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European Commission
 Directorate-General for Energy
 and Transport
 Internal Market, Aviation
 Agreements & Multilateral
 Relations
 DM 24 5/118
 B-1049 Brussels

Brussels, 22 November 2007

Re: Response to the Discussion Paper on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators

The association of Danish Travel Agents and Tour Operators represents travel agents and tour operators in Denmark.

All together, The Association of Danish Travel Agents and Tour Operators represents the interests of Danish Travel Agents, for whom the sale of air transport services is an essential part of their activity. The Association of Danish Travel Agents and Tour Operators welcomes the consultation on the operation of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators, because it is essential that EU legislation ensures effective protection of travellers and fair competition within the EU. Please find below our responses to the questions for we are in a position to provide input.

Q2: What has been the economic impact of the Regulation on general aviation operators?

We noted with interest in the Discussion Paper that since 2002, the competition on the market for aviation insurers has increased and that the safety records have been improved. As a consequence, the cost of insurance has decreased. Total hull and liability premiums have fallen by half since 2002. Besides, the premiums that had been introduced following the 9/11 event, have also very significantly declined since 2001. In this respect, it may be relevant to check whether the surcharges applied by airlines to passengers for insurance costs have decreased in proportion.

Q4: Is there still a need for the requirement for aircraft operators to have insurance cover for damage to third parties due to risks of war or terrorism in respect of non-commercial operations?

The Association of Danish Travel Agents and Tour Operators considers that there is still a need for the requirement for aircraft operators to have insurance cover for damage to third parties due to risks of war or terrorism in respect of non-commercial operation. The danger of war or terrorism is still very high. The requirement to have insurance should be independent of the kind of operation. It makes no difference for the consumer whether it is a victim of a terrorism act on a commercial or a non-commercial flight.

Q12: Would the insurance market be able to provide insurance coverage to air carriers in order to refund passengers for the sums paid and to cover the costs of repatriating passengers if the carrier is not able to operate the flight because of insolvency or revocation of its operating licence?

Q13: Would additional insurance requirements be an appropriate instrument to protect passengers in such cases or are there other more effective and efficient means?

Airline failure is a reality. European passengers experienced the failures of 50 airlines between 2000 and 2005, as reported in a 2005 study commissioned by the European Commission¹. In addition, the risk of airline failures is growing, considering that the air transport industry has been under financial pressure for some years, and considering the raise of fuel price.

Currently, seat-only passengers are deprived of protection in case of airline failure. The 50 airline bankruptcy listed in the study commissioned by the European Commission affected 487.000 passengers and left 63.000 passengers stranded.

The last massive bankruptcy occurred in December 2006 when Air Madrid had its operating carrier licence withdrawn by the Spanish civil aviation authority and subsequently became bankrupt. As a result, passengers' payments for non-performed tickets amounting to €13 Million are now at the disposal of the Air Madrid insolvency proceedings. It is very uncertain that the concerned passengers can obtain reimbursement for their unflown tickets, because the money will first benefit to privileged creditors (such as staff and fiscal authorities). This example is illustrative of the way the revocation of an air carrier operating licence or failure is usually dealt with. Since the beginning of 2007, at least two other Community airlines stopped operating - Club Air (Italy) when its licence was suspended and FlyMe (Sweden) which became bankrupt - and other European carriers, including major national carriers, are going through serious financial difficulties.

Moreover, passengers' financial risks are getting more important due to airlines' practises for basic non-changeable, non-endorsable and non-refundable air tickets, for which airlines require immediate ticket issuance. This increases the period of time between the ticket issue and the actual flight and thus subjects the passengers to a longer period during which their airline could go bankrupt.

