (68%) and among those who did 24% felt that the measures should be the same. Many respondents from the consumer group (67 %) felt that the measures should be the same, with 26.5% expressing no opinion on the question. A high number from the industry group and from airports did not express an opinion on this question (58% and 57%, respectively) and among those who did responses tended to support the same measures being applied (28% and 36%, respectively).

Category of stakeholder	Yes %	No %	No Opinion %	Number of Respondents
<b>National Authorities</b>	<b>24.0%</b>	<b>8.0%</b>	<b>68.0%</b>	<b>25</b>
Consumer Organisations	78.0%	2.4%	19.5%	41
Individuals	64.8%	7.3%	28.0%	193
<b>Consumer Group Total</b>	<b>67.1%</b>	<b>6.4%</b>	<b>26.5%</b>	<b>234</b>
Employee Associations	80.0%	0.0%	20.0%	5
Industry Associations	33.3%	7.4%	59.3%	27
Private Companies	17.5%	20.0%	62.5%	40
<b>Industry Group Total</b>	<b>27.8%</b>	<b>13.9%</b>	<b>58.3%</b>	<b>72</b>
<b>Airports</b>	<b>35.7%</b>	<b>7.1%</b>	<b>57.1%</b>	<b>14</b>
Other	60.0%	0.0%	40.0%	15
<b>Total All Respondents</b>	<b>54.7%</b>	<b>7.8%</b>	<b>37.5%</b>	<b>360</b>



#### *Same remedies/protection measures for repatriation and reimbursement*

One respondent supported the same remedies and protection measures, but noted the repatriation requires to be tackled the most urgently.

One airline association noted that protection should cover reimbursement and repatriation thus making it similar to the Package Travel Directive.

According to one national authority, in cases where the consumer has bought a return ticket, protection also should entail repatriation, as long as it can be covered by the lodged security. When

purchasing one-way tickets (outbound and inbound) with the same airline company we also believe that this should be covered by the protection scheme. The latter would leave consumers with the possibility to claim compensation related to the inbound flight as long as it can be covered by the lodged security.

One industry association noted that the remedies for repatriation should cover the relevant ancillary costs which they know will be higher i.e. consumers may need to pay for more hotel accommodation until they can fly; the cost of a single return ticket is generally more expensive than a return ticket; seats may be limited and more costly (particularly when there is less competition on the same route); etc.

#### *Priority for repatriation*

One airline and several individuals, repatriation should have a higher priority over reimbursement.

#### *Different protection and remedies*

Reimbursement (re-payment for a flight the passenger did not get) and repatriation (arranging for a passenger to be transported home on alternative transport) are different and distinct concepts and it is artificial to attempt to draw a sort of parallel. One airline pointed out that this question does not make sense in practical terms.

One consumer organisation commented that repatriation costs were frequently included in insurance coverage such as travel insurance.

#### *Other*

According to one airline and one consumer organisation, clients should have the possibility to choose between repatriation or reimbursement.

One national authority noted that in case of repatriation, the price paid should not be reimbursed but measures of assistance and care during the wait should be reimbursed.

### **Conclusions**

Among those respondents supporting the same remedies/protection measure for both repatriation and reimbursement, including mainly industry associations and one consumer organisation, comments were made that repatriation should be tackled most urgently, whilst one consumer organisation noted that protection should include repatriation whether a one-ticket or return ticket was purchased, as long as it can be covered by the lodged security.

One airline pointed out however that reimbursement and repatriation were two different concepts and could not be grouped together, whilst one consumer organisation noted that repatriation was often included in travel insurance.

### **Recommendations**

1. The same remedies and protection measures should apply to repatriation and reimbursement but repatriation should to be tackled the most urgently.
2. In case of repatriation, the price paid should not be reimbursed but measures of assistance and care during the wait should be reimbursed.

## ABBREVIATIONS

The following table provides the list of stakeholders whose comments have been taken account of in the summaries of the contributions.

