ERA feedback on the EC targeted stakeholders' consultation on the revision of EU Regulation 261/2004 and air PRM Interpretative Guidelines

29 February 2024

In the context of the ongoing revision of the Interpretative Guidelines on EU Regulation 261/2004 on air passenger rights and EU Regulation 1107/2006 on the rights of persons with disabilities and persons with reduced mobility when traveling by air, ERA would like to provide written feedback on the drafted revised texts.

1. Revision of the Interpretative Guidelines on EU Regulation 261/2004

ERA understands that the purpose of updating the Interpretative Guidelines on EU Regulation 261/2004 (EU261) is a 'technical exercise' that the European Commission (EC) is conducting, aimed at incorporating approximately 70 additional rulings to the existing text.

ERA has already had occasion to point out during each EC consultation relating to the revision of EU261 previously that airlines are subjected to the most severe regulation in terms of passenger rights, compared to the other modes of transport. **Therefore, the guidelines should provide an opportunity to answer the questions that have remained unanswered since the adoption of the regulation and to start putting an end to the legal imbalance that airlines face vis-à-vis of consumers before the various national courts.** This is even more urgent given that the revision of the entire regulation has been blocked at Council level for more than 10 years.

Over the last 20 years, EU261 has been the subject of numerous interpretations before the Court of Justice of the European Union (CJEU) which have considerably extended its scope of application to the detriment of European airlines. This judicial approach has been justified with reference to the first Preamble of Regulation 261/2004, which the CJEU interprets as a mandate to interpret the law in favour of passenger rights – by redefining, for example, delay as cancellation, contrary to the clear wording of the regulation – while lacking the capacity to carry out a proper Impact Assessment and without taking into account the impact of such approach on passenger safety, connectivity, sustainability and ticket prices, all of which deserve at least equal respect.

These court decisions are reviewed on a case-by-case basis and there is a unique story behind each case that has led to such a decision. Extracting general propositions risks inappropriately codifying principles from case specific facts.

Therefore, ERA would like to express its concerns about the inclusion of certain rulings in the revised draft text.

The concept of 'extraordinary circumstances' has been the subject of some of the most severe rulings against airlines. This is the case of the TAP Portugal ruling (Joined Cases C 156/22 to C 158/22) where the court ruled that the unexpected death of a crew member whose presence is essential to the operation of the flight i.e., the co-pilot, cannot be considered as an extraordinary circumstance under EU261. In practical terms, this would mean that each European airline should have spare pilots and crew at every airport it operates in order to be released from its obligations under EU261. This is not possible from an operational perspective and, even if it was, would considerably increase the cost of air tickets for passengers thus reducing consumer protection.

Likewise, strikes which are external to the activity of an airline, such as strikes by Air Traffic Control (ATC) or airport personnel, are extraordinary circumstances that are totally beyond airlines' control incurring vast costs which ATC and/or other staff unfortunately never reimburse. ERA invites the EC to delete the

use of the uncertain term "may" from the revised text (in Section 5.2.3. i)), for the sake of clarity and to avoid any confusion in any future litigation before national courts.

ERA acknowledges the introduction of a new section in the Interpretative Guidelines relating to passenger rights in case of massive travel disruptions, following the COVID pandemic experience and the volcanic eruption in Iceland in 2010. We agree with the general principles set out in the draft text, but we encourage the EC to be more specific in its wording when referring restrictions on air travel and/or freedom of movement by Member States as an extraordinary circumstance under EU261 (section 6.4) by using affirmative verbs instead of “should” and “may be” to avoid any misunderstanding or room for interpretation before national courts. Greater clarity would also be welcome on the duration of the right of care i.e., section 6.3, which stresses that the air carrier is required to fulfil its obligations even if the situation giving rise to those obligations lasts “for a long period”. There should be a reasonable cap on care & assistance, as airlines cannot be required to pay for several months at a time.

Furthermore, it is stated in the draft text that “metalogical conditions incompatible with the operation of the flight concerned […] are not necessarily grounds for an exemption from the obligation to pay compensation”. Some national courts consider severe weather is normal and common in certain geographical areas, which means that in such cases there is no justification to request the use of extraordinary circumstances. ERA disagrees with such an approach. Many of its airline members operate in areas subject to hard weather conditions, for example, strong winds in the Azores archipelago, in the islands of Lampedusa and Pantelleria, or heavy snow in north Norway, and in these situations EU261 should never take precedence over the decision whether to cancel the flight or not for safety reasons. It would be extremely dangerous to implement a system in which national courts or NEBs could overrule the safety assessment of a pilot.

Regarding the section on the transfer of information, ERA does not understand the rationale behind the inclusion in the revised draft text of Case AirHelp C-263/20 where the CJEU ruled that “the operating air carrier still has to pay compensation if the passenger was not informed of a flight cancellation at least two weeks before the scheduled time of departure because the intermediary (e.g. travel agent, online travel agency) with whom the passenger had the contract of carriage did not pass on this information from the air carrier to the passenger in time, and the passenger did not expressly authorise that intermediary to receive the information transmitted by that operating air carrier”.

Likewise for the inclusion of Case Ryanair DAC C-307/21 where the court ruled that even if the air carrier sent the information in good time to the only email address communicated to it in the course of the booking, without, however, being aware that the address could be used only to contact the travel agent through which the reservation had been made (and not with the passenger directly) and that the travel agent did not send the time information to the passenger in good time, meaning at least two weeks prior to the scheduled time of departure, passengers are still entitled to compensation.

In both cases, the Court does not clarify or establish any liability of the intermediary which is unfair.

Here it should be remembered that most intermediaries do not provide airlines with passenger details and so far, airlines do not have a legal right to obtain such information under the current legislative framework. It is therefore very difficult (if not impossible) for airlines to inform passengers of potential disruptions and to make refunds. This has a direct impact on airlines' compliance with EU261, without any liability being imposed on intermediaries.

In addition, it should be clarified how the airline has to confirm that the information has been provided to the passenger. In recent judgements, German courts have required airlines to provide confirmation from email servers that email notification has been sent. It is unreasonable to ask airlines to keep records of all messages sent to passengers as well as background data on the servers for a period of at least five years.

The issue of the lack of transfer of passenger details from intermediaries to airlines has finally been recognised by the EC, which has now taken steps to remedy the situation by including a clear obligation for intermediaries to share this information with airlines in the recently adopted Passenger Mobility Package. We therefore call on the EC to remove the reference to these two rulings from the draft revised text for stake of clarity vis-à-vis of the new legislative proposal.

The same reasoning applies when it is stated in the draft revised text that "if the booking was made through a third party, such as a booking platform, the onus is on the air carrier, in the event of cancellation of a flight, to offer assistance to the passengers concerned in the form, among others, reimbursement of the ticket, at the price at which it departure was bought, and, where necessary, a return flight to the first point of departure" and should therefore be corrected.

Recently, the CJEU ruled in cases C-474/22, C-54/23 that – in a situation where it is announced that a flight will likely be delayed by at least three hours beyond the originally scheduled arrival time – passengers are not entitled to compensation where they did not present themselves for check-in or where the passenger independently booked an alternative flight which allowed him or her to reach the final destination with a delay of less than three hours. ERA welcomes this new ruling and suggests that it be incorporated into the revised Interpretative Guidelines.

On the right of care, more elaboration from the EC on what is necessary, reasonable and proportionate in terms of what passengers can claim would be welcomed, in particular:

- Meals are there to sustain the passenger while he waits for the next available flight and not to include elaborate and/or expensive meals along with alcohol, for example, champagne, wines, beer, etc.
- For hotel accommodation, airlines should be allowed to offer a price range within which they will accept to reimburse where they have not been able to provide an alternative themselves.

Regarding the re-routing, and in particular transfer on the next flight available, ERA believes that airlines should only be responsible if the flight takes place at the same airport.

The role of claim farms and the application of the concept of 'reasonable measures' by national courts is also of big concern. This requires airlines to provide a negative, which is widely considered to be an impossible burden: airlines have to prove that they have done everything in their power to avoid disruption, even if the adversaries benefit from 100% hindsight. In addition, airlines also required to keep a judicial record of every flight, the administrative cost of which is crippling, especially for smaller operators.

In this respect, claim farms are now advocating the transfer of passengers by train, bus or hired cars in case of flight cancellation to enable them to reach their final destination on itineraries which, in most cases, are unknown to an airline. Stricter rules should therefore be introduced into EU261 or at least in the revised Interpretative Guidelines (in section 4.2) to limit the right of re-routing only to "connections with other airlines" to avoid negative and costly court decisions.

