

Guidance on consumer enforcement

CAP 1018

Published by the Civil Aviation Authority, 2016

Civil Aviation Authority,
Aviation House,
Gatwick Airport South,
West Sussex,
RH6 0YR.

You can copy and use this text but please ensure you always use the most up to date version and use it in context so as not to be misleading, and credit the CAA.

First published 2015

Second edition September 2014
Third edition May 2015
Fourth edition February 2016
Fifth edition March 2016

Enquiries regarding the content of this publication should be addressed to: consumerenforcement@caa.co.uk
Markets and Consumers Group, Civil Aviation Authority, CAA House, 45-59 Kingsway, London, WC2B 6TE

The latest version of this document is available in electronic format at <http://www.caa.co.uk/>, where you may also register for e-mail notification of amendments.

Contents

Contents.....	3
Guidance on Consumer Enforcement	5
Purpose.....	5
Scope.....	5
Definition of Enforcement, Breach and Actions	5
Expectations.....	6
Stages of Enforcement.....	7
Prioritisation	10
Process	10
Expedited Process	11
Communication	12
Publication of Actions	13
Appeals / Challenge	13
Scenarios	14
Delayed and cancelled flights.....	14
Price Transparency	14
Reduced Mobility Passengers.....	15
Appendix A	16
Consumer Legislation enforced by CAA.....	16
Criminal Sanctions	17
Part 8 of the Enterprise Act	17
Powers	18
Inspection Powers.....	19
The Consumer Protection Co-operation Regulation.....	19

The CAA's Public Sector Equalities Duty	20
Appendix B	21
Disclosure of Information.....	21
Information provided under Schedule 5 of CRA15	21
CAA Process for considering disclosure	23

Guidance on Consumer Enforcement

Purpose

- 1.1 The CAA's [Regulatory Enforcement Policy](#) (CAP1326) sets out the CAA's overall approach to enforcement. This document provides stakeholders with guidance on our approach to enforcing consumer protection law in the aviation sector and outlines the legal framework in which our work fits.

Scope

- 1.2 The aviation market is international and our interventions will not therefore be limited to benefiting UK nationals only but may include action which has an impact on any users of UK airports and consumers of aviation services sold in the UK. Consequently, our interventions will not be limited to UK registered companies.
- 1.3 In this guidance, when we refer to 'consumers', we mean the endusers of an aviation service who do not themselves provide an aviation service. Examples of consumers in this context include passengers, freight customers, student pilots or buyers of flying lessons.
- 1.4 This guidance covers two specific categories of consumer legislation:
- European legislation providing rights to air passengers; and
 - consumer protection legislation covered by Part 8 of the Enterprise Act 2002 (EA02).
- 1.5 There is a separate piece of [guidance covering ATOL enforcement](#) (CAP 1039).

Definition of Enforcement, Breach and Actions

- 1.6 Enforcement in this context is any activity that we carry out to seek to remedy a breach, or a suspected or potential breach, of consumer protection legislation.
- 1.7 A breach is a failure to comply with legal obligations. We will normally take enforcement action where non-compliance affects the collective interest of consumers or a specific group of consumers, rather than based on an individual complaint.

- 1.8 There are a range of actions that we can take to secure compliance, including:
- providing informal advice to businesses,
 - publishing industry guidance,
 - developing self- and co-regulation schemes,
 - inspections,
 - issuing warning letters,
 - requesting information from businesses,
 - securing legal undertakings,
 - taking action in the High Court to obtain Enforcement Orders, and
 - criminal prosecutions (fines of up to £5,000 per offence).
- 1.9 Appendix A sets out full details of the legislation that we enforce in the consumer protection area and the sanctions that can be imposed.

Expectations

- 1.10 This section sets out what industry can expect from the CAA when carrying out its enforcement work and what the CAA expects from industry. The CAA will:
- deal with stakeholders in a professional and courteous way;
 - normally raise compliance issues with the business informally before taking further action. In some cases we might immediately move to formal action: this is likely to be in cases where there is significant consumer detriment and we judge that it can be remedied most effectively in this way;
 - take a consistent approach to our enforcement work;
 - consider how best to bring businesses back into compliance rather than focusing primarily on penalising previous conduct;
 - protect commercial and personal data that is provided to us in line with legal disclosure constraints;
 - aim to drive compliance through empowering consumers. We will promote awareness of passenger rights and provide information and

advice to allow consumers to take up their complaint effectively with industry; and

- have regard to the Regulator's Code¹.

1.11 Routine compliance with the law is our ultimate goal and, in order to achieve this, we expect the following from industry:

- to be aware of its legal obligations and observe them;
- when the law changes, businesses almost always have a reasonable notice period before new obligations come into force, and we expect that they will use this notice period to determine how to comply. Calculation of a reasonable period to comply begins from the date when a business knows what the law requires – and certainly not from the date when we notify a business that it is noncompliant;
- where the law appears unclear, a business disagrees with the CAA's understanding of the law, or has difficulties in ensuring compliance, we expect the business to discuss this with us;
- we expect industry to plan for the necessary changes in legal requirements and do not expect the inflexibility of (or cost of making necessary changes to) IT systems to be a valid reason to explain non-compliance; and
- we expect industry to develop internal management systems that ensure senior managers are able to both secure (and provide assurance of) compliance with legal responsibilities. We do not regard time for internal escalation as a reason to delay action to ensure compliance. Where requested, we expect businesses to co-operate with us in building confidence that these internal management systems are robust and effective.

Stages of Enforcement

1.12 We aim to achieve the right balance of formal and informal approaches, depending on what is appropriate in the circumstances. Whilst enforcement through the Courts may be the appropriate response to the most serious breaches of consumer protection legislation, we anticipate that this will be the exception rather than the rule. The diagram below shows the range of enforcement tools available to us and, at a high level, how we anticipate we will deploy these tools.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf