



A right to know

Compliance report

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Foreword by Iain Osborne

Around 210 million people fly in and out of UK airports every year. It's an exciting time for many of those passengers and the vast majority of them arrive at their destination on time.

But things can and do go wrong. Storms, heavy snow, air traffic control problems – they can all significantly disrupt journeys and, lacking support from their airline, passengers could be left stranded and without the information they need.

This is why there is a European regulation in place to protect passengers during these situations. So when disruption occurs, airlines are legally obliged to provide passengers with information about their rights; food and refreshments; and accommodation when delayed overnight. The Regulation also means airlines should arrange alternative flights if a flight is cancelled and, if that cancellation or a long delay was not due to something out of the ordinary, passengers are also due compensation.

We know that airlines are well aware of these obligations, but how good are they at meeting them?

As part of our role as the UK's enforcement body for air passenger rights, we have carried out a review of the largest airlines operating in the UK to see how well they are complying with the regulations. We've started by focusing on the element of the regulation passengers would see as the most simple for airlines to carry out during disruption: providing passengers with information on their rights. Separately, we have also looked into the way airlines are handling compensation claims for disruption caused by technical faults on an aircraft. This was the subject of a recent [Court of Appeal decision](#)¹ and is an issue of considerable public interest at the moment. We have published a separate [report](#)², alongside this one, looking at this issue.

Returning to the subject of this report, that of information on legal rights under the Regulation, we've challenged airlines to explain their processes for getting this basic information to passengers on disrupted flights at the times when they need it most. How and when do they get information to their passengers? Do they use hard copy materials or other channels? How do senior managers know whether their processes are actually implemented on the ground, and so know how well their company is performing at informing passengers during disruption?

1 <http://www.bailii.org/ew/cases/EWCA/Civ/2014/791.html>

2 www.caa.co.uk/cap1275

We've started by focusing on the element of the regulation passengers would see as the most simple for airlines to carry out during disruption: providing passengers with information on their rights

These are the sorts of issues we have discussed with airlines and the results give us – and consumers – a much clearer picture on how well airlines are performing at meeting their obligations. Although not all of the airlines included in this report responded positively to the challenge we set them, a number of airlines did and, in doing so, have really upped their game in terms of ensuring that disrupted passengers get information on their legal rights under the Regulation.

We have found a number of examples of very good practice as well as some airlines we are very concerned about. Some airlines, for example easyJet, Ryanair and Wizz Air, have very clear processes in place to provide passengers with proactive and accurate information about their rights. They also deliver training for staff on how to ensure passengers get the information they need and have a system in place to review their performance. We welcome this approach and it's something we'd like to see replicated across the industry. Many of the other airlines have good processes in place to make sure they deliver accurate information to their passengers, and we have been pleased to see that a number of these airlines have also strengthened their processes to oversee compliance.

There are three other airlines, British Airways, Emirates and Lufthansa, who are taking steps to improve compliance and we will be working with these airlines to see how effective their new processes are. We will be providing an update on these three airlines in our follow-up report later this year. There is still room for improvement.

And lastly, we have also seen that two airlines are falling well below what is expected of them from their passengers and the law. Aer Lingus is below what we view as the required compliance level and Jet2 has given us no assurances that it has the right processes to provide passengers with the required information about their rights – something we believe their passengers will be very surprised and disappointed to learn. We have begun the legal phase of our enforcement process using our powers under Part 8 of the Enterprise Act against Aer Lingus and Jet2.

It is interesting to compare these findings with those of the separate report on compensation for disruption caused by technical faults. Some of the best airline performers on information rights are in fact those where we have the greatest concerns over payment of financial compensation, and vice-versa. Jet2 is of significant concern in both areas of compliance.

So what next? As well as allowing us to present a state of the nation report on how well airlines are performing, this review is crucial to informing where to focus our activities.

So rather than picking up issues only after something has gone wrong, we are now challenging airlines to demonstrate in advance how they meet the required standards. Where they fall short, we will work with them to highlight issues and ensure they are rectified. If airlines do not make the required changes voluntarily, we will consider our options, including the use of our enforcement powers to make sure they do.

Based on the experience we have gained in developing this report, and in particular the constructive way in which many of the airlines approached the challenge we set them, we are hopeful that airlines will continue to work with us to identify where improvements can be made, and make those improvements, without the need for us to resort to formal enforcement action, which can be both costly and time-consuming for everyone and which, ultimately, should be seen as the last resort.

This is part of our new long-term approach to enforcement; one that puts the onus of compliance on airlines, and allows us to target our resources much more effectively. It's an approach that in future we will use to assess how well airlines are complying with their obligations to provide welfare to passengers during disruption and re-route them when their flight is cancelled.

We will also use this approach to publish short ad-hoc reports on specific issues where there is a strong public interest, as we have done today in the case of how airlines are handling compensation claims for disruption caused by technical faults on an aircraft.

I hope you find these reports interesting and I look forward to updating you on how our approach is working and delivering real benefits for aviation consumers.

Iain Osborne

Group Director for Regulatory Policy
Civil Aviation Authority

Introduction

1. Consumers in the UK benefit from an aviation industry that offers a wide range of services and destinations to leisure and business travellers. Each year around 2 million flights carry 210 million passengers to and from the UK³. Most of these flights operate without problem. However, every day around 70 flights on average are either cancelled or delayed by over 3 hours.
2. When flights are cancelled or delayed or passengers are refused boarding, European law (Regulation EC 261/2004, referred to hereafter as 'the Regulation') provides a set of rights that apply to all those departing from UK airports and returning to the UK on a European airline. The CAA is responsible for enforcing these rights in the UK and, as the aviation market is an international one, this means that we deal with airlines from across the world.
3. The Regulation is just over 10 years old and during this time we have dealt with a range of compliance issues with individual businesses. Traditionally, we have identified the issues and businesses to tackle based on complaints from passengers or based on information gathered during large-scale disruption. Although we have had a number of successes in tackling individual businesses on specific issues in this way, we are concerned that we may not always be tackling the most important problems under the Regulation and the airlines that are causing these problems to arise.
4. Indeed, based on a recent review of complaints data, observations at airports during disruption, passenger survey data, and data provided directly by airlines, we are concerned that the Regulation is being applied in very different ways by different airlines and that, in general, a significant proportion of passengers are not satisfied with the assistance provided to them when their flights are disrupted.
5. It is the CAA's stated aim to ensure routine compliance with consumer protection law. Given this, and given the issues highlighted above with our current approach, it is clear to us that we need a new and different approach to delivering routine compliance across the industry.

3 CAA's 2013 airport statistics (to avoid duplication domestic passengers are only counted at one reporting airport).

6. Our new approach is grounded in the view that all airlines should have systems and processes in place to make sure they comply with their legal obligations. This is simply a matter of sound corporate governance – in well-run companies, such programmes are marbled through business processes and not treated separately from running the core business. Well-run companies do not plan to fail in their legal obligations to their customers in the hope that they might not get caught. This is in-line with our approach to safety regulation and the Air Travel Organisers' Licensing (ATOL) scheme, where we are taking a performance based approach to regulation. This allows us to get a better picture of performance and to target action at the poorer performers.
7. Our new approach will therefore be to require airlines to demonstrate how they assure themselves of their own compliance with the Regulation and the steps they have in place to monitor this and deal with any identified problems. The CAA is not the only interested party in this area, and airlines' primary accountability should be to their passengers. So, in a novel approach for the sector, we will be requesting that airlines make the details of how they comply transparent to the general public. We will also use this approach to publish short ad-hoc reports on specific issues where there is a strong public interest.
8. This report is the first step in applying this approach to compliance with the Regulation. It sets out what you can expect to see from the CAA and the areas that we will focus on in the future. We are putting the responsibility for compliance firmly where it belongs – on airlines themselves. Where there is any legal uncertainty in the Regulation itself, the CAA will provide guidance on what the law requires and will set minimum standards for compliance. Formal enforcement action will be targeted at those who fall short of compliance.





Information rights

9. This first report focuses on information rights. These are fundamental to the rest of the Regulation: when passengers know what assistance should be provided and the choices they should be offered, they are much better placed to ensure they obtain their rights. The Regulation requires airlines to make sure that passengers are routinely provided with clear information about their rights during disruption. There are two key things airlines are required to do:
 - display a short notice at check-in desks reminding passengers that information on legal rights is available during disruption; and
 - provide more detailed information pro-actively to passengers when disruption happens (this is required when passengers are denied boarding, their flight is cancelled or their flight is delayed for at least 2 hours).
10. This report covers the fifteen largest airlines flying to and from the UK. The fifteen airlines covered in this report account for approximately 166 million of the passengers flying to and from the UK, or just under 80% of all passengers (see Annex 1). Our focus on the largest airlines means that our work delivers the most benefit to the largest group of consumers. In addition, focusing on a limited number of airlines in the first instance has allowed us to carry out detailed compliance work with each airline and to assess the processes and procedures they have in place to ensure information on legal rights is provided in practice. Once we have completed work with this group of airlines we will focus on the next group of airlines based on size (detailed at Annex 1).

Airline compliance reports

11. We have taken a number of steps to ensure airlines understand their obligations, can meet those obligations routinely, and can assure themselves of their own compliance (including how they monitor their compliance and deal with any identified problems). This has included producing a [leaflet](#)⁴ that airlines can use if they wish (and can tailor to include their own contact details). Alternatively, they can use the CAA text to review their own leaflets. We have also provided guidance to airlines on what the law requires them to do and the minimum compliance standard. In this case, our view is that the minimum compliance standard allows airlines to use electronic communication as their primary channel for providing information on rights, subject to them demonstrating this is effective for their own passengers, and that leaflets are also available at the airport and displayed prominently at key passenger touch points (full details are at Annex 2).
12. In August 2014 we wrote to the airlines covered by this report asking them to tell us how they ensure compliance with Article 14 and how they monitor the effectiveness of their methods for informing passengers of their legal rights at the time they are disrupted.
13. The airlines involved in this project all have different business models and include full service, low cost and charter airlines. We do not expect that each business should have the same processes and procedures in place – each business will need to tailor those procedures to fit its own operation. However, we do expect each business to be able to demonstrate that the processes they have in place are effective in ensuring the vast majority of passengers receive information about their rights when they suffer long delays and cancellations.
14. We have asked airlines to write their own contribution to this report setting out their processes to ensure compliance. Each airline has completed a template at Annex 3, so that it is easy to compare what each business has in place. A number of airlines have committed to putting additional steps in place to improve the way they provide information, or the way they oversee compliance.
15. At the end of each airline report we have included a CAA comment which provides a short summary of our assessment of the overall approach of the airline. It also includes data on the passengers carried and the estimated number of passengers affected by cancellations and long delays⁵.

4 www.caa.co.uk/CAP1126

5 This data combines the CAA's Punctuality Statistics from Heathrow, Gatwick, Stansted, Luton, Manchester, Birmingham, Glasgow, Edinburgh, Newcastle, and London City, and data on cancellations provided directly by airlines. Charter airlines tend to delay rather than cancel flights.

Questions and rankings

Questions we asked the airlines to answer

- 1. How, when and where they make hard copy information available to passengers and copies of the information provided**
- 2. The media channels they use (if any), the proportion of passengers they typically expect to reach through these channels, and examples of the information provided**
- 3. Details of their processes for assessing how effective they are in practice in informing passengers of their legal rights at the time they are disrupted**

We have benchmarked each airline's response against the minimum level of compliance set out in Annex 2. Airlines that meet this minimum standard have been given a rating of 'Good'. The airlines above and below this benchmark have also been rated. These ratings are described in more detail below:

Good

This means the following are present:

- The passenger information describes the rights accurately;
- Information is pro-actively provided to passengers affected by disruption, this can be demonstrated in one of two ways:
 - leaflets are pro-actively given to passengers who are affected by disruption, or
 - e-mails and SMS with clear information about passenger rights is provided, with leaflets prominently available at the airport (this is subject to the airline demonstrating electronic communication works for their passengers);
- There are written procedures for airline or ground handling staff, along with training;
- There is comprehensive detail on the airlines own processes to oversee compliance;
- Where relevant, the airline has given a commitment to strengthen the processes to ensure compliance.

Very good

In addition to the requirements set out for Good, the airline will have in place a range of processes which, on the face of it, should provide an even greater level of assurance.

Taking steps to improve compliance

In some cases airlines are taking steps to improve their compliance and we will be working with them to assess how effective those steps are.

Below the compliance standard

- Hard copy information is not provided pro-actively to passengers and/or it has not been demonstrated that electronic information is effective;
- There is little detail on the processes to oversee compliance, or limited processes in place.

Very good	Good	Taking steps to improve compliance	Below compliance standard
easyJet	Air France KLM	British Airways	Aer Lingus
Ryanair	Flybe	Emirates	Jet2
Wizz Air	Thomas Cook	Lufthansa	
	United		
	Thomson Airways		
	Virgin		
	Monarch		

New compliance approach

16. This section explains in more detail our compliance approach and what businesses and consumers can expect to see from our work in the future.

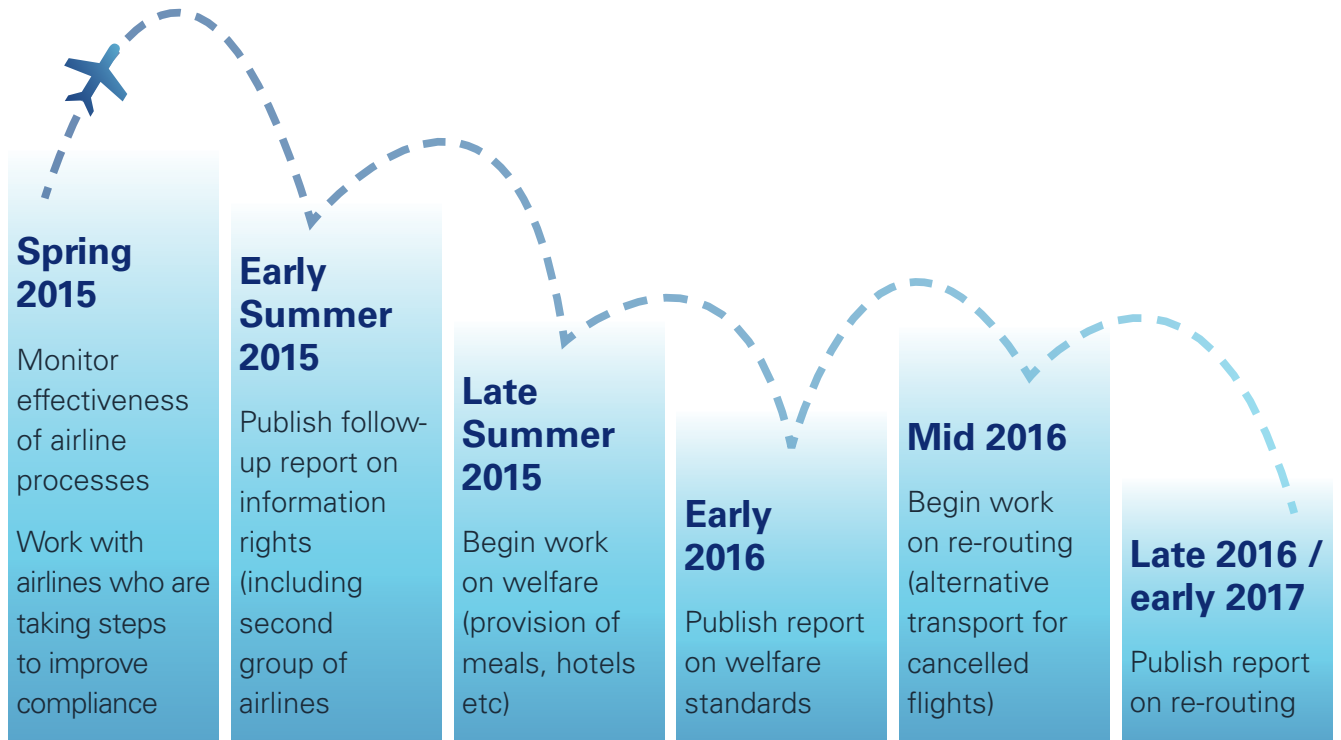
Long term strategy This report is the first part of a compliance strategy for the next 2-3 years. During that time we will focus on different aspects of the Regulation and will aim to ensure compliance across the industry. We will base our work on risk and the principles of better regulation, using our resources in the most effective and efficient way.	Clarity We have set out for consumers and businesses the issues that we will focus on and have set out later in the report a clear timetable for our work. We will consult with stakeholders on guidance on the law and minimum compliance standards. This will ensure that businesses have a clear standard against which they can assess their own compliance.
Consistency By focusing on one issue at a time with a range of businesses we will ensure that there is a level playing field. We will focus first on the largest businesses, and will use this work to drive compliance with smaller airlines (Annex 1). We won't ignore other issues that arise, but will prioritise them if they pose a risk of significant harm to consumers and require urgent action. We may publish short ad-hoc reports in each case.	Targeted Our action will be focused on businesses who refuse to engage with this new approach or fall short of the minimum compliance standards. We will allow businesses the opportunity to put steps in place to meet the compliance standards. However, any who are unwilling to do so, or fail to deliver, will be subject to enforcement action.
Industry accountability Each airline is responsible for ensuring it is compliant with the Regulation. Airlines will need to demonstrate that they have robust processes in place to ensure compliance. Our expectation is that airlines should have a culture of compliance and strong internal governance that oversees compliance.	Transparency This report is the first in a series and we intend to publish annual reports. Published alongside this is a short report on how airlines handle compensation claims where the disruption was caused by a technical fault on the aircraft. Annex 4 is written by airlines detailing their compliance processes and highlighting any steps they are taking to improve them.