Overall, ERA would like to see more binding rules to supervise the activities of claim farms who take advantage of the CJEU's negative rulings against airlines to increase their revenues without really caring about consumer protection (in most cases, they withhold up to 50 per cent of the total compensation paid to passengers for the 'service' offered). Airlines should also have legislative tools at their disposal to protect themselves in case of abuse from passengers, for example, in the event of multiple complaints originating from the same passenger via several channels.

Updating the EU261 Interpretative Guidelines should not detract from or delay the revision of the Regulation itself. Regulation 261/2004, when it came into force, was intended to reduce commercial cancellations and overbooking, but due to the ever-increasing case law of the Court of Justice, it has now become a tool to deal with any disruption that passengers face. It is therefore in the mutual interest of

passengers and carriers that the applicable rules are fair, clear and enforceable. To this end, the 2013 proposal is still valid as:

- It contains a clear, non-exhaustive list of extraordinary circumstances;
- It only triggers passengers' rights after 5, 9 or 12 hours of delay (higher thresholds), which gives airlines a reasonable amount of time to find other satisfactory solutions for their passengers;
- It standardises complaints procedures and gives airlines a clear deadline for responding to a complaint;
- It harmonises the application of legislation between Member States, which benefits all stakeholders.

2. Revision of the Interpretative Guidelines on EU Regulation 1107/2006

ERA fully supports the general statement according to which persons with disabilities and persons with reduced mobility (PRMs) have the same right as all other citizens to free movement, freedom of choice and non-discrimination. This includes the right to mobility and air travel.

By way of introduction, it should be recalled that from an airline's perspective, **the implementation of PRMs rights is strictly linked to the notion of safety**.

This means that the carriage of PRMs must never impose on the safety of the aircraft and its operation. In this respect, airlines should always retain the right to refuse to transport passengers who may be a risk to themselves, other passengers and the safety of a flight. In practice, it is for the commander of the aircraft to determine if a passenger should be carried. If he or she feels that the passenger is unable to follow safety instructions or could bear a risk to other passengers and crew in the event of unusual, safety related, circumstances then he or she reserves the ultimate right to refuse travel.

ERA supports the principle stated in the revised Interpretative Guidelines according to which the refusal to carry must not be due to the commercial policy of the airline concerned, and in the case of denied boarding for safety reasons, the airline should notify the detailed reasons for this to the PRM.

ERA welcomes any improvement in the effectiveness of pre-notification but believes that airlines should always be able to set their own rules. Pre-notification is a key element for the correct assistance of PRMs, both on board the aircraft and within the airport terminal. It ensures that an airline is able to confirm its ability to accept the PRM on board and make the necessary arrangements to properly carry the PRM.

The absence of pre-notification, or the failure to clearly indicate the extent of disabilities in the dedicated form, means that the airline cannot always guarantee carriage of the passenger. In addition, late notifications significantly limit the ability of airlines and airports to handle genuine PRMs efficiently and effectively. Such situations should under no circumstances constitute a source of sanctions for the airline.

For safety reasons, an airline may require a PRM to travel with an accompanying person each time the PRM is unable to perform essential tasks on board of the aircraft such as fastening the seatbelt, evacuating the aircraft in the event of emergency, getting up from the seat or even finding the way to the toilet.

Therefore, ERA disagrees with the statement set in the drafted revised text according to which PRM cannot be required to travel with a safety assistant for the sole reason that they are not self-reliant regarding tasks related to their comfort on board an aircraft - including not being able to use the toilet alone. In most cases, if a PRM is unable to make their way to the toilet, there is a chance that they will also be unable to evacuate the aircraft on their own in the event of a safety emergency, which then raises a safety concern for all passengers on board. In this type of situation, there can be no discretion on the part of the PRM as to whether or not the accompanying person is required.

In addition, this is also a safety issue for the crew. Cabin crew keep a close eye on passengers who are not self-sufficient, as it is in a person's nature to worry and focus on less fortunate passengers. As a result, their attention is narrowed to this passenger, regardless of how well they objectively are trained. Furthermore, ERA would like to express its concerns on the new measure introduced by the EC as part of the Passenger Mobility Package aimed at requiring airlines to carry for free the PRM accompanying person whenever this is required by their commercial policy.

ERA regional airlines operate small regional aircraft on short haul flights to provide essential connectivity for local communities, who often travel for medical reasons i.e., to a hospital on another island or in a bigger city. On the Dash 8-100 and Dash 8-200 aircraft for instance, there is one cabin crew member for 39 passengers and in the event of an emergency, this person is responsible for evacuating the entire cabin in a very short time. In such a situation, the PRM accompanying person is essential to evacuating the aircraft as the safety issue is real.