With regard to the future EC Regulation on Common Rules for the Operation of Air Transport Services in the Community, it is proposed that this Regulation will reinforce obligations of licensing authorities and of the European Commission to suspend or remove the licence of air carriers which do not comply with the licence requirements,

¹ Functioning of the Internal Market for Air Transport (Contract No: TREN/04/MD/s07.36609) of November 2005

including on finances. In the absence of a system to protect passengers in cases where the carrier is not able to operate the flight because of insolvency or revocation of its operating licence, the future Regulation on Common Rules for the Operation of Air Transport Services in the Community could in fact increase the frequency of difficult situation for passengers arising from air carriers' licence revocation.

Concerning repatriation, some may argue that airlines have voluntary arrangements between them to repatriate passengers, however experience shows that such arrangements provide no guaranty of repatriation, and that the effectiveness of those arrangements largely depend on the quality of the relations between airlines at local level as well as the actual transport capacity available. In particular during the high touristic season, such capacity is nearly non-existent. The study commissioned by the European Commission found that almost half of stranded passengers were repatriated with some government help. This indicates that repatriation is not a problem that governments can legitimately leave to be solved by market solutions. Likewise, the report states that the costs of returning home for stranded passengers following the EUJet bankruptcy in July 2005 averaged 575 euros for a family of four in terms of flights home and ground transfer.

A passenger protection scheme is therefore necessary because air carrier defaults regularly harm passengers.

Should there be hesitations to establish a passenger protection scheme in regard of the additional cost for travellers collected by airlines, such hesitations would be surprising, since a number of Governments have found it opportune to introduce taxes on air transport for environmental purposes, to help developing countries, to cover the costs borne by the Airport management companies for the safety checks of passengers and their luggage (Italy) or even just to cover a State budget shortage. Passenger protection for the service that they purchased appears to be a more obvious measure. As concerns the additional cost for protection, ECTAA, the Group of National Travel Agents' and Tour Operators' Associations within the EU, of which we are a Member, and GEBTA, the Guild of European Business Travel Agents, had worked with IATA and an insurance consultant on a Passenger Protection Plan, in the framework of which the cost of protection would not have exceeded 1€ per ticket. This project unfortunately stopped due to lack of support by the airline industry.

In addition, The Association of Danish Travel Agents and Tour Operators considers important to bring to your attention that there is distortion of competition between air carriers on one side and travel agents and tour operators on the other side, concerning passenger protection in case of bankruptcy. Firstly, in order to sell the products of most airlines around the world, travel agents have to obtain a IATA accreditation, for which they must comply with strict financial criteria ensuring that they have sound finances, otherwise they must provide a financial guarantee to cover their risk of default. Secondly, when consumers purchase an air transport service which is part of a package travel, they are protected against adverse consequences of airline failure by virtue of the Package Travel Directive 314/90/EEC, which puts obligations on tour operators and to some extent on travel agents. This Directive also provides for refund of money paid over and for repatriation of passengers in the event of the organiser's or agent's insolvency. No similar protection is provided by airlines. Why should travel agents and tour operators assume liability for passengers, when airlines do not? This creates unacceptable distortion of competition.

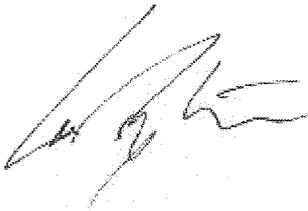
The Association of Danish Travel Agents and Tour Operators therefore calls to put in place a mandatory mechanism borne by air carriers to protect passengers against the bankruptcy of air carriers. Additional insurance requirements in Regulation 785/2004 on insurance requirements for air carriers and aircraft operators could be an appropriate instrument to protect passengers in this respect.

We believe that the insurance market would be able to provide insurance coverage to air carriers in order to refund passengers for the sums paid and to cover the costs of repatriating passengers if the carrier is not able to operate the flight because of insolvency or revocation of its operating licence. According to our own research findings, some large insurance companies or associations of insurance companies would be able to provide this insurance coverage to air carriers.

We remain at your disposal for any other information that could be useful.

With kind regards,

The association of Danish Travel Agents and Tour Operator

A handwritten signature in black ink, appearing to read 'Lars Thykier', is written over a faint, illegible stamp or watermark.

Lars Thykier
Managing Director