

CANADIAN TRANSPORTATION AGENCY requested to airlines to submit their comments on *new airline refund requirements*. In accordance, TRANSPORTES AÉREOS PORTUGUESES, S.A ("TAP"), hereby submits its comments, as follows:

1. The entitlement to a refund will apply if the airline cannot complete the passenger's itinerary within a reasonable time. In the context of an event outside of an airline's control - such as a border closure, security incident, or volcanic eruption - what should be considered a "reasonable time" for completing a passenger's itinerary?

In accordance with its experience, TAP considers that *reasonable time* may be checked by two criteria:

1. When it is foreseeable the flight's performance after the event outside the carrier control, that should be the *reasonable time*. For example, in case of a volcanic eruption or bad weather, weather forecasts may give to airlines a reasonable time frame which will allow airlines to reschedule passenger's flights. Also, in the case of airport / air space restrictions, slot messages may provide a reasonable timeframe to reschedule / perform the flight.
2. When it is not foreseeable the flight's performance (as in Covid-19 pandemic) passengers may be entitled to complete their itinerary at its best convenience, defining what is a *reasonable time*. As such, airlines should provide to its passengers the possibility to reschedule its flights, defining what is the reasonable time.

2. The entitlement to a refund could potentially apply not just in the context of a flight cancellation, but also a "lengthy delay." What should be considered a "lengthy delay" ?

A lengthy delay should be the delay above 5 hours from the original scheduled (this is the definition given by the European Regulation (EC) 261/2004.

3. What should a refund cover? For example:

A refund should cover different items depending on the circumstances:

1. If a flight disruption happens and the airline cancels a flight / the flight incurs in a lengthy delay; passenger is entitled to be refunded by the ticket total amount (including all services acquired);
2. If no flight disruption is observed and passengers decides to ask for a refund, it should correspond to the amount defined in airline tariffs.

4. How should airlines