Organisation name	Abbreviation	Country
<b>AIRLINES</b>		
Air Berlin PLC & Co. Luftverkehrs KG	Air Berlin	DE - Germany
Air France	Air France	FR - France
Air Italy Polska	Air Italy Polska	PL - Poland
Air Malta plc	Air Malta	MT - Malta
Air Transat	Transat	Other
Alitalia- Compagnia Aerea Italiana Spa	Alitalia	IT - Italy
American airlines	AA	IT - Italy
Austrian Airlines	AT Air	AT - Austria
Austrian Airlines AG	AT Air AG	AT - Austria
Avianca	Avianca	Other
Belair Airlines	BEL	Other
Bintercanarias	Binter	ES - Spain
British Midland Airways	BMI	UK - United Kingdom
British Airways	BA	UK - United Kingdom
Brussels Airlines	SN BRUSS	BE - Belgium
Cathay Pacific Airways Ltd.	CPA	Other
Condor Flugdienst GmbH	Condor	DE - Germany
Deutsche Lufthansa AG	Lufthansa	DE - Germany
Ethiopian Airlines	Ethiopian Airlines	Other
Europe Airpost	EAP	FR - France
KLM Royal Dutch Airlines	KLM	NL - Netherlands
Loganair	Loganair	UK - United Kingdom
LOT Polish Airlines	LOT	PL - Poland
Monarch Airlines Ltd.	Monarch	UK - United Kingdom
Ryanair	Ryanair	IE - Ireland
Scandinavian Airlines System - SAS	SAS	DK - Denmark
South African Airways	SAA	UK - United Kingdom
Swiss International Air Lines	Swiss IA	CH - Switzerland
Thomas Cook Group plc	Thomas Cook	UK - United Kingdom
Transportes Aéreos Portugueses, S.A. (TAP Portugal)	TAP	PT - Portugal
TUI Travel PLC	TUI	UK - United Kingdom
United Airlines	UA	US - United States
VLM Airlines	VLM	BE - Belgium
XL Airways France	XL Airways	FR - France
<b>CONSUMER ORGANISATIONS</b>		
Associazione Consumatori Utenti	ACU	IT - Italy
Air PAX	Air PAX	FR - France

Air Transport Users Council	AUC UK	UK - United Kingdom
BEUC - The European Consumers' Organisation	BEUC	BE - Belgium
Confederation of Consumers and Users - Confederación de Consumidores y Usuarios	CECU	ES - Spain
Confconsumatori	Confcon	IT - Italy
DECO - The Portuguese Association for Consumer Protection	DECO	PT - Portugal
European Consumer Centre Bulgaria	ECC BG	BG - Bulgaria
European Consumer Centre Austria	ECC AT	AT - Austria
European Consumer Centre Belgium	ECC BE	BE - Belgium
European Consumer Centre Czech Republic	ECC CZ	CZ - Czech Republic
European Consumer Centre Denmark	ECC DK	DK - Denmark
European Consumer Centre Finland	ECC FI	FI - Finland
European Consumer Centre France	ECC FR	FR - France
European Consumer Centre Germany	ECC DE	DE - Germany
European Consumer Centre Hungary	ECC HU	HU - Hungary
European Consumer Centre Ireland	ECC IE	IE - Ireland
European Consumer Centre Italy	ECC IT	IT - Italy
European Consumer Centre Latvia	ECC LV	LV - Latvia
European Consumer Centre Malta	ECC MT	MT - Malta
European Consumer Centre Norway	ECC NO	NO - Norway
European Consumer Centre of Cyprus	ECC CY	CY - Cyprus
European Consumer Centre of Greece	ECC EL	EL - Greece
European Consumer Centre of Lithuania	ECC LT	LT - Lithuania
European Consumer Centre Portugal	ECC PT	PT - Portugal
European Consumer Centre Romania	ECC RO	RO - Romania
European Consumer Centre Slovakia	ECC SK	SK - Slovakia
European Consumer Centre Slovenia	ECC SI	SI - Slovenia
European Consumer Centre United Kingdom	ECC UK	UK - United Kingdom
European Consumer Centre Luxembourg	ECC LU	LU - Luxembourg
European Passengers' Federation	EPF	UK - United Kingdom
Fédération des usagers des transports et des services publics	FUTSP	FR - France
Fédération Nationale des Associations d'Usagers des Transports	FNAUT	FR - France
HolidayTravelWatch – EU Interest Representative	HTW	UK - United Kingdom
KEPKA - Consumers Protection Centre	KEPKA	EL - Greece
Neytendasamtökin	Neytend	IS - Iceland
Northern Ireland Consumer Council	NI CC	UK - United Kingdom
ÖAMTC	ÖAMTC	AT - Austria
Panhellenic Association of Travel and Tourism	PATT	EL - Greece
Polish Consumer Federation	PCF	PL - Poland
Royal Dutch Touring Club ANWB	ANWB	NL - Netherlands
Test-Achats	Test-Achats	BE - Belgium
Which?	Which?	UK - United Kingdom
Zveza potrošnikov Slovenije (Slovene Consumer Association)	ZPS	SI - Slovenia

<b>EMPLOYER ASSOCIATIONS</b>		
ANPME	ANPME	PT - Portugal
Austrian Federal Economic Chamber	AFEC	AT - Austria
Fédération National de l'Aviation Marchande	FNAM	FR - France
<b>INDUSTRY ASSOCIATIONS</b>		
Association of British Travel Agents	ABTA	UK - United Kingdom
ACI-EUROPE Airports Council International	ACI	BE - Belgium
Air Travel Insolvency Protection Advisory Committee	ATIPAC	UK - United Kingdom
Association Professionnelle de Solidarite du Tourisme (French Travel Guarantee Fund)	APS	FR - France
Arab Air Carriers Organization	AACO	Other
Associació Catalana d'Agències de Viatges	ACAV	ES - Spain
Association of Asia Pacific Airlines	AAPA	Other
Association of European Airlines	AEA	BE - Belgium
Association of Independent Tour Operators	AITO	UK - United Kingdom
Belgian Travel Guarantee Fund	BTGF	BE - Belgium
Board of Airline Representatives in Poland	ARP	PL - Poland
Board of Airline Representatives in the UK Ltd	BAR UK	UK - United Kingdom
Bundesverband der Deutschen Fluggesellschaften (Association of German Airlines)	BDF	DE - Germany
CEA, Insurers of Europe	CEA	BE - Belgium
Deutscher ReiseVerband	DRV	DE - Germany
Guild of European Business Travel Agents	GEBTA	BE- Belgium
European Travel Agents' and Tour Operators' Associations.	ECTAA	BE - Belgium
European Low Fares Airline Association	ELFAA	UK - United Kingdom
European Regions Airline Association	ERA	UK - United Kingdom
European Technology & Travel Services Association	ETTSA	BE - Belgium
German Airports Association	ADV	DE - Germany
International Air Carrier Association	IACA	BE - Belgium
International Air Transport Association	IATA	BE - Belgium
International Underwriting Association of London	IUA	UK - United Kingdom
Scottish Passenger Agents' Association	SPAA	UK - United Kingdom
SITA	SITA	CH - Switzerland
The Danish Transport Federation	DTF	DK - Denmark
TourCom	TourCom	FR - France
Wirtschaftskammer Österreich, Abteilung für Verkehrs- und Infrastrukturpolitik	WKO	AT - Austria
<b>NATIONAL AND REGIONAL AUTHORITIES</b>		
Austrian Chamber of Labour	ACL	AT - Austria
Bundesministerium für Verkehr, Bau und Stadtentwicklung	BMVBS	DE - Germany
Catalan Consumer Agency	Catalan CA	ES - Spain
Civil Aviation Administration	CAA LT	LT - Lithuania
Civil Aviation Office of the Republic of Poland	CAO PL	PL - Poland
Commission for Aviation Regulation	CAR IE	IE - Ireland
Consumer Protection Board of Estonia/European Consumer Centre of Estonia	ECC EE	EE - Estonia