Themes

We will be focusing our work on a range of specific requirements set down in the Regulation and will tackle one of these at a time.

Information rights Providing information to disrupted passengers about their rights is a fundamental aspect of the Regulation and key to ensuring passengers understand their options. Without knowing what rights they have, consumers may make different choices or may be left out-of-pocket because they paid for a service they did not need to. Consumer research has shown that passengers do not appear to be routinely getting the necessary information about their rights. In tackling this theme first, it will ensure consumers can make effective choices.	Welfare assistance This theme will focus on the assistance airlines are required to provide to passengers during disruption. It includes refreshments, meals, telephone calls, hotel accommodation and transport to and from the airport. We will first consult on the minimum compliance standards and will then ask airlines to assess their compliance against those standards.
Re-routing This theme will look at re-routing. When a flight is cancelled passengers have a choice of either taking a refund or a re-route to their destination. A re-route might be on a later service on the same airline, it might be a flight with another airline or in some cases other modes of transport might be a suitable alternative (for example a coach, train or ferry). As with the previous theme of welfare, we will first consult on the minimum compliance standards.	Financial compensation Compensation and the 'extraordinary circumstances' exemption in relation to technical faults on aircraft has been the subject of a European court case and has also been considered in the Court of Appeal of England and Wales. Following the decision of the Supreme Court to not hear an appeal against the Court of Appeal ruling, there should now be legal clarity on this issue. We are publishing a separate report on airline compliance setting out how airlines are applying these rulings in their handling of compensation claims.

Future work programme



Annex 1

Airlines in first phase of work

Airline	Passengers carried in 2013
British Airways plc	39,359,940
easyJet Airline Company Ltd	33,644,642
Ryanair	27,523,247
Thomson Airways Ltd	10,304,930
Flybe Ltd	7,359,438
Monarch Airlines	6,770,869
Thomas Cook Airlines Ltd	6,097,951
Virgin Atlantic Airways Ltd	6,075,958
Jet2.com Ltd	5,540,489
Emirates	4,162,491
Lufthansa	3,506,379
Aer Lingus	3,346,201
KLM/Air France	3,303,157
Wizz Air	2,963,036
United Airlines	2,613,621
Total	165,672,471
Proportion of passengers carried	80%
Total passengers carried to / from the UK	209,293,866

Source: CAA's 2013 airport statistics (to avoid duplication domestic passengers are only counted at one reporting airport).

Airlines in second phase of work

Airline	Passengers carried in 2013
American Airlines	2,372,534
US Airways (merged with American)	523,940
Norwegian Air Shuttle	2,209,862
SAS	1,887,083
Swiss Airlines	1,723,637
Air Canada	1,496,358
Delta Airlines	1,325,858
THY Turk Hava Yollari Turkish	1,209,081
Stobart Air	1,079,291
Qatar Airways	1,019,593
Singapore Airlines	974,459
Cathay Pacific Airways	908,747
Etihad Airways	902,125
City Jet	858,922
Germanwings	851,995
Alitalia	838,040
Total	20,181,525
Proportion of passengers carried	10%

Source: CAA's 2013 airport statistics (to avoid duplication domestic passengers are only counted at one reporting airport)



Annex 2

CAA guidance on the legal obligation

17. Recital 20 and Article 14 of the Regulation set out the obligation on airlines to provide information to passengers affected by denied boarding, cancellation or long delay:

Recital 20

"Passengers should be fully informed of their rights in the event of denied boarding and of cancellation or long delay of flights, so that they can effectively exercise their rights"

Article 14(1)

"The operating air carrier shall ensure that at check-in a clearly legible notice containing the following text is displayed in a manner clearly visible to passengers: "If you are denied boarding, or if your flight is cancelled or delayed for at least two hours, ask at the check-in counter or boarding gate for the text stating your rights, particularly with regard to compensation and assistance"

Article 14(2)

"An operating air carrier denying boarding or cancelling a flight shall provide each passenger affected with a written notice setting out the rules for compensation and assistance in line with this Regulation. It shall also provide each passenger affected by a delay of at least two hours with an equivalent notice. The contact details of the national designated body referred to in Article 16 shall also be given to the passenger in written form."