Therefore, if the PRM accompanying person's tickets are to be distributed free of charge, this could take up to one third of the seats on small regional aircraft which would be costly and have a huge impact on airlines with small fleets. We believe that regional airlines will be more penalised compared to other airlines operating on the same route with three or four cabin crew members, which will be able to afford greater flexibility with regard to accompanying persons. Once again, it is the passenger who will be penalised in the end, as this sum will be recovered through an increase in ticket prices. ERA is also concerned that such a measure could lead to potential risks of abuse.

ERA observes that the issue of introducing clear definitions of assistance dogs, mobility and medical equipment has not been addressed within the draft revised air PRM guidelines, which is a missed opportunity. For such definitions, the existing European legislation on PRM assistance when travelling by air should strive to align with the legislation of non-EU countries to ensure that PRM passengers can easily transit to connecting flights of non-EU carriers. A divergent interpretation of such rules could thus hamper their freedom of movement.

EU Regulation 1107/2006 (EU1107) refers to recognised assistance dogs but then does not define "recognised". Some airlines accept dogs that have been trained by organisations accredited by Assistance Dog International (ADI) and the International Guide Dog Federation (IGDF), however a proper legal definition would considerably assist airlines in this area. Clarity is also required so that passengers do not confuse assistance dogs with the emotional support animal that is not accepted on board due to not being adequately trained to the same standards. Unfortunately, some passengers abuse the system to the detriment of those who really need an assistance dog.

Furthermore, in some cases assistance dogs are so large that they cannot fit into the space allocated. These dogs, even if properly trained, cannot be accepted on board an aircraft because of their large size which poses a safety risk in the cabin. Additional guidelines on this subject would therefore be of great help to airlines as well.

Additionally, ERA argues that there is a need for a clear definition on liability for transport of mobility equipment from the airport terminal to the aircraft and the liable party in this respect i.e., who should load wheelchairs and medical equipment on board aircraft within a specific timeframe in relation to the scheduled departure time in order to not cause delays. These rules should consider that wheelchairs and other medical equipment have become heavier and more technologically complex (drive and mechanic systems).

Finally, airlines should also have the right to refuse to transport mobility equipment on grounds of safety. In particular, airlines should be able to set their own rules and conditions associated with the carriage of oxygen including portable oxygen generators on both safety grounds and in the interest of passengers' health as not all aircraft are able to provide for the carriage of medical oxygen and not all types of medical oxygen equipment can be carried.

Moreover, ERA supports the implementation of training programmes for all actors in the air transport value chain to improve the service provided to PRMs and ensure the effective application of the rules. Such training must be proportionate and realistic.

Finally, the charges levied on airlines by airports for PRM assistance requires greater transparency on the methods imposed and used to calculate these charges. The calculation and implementation of charges should be fair for the service provided and harmonised across the EU, as the system is sometimes open to abuse i.e., certain airports set much higher charges than others, without justification and without open accounting for the use of the money.

Annex – Detailed comments per paragraph on the revised draft text of the EU261 Interpretative Guidelines

Paragraph	Proposed new text	ERA comment
3.1.1. Denied Boarding CJEU Case C-474/22 C-54/23	In the light of the foregoing, the answer to the first question is that Article 3(2)(a) of Regulation No 261/2004 must be interpreted as meaning that, in order to be entitled to the compensation provided for in Article 5(1) and Article 7(1) of that regulation in the event of a long delay of a flight, namely a delay of three hours or more after the arrival time originally scheduled by the air carrier, an air passenger must have presented himself or herself for check-in in good time or, if he or she has already checked in online, must have presented himself or herself at the airport in good time to a representative of the operating air carrier.	This is an important judgement by the CJEU as it addresses and clarifies an issue that leads to dispute and legal uncertainty frequently. It should be therefore inserted in the revised text.
4.2. Right to reimbursement, re-routing or rebooking in the event of denied boarding or cancellation	If the booking was made through a third party, such as a booking platform**, the onus is on the air carrier**, in the event of cancellation of a flight, to offer assistance to the passengers concerned in the form, among others, **reimbursement of the ticket, at the price at which it was bought**, and, where necessary, a return flight to the first point of departure.	This wording should be corrected to bring it into line with the provisions of the EC Passenger Mobility Package (i.e. the provisions relating to ticket reimbursement procedure). Otherwise, there would be two different standards which may once again create confusion. The text must specify that liability does not lie with the air carrier, but with the intermediary who made the reservation and sold the ticket.
4.2. Right to reimbursement, re-routing or rebooking in the event of denied boarding or cancellation	In order for the operating air carrier to be exempted from its obligation to pay compensation under Article 7, it must deploy all the resources at its disposal to ensure reasonable, satisfactory and timely re-routing, including seeking alternative direct or indirect flights which may be operated by other air carriers, whether or not belonging to the same airline alliance, arriving at a scheduled time that is not as late as the next flight of the air carrier concerned. Therefore, it is only where there are no seats available on another direct or indirect flight enabling the passenger concerned to reach his or her final destination at a time which	The second part of this paragraph is based on a ruling concerning a very specific disruption and its management by the airline. In this form, it is too complicated, too detailed and will lead to a multitude of new interpretations and total confusion. Therefore, the second part should be deleted. We suggested the following paragraph in bold: **In order for the operating air carrier to be exempted from its obligation to pay compensation under Article 7, it must deploy all the resources at its disposal to ensure reasonable, satisfactory and timely re-routing,**