Statens Luftfartsvæsen	CAA DK	DK - Denmark
Dirección General de Aviación Civil (Ministerio de Fomento).	DGAC Fomento Ministry	ES - Spain
Direction du Marché Intérieur	DMI LU	LU - Luxembourg
Directorate General Enforcement and Mediation	DGEM BE	BE - Belgium
Ente Nazionale per l'Aviazione Civile	ENAC	IT - Italy
Federal Ministry of Labour, Social Affairs and Consumer Protection	FML AT	AT - Austria
European Consumer Centre Sweden (NEB)	ECC SE	SE - Sweden
Luftfahrt-Bundesamt	LBA DE	DE - Germany
Ministry of Transport and Communications - Norway	MoT NO	NO - Norway
Ministry of Transport of the Czech Republic and Civil Aviation Authority of the Czech Republic	CAA CZ	CZ - Czech Republic
Ministry of Transport, Public Works and Water Management	MoT NL	NL - Netherlands
Ministry of transport/Civil Aviation Directorate	MoT SI	SI - Slovenia
National Authority for Consumers Protection	NACP RO	RO - Romania
National Enforcement Body for Ireland	NEB IE	IE - Ireland
State Consumer Rights Protection Authority of the Republic of Lithuania	CRPA LT	LT - Lithuania
Swiss Federal Office of Civil Aviation	CAA CH	CH - Switzerland
The Finnish Consumer Agency	CA FI	FI - Finland
The Norwegian Consumer Ombudsman	CO NO	NO - Norway
The Swedish Consumer Agency	CA SE	SE - Sweden
Trading Standards Institute	TSA	UK - United Kingdom
Transport and Communication Division of the Austrian Federal Economic Chamber	AFEC AT	AT - Austria
UK Civil Aviation Authority	CAA UK	UK - United Kingdom
UK Department for Transport	DfT UK	UK - United Kingdom
<b>PRIVATE COMPANIES</b>		
Eryatech	Eryatech	BE - Belgium
EUclaim B.V.	EUclaim	NL - Netherlands
Opodo, Ltd.	Opodo	UK - United Kingdom
SNCF	SNCF	FR - Belgium
Transindemnité.com	Transindemnité	FR - France
<b>PRM ASSOCIATIONS</b>		
Access Matters	Access Matters	UK - United Kingdom
Comité Español de Representantes de Personas con Discapacidad	CERMI	ES - Spain
Disabled Peoples Organisation Denmark	DPOD	DK - Denmark
European Disability Forum	EDF	BE - Belgium
Greek National Confederation of Disabled People	ESAEA	EL - Greece
National Council for the Blind of Ireland	NCBI	IE - Ireland
<b>RESEARCH INSTITUTES/THINK TANKS</b>		
Centre for European Policy Study	CEPS	FR - France
roundtablegroup.com	Roundtablegroup	ES - Spain
<b>NGOs</b>		
Fédération Internationale de l'Automobile	FIA	BE - Belgium



No Auto	No Auto	IT - Italy
<b>AIRPORT</b>		
Aeropuertos Espanoles y Navegacion Aerea	AENA	ES - Spain
Aeroportos de Portugal, SA	ANA	PT - Portugal
Copenhagen Airports A/S	Copenhagen Airport	DK- Denmark
Gatwick Airport Limited	Gatwick Airport	UK- United Kingdom
Hamburg Airport	Hamburg Airport	DE- Germany
SEA Aeroporti di Milano	SEA	IT- Italy
The Brussels Airport Company	Brussels Airport	BE- Belgium
Zurich Airport	Zurich Airport	CH-Switzerland
<b>OTHER</b>		
Aberdeen Airport Consultative Committee UK (rep various local stakeholders)	AACC Uk	UK - United Kingdom
Claretian Missionaries	CM	IT - Italy
SPdH-Serviços Portugueses de Handling, SA (Groundforce Portugal)	SPdH	PT - Portugal