18. In our view this sets down a requirement for airlines pro-actively to provide information on legal rights in paper form to all passengers affected by denied boarding, cancellation or long delay. Article 14(2) requires information to be provided to "each passenger affected" and is supported by Recital 20 which sets out the importance that passengers are "fully informed". The use of the phrase "a written notice" in Article 14(2) indicates that the material should be presented in durable form, which does not depend on circumstances such as wi-fi access or a telephone being charged. We therefore consider that a physical document is required rather than electronic media.

19. There is an additional obligation in Article 14(1) which requires the display of a written notice telling customers to ask for the text of their rights in the event of denied boarding, cancellation or long delay. This does not mean that airlines only have to provide this information if the passenger requests it. The requirement to give notice to “each passenger affected” indicates that the obligation in Article 14(2) is not limited to a provision of information only to those who ask. In the CAA’s view, the purpose of the Article 14(1) requirement is as a form of fail-safe mechanism in the event that the airline does not pro-actively provide the required information.

Minimum compliance standard

20. As noted above, our view of the Regulation is that it requires airlines pro-actively to provide information on legal rights in paper form to all passengers affected by denied boarding, cancellation or long delay. However, we recognise that providing this information in hard copy is not the only way to communicate with passengers and that electronic channels may be more effective for some passengers. Therefore, the CAA would not take enforcement action if it was persuaded that effective communication with each affected passenger was in place using methods of compliance other than those implied by the Regulation.
21. Airlines that choose to adopt other methods for compliance, for example the use of electronic media to inform passengers of their legal rights, will need to demonstrate to the CAA that their chosen methods are effective in practice in informing each affected passenger of his/her legal rights at the time he/she is disrupted and that, as a fail-safe mechanism, information on legal rights will still be available in paper form at the airport (e.g. via a leaflet available and displayed prominently at the airline’s check in, rebooking and information desks).

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Annex 3

Questions included in airline templates

- 1) Airline Name**
- 2) UK airports where the airline operates from**
- 3) Mechanisms through which information is provided to passengers about their legal rights during disruption**
 - a) Please provide an explanation of how, when and where you provide hard copy information about passenger rights. Please specify whether your policy is to proactively provide hard copy information to disrupted passengers, or whether you make this information available passively, for example through making it available on request.
 - b) Please provide an explanation of whether, and if so how, you use electronic media channels to distribute information to passengers on their legal rights. Please specify the proportion of passengers you typically expect to reach through these channels
 - c) Please provide an explanation of whether other means are used to inform passengers of their legal rights, for example PA announcements at the airport, announcements on-board the aircraft, contact with the passenger after the event, etc.
- 4) Airline procedures and processes for informing passengers of their legal rights during disruption**
 - a) Please provide the job role(s) or team(s) accountable within your organisation for compliance with Regulation EC261, and in particular the provision of information on legal rights to disrupted passengers, both 'on-the-ground' at the airport as well as at head office.
 - b) Please provide details of the manuals/instructions which set out the procedures that airline or ground handling staff are required to follow to provide information on legal rights to disrupted passengers.

- c) Please provide details of any training provided to airline or ground handling staff on the procedures. Please specify the length and frequency of training.

5) Airline procedures and processes for assessing compliance with the requirement to inform passengers of their legal rights during disruption

- a) Please provide details of the 'pre-disruption' procedures and processes you have in place for ensuring compliance. By 'pre-disruption' we mean procedures and processes that take place regularly to ensure, for example, that Article 14.1 notices are displayed, that sufficient stocks of information rights leaflets are available, that refresher training has taken place, etc.
- b) Please provide details of the procedures and processes you have in place for assessing compliance during the disruption. Please specify whether you conduct audits or 'mystery shopping' during disruption (and, if so, their content and frequency) to ensure that information on legal rights is being provided. Please specify also whether you require reports to be produced by airline or ground handling staff for each cancelled/delayed flight (and, if so, what the report captures in relation to the provision of information on legal rights).
- c) Please provide details of the procedures and processes you have in place for assessing compliance after the disruption. Please specify whether you have procedures and processes for identifying problems with the provision of information on legal rights through passenger complaint handling (if so, please specify if this is systematic or ad-hoc). Please also specify whether you conduct surveys of passengers on disrupted flights to assess whether they received their rights under Regulation EC261, including in relation to information on legal rights.

6) Airline procedures and processes for addressing issues with compliance with the requirement to inform passengers of their legal rights during disruption

- a) Please provide details of the procedures and processes you have in place to ensure that, when issues arise in relation to the provision of information on legal rights during disruption, the necessary action is taken to ensure that these issues are addressed.