	is not as late as the next flight of the air carrier concerned, or where the implementation of such re-routing constitutes an unbearable sacrifice for that air carrier in the light of the capacities of its undertaking at the relevant time, that that air carrier must be considered to have deployed all the resources at its disposal by re-routing the passenger concerned on the next flight operated by it.	**including seeking alternative direct or indirect flights which may be operated by other air carriers, whether or not belonging to the same airline alliance, arriving at a scheduled time that is not as late as the next flight of the air carrier concerned.** Finally, the proposed text is in contradiction with **"**5.3. Reasonable measures an air carrier can be expected to take in extraordinary circumstances", a paragraph which ERA fully supports.
4.2. Right to reimbursement, re-routing or rebooking in the event of denied boarding or cancellation	Limiting the re-routing obligation of airlines to airline flights only.	In order to avoid unjustified unilateral decisions by passengers to replace air transport with a hire car, taxi, etc. to the destination of their choice [whose practice is often advocated and encouraged by claim farms leading uncontrollable and unjustified costs as well as litigation on cases constructed "a posteriori"] the Guidelines should limit the obligation for airlines to reroute the passengers on its own network or via other airlines.
4.3.2. Provision of meals, refreshments and accommodation	Regarding the obligation to offer hotel accommodation free of charge, the Court has clarified that this does not mean that the air carrier is required to take care of the accommodation arrangements as such. The air carrier therefore cannot be required, on the basis of Regulation (EC) No 261/2004 alone, to compensate a passenger for damage caused by fault on the part of employees of the hotel in which the accommodation is provided.	ERA believes that it is important to clearly define the quality of care, meaning, what is necessary, reasonable and proportionate in terms of what passengers can claim. In particular: - Meals sufficient to sustain the passenger while waiting for the next available flight and not to include elaborate or expensive meals along with alcohol, but soft drinks or other non-alcoholic beverages. - For hotel accommodation, airlines should be allowed to offer a price range within which they will accept to reimburse in the case where they have not been able to provide an accommodation themselves.
4.4.6. Obligation to inform passengers	The operating air carrier still has to pay compensation if the passenger was not informed of a flight cancellation at least two weeks before the scheduled	These are absurd and unfair rulings, which do not take account of a balanced approach in terms of the liability of the various players (i.e.

	time of departure **because the intermediary with whom the passenger had the contract of carriage did not pass on this information from the air carrier to the passenger in time**, and the passenger did not expressly authorise that intermediary to receive the information transmitted by that operating air carrier. Similarly, the operating air carrier must pay the compensation provided for by Article 5(1)(c) and Article 7 of Regulation No 261/2004 in the event of a flight cancellation of which the passenger was not informed at least two weeks prior to the scheduled time of departure, **where that air carrier sent the information in good time to the only email address communicated to it in the course of the booking, without, however, being aware that that address could be used only to contact the travel agent,** through which the reservation had been made, **and not the passenger directly and that that travel agent did not send the information to the passenger in good time**, meaning at least two weeks prior to the scheduled time of departure.	airlines and intermediaries) towards the passenger. This paragraph also contradicts the new rules contained in the Passenger Mobility Package. The ruling should therefore be repealed or at least amended by ensuring that the failing party is liable for the compensation.

5. Extraordinary Circumstances 5.1. Principle	As a derogation from the main rule, i.e., the payment of compensation, which reflects the objective of consumer protection, it the exemption in Article 5(3) must be interpreted strictly. Therefore all the extraordinary circumstances which surround an event such as those listed in Recital 14 to Regulation (EC) No 261/2004, i.e. political instability, meteorological conditions incompatible with the operation of the flight concerned, security risks, unexpected flight safety shortcomings and strikes that affect the operation of an operating air carrier, **are not necessarily grounds for an exemption from the obligation to pay compensation, but require a case-by-case assessment.**	The fact that events that are clearly uncontrollable, such as those listed in recital 14, are considered as "not necessarily constituting grounds for exemption from the obligation to pay compensation" is, once again, a formulation that encourages uncertainty and grey zones of interpretation that should be corrected in the context of a much-needed revision of Regulation 261/2004. In addition, such wording is in direct contradiction with the principle of passenger safety and protection. With the future revision of Regulation 261/2004, a non-exhaustive list of extraordinary circumstances should be drawn up in cooperation with all stakeholders as a final reference. This means that it is not only events for which a court has handed down a judgement that should appear on this list.
5.2.2. Internal events	Unexpected absence of crew members. The unexpected absence – **due to illness or even the unexpected death of a crew member whose presence is essential to the operation of a flight** – which occurs shortly before the scheduled departure of that flight, does not fall within the concept of 'extraordinary circumstances' within the meaning of Article 5(3) of Regulation (EC) No 261/2004.	This is an absurd and even abusive interpretation of the regulation. Even if it is an "internal event", illness or even death are beyond the airline's control. The airline cannot be expected to provide reserve crews and bear these additional costs to cover all flights departing from an external hub. The text should be amended to define death and illness as extraordinary circumstances.

5.3. Reasonable measures an air carrier can be expected to take in extraordinary circumstances	In other words, where such circumstances do arise, it is incumbent on the operating air carrier to demonstrate that it adopted measures appropriate to the situation, deploying all its resources in terms of staff or equipment and the financial means at its disposal in order to avoid the delay or cancellation of the flight in question. It cannot, however, be required to make sacrifices that are intolerable in the light of its capacities at the relevant time.	ERA welcomes the introduction of this new paragraph. However, it conflicts with the new text introduced in point 4.2 (f). Clarification is therefore required.
5.4. Extraordinary circumstances on a previous flight with the same aircraft	In order to be exempted from its obligation to compensate passengers in the event of a long delay or cancellation of a flight, an operating air carrier may rely on an 'extraordinary circumstance' which affected a previous flight which it operated using the same aircraft, provided that there is a direct causal link between the occurrence of that circumstance and the delay or cancellation of the subsequent flight. In another case the Court specified that an extraordinary circumstance may be relied on in case of a long delay in arrival which affected not that delayed flight but a previous flight operated by that air carrier using the same aircraft at aircraft turnaround three flights back in the rotation sequence of that aircraft, provided that there is a direct causal link between the occurrence of that circumstance and the long delay of a subsequent flight in arrival.	ERA welcomes the introduction of this new text as it reasonably considers operational realities that faces airlines.
6.3. Right to care	Regulation (EC) No 261/2004 does not contain any provisions that recognise a separate category of 'particularly extraordinary' events, beyond the 'extraordinary circumstances' referred to in Article 5(3) of that Regulation. **The air carrier is therefore required to fulfil its obligations, including those under Article 9 of Regulation (EC) No 261/2004, even if the situation giving rise to those obligations lasts for a long period.** Passengers are especially vulnerable in such circumstances and events. Where exceptional events occur the intention of Regulation (EC) No 261/2004 is to ensure that adequate care is provided in particular to passengers	The text obliges the airline to extend passenger care for indefinite periods, which is unacceptable. This was the case during the volcanic eruption of 2010. Following this, several discussions took place with the European Commission to understand that there should be a limit on the time airlines are obliged to provide material care to passengers, even if these events are beyond their control. Passenger care refers to absorbing the costs of food, drink and accommodation, and possibly alternative modes of transport. A limit must therefore be set in terms of financial support from airlines. In the volcano case, it was the authorities of the Member States who closed the

	waiting for re-routing under Article 8(1), point (b) of Regulation (EC) No 261/2004.	airspace and decided to open it up. In this case, therefore, the same decision-making authority shares responsibility towards the consumer, and must relieve the airlines of their financial support obligations after a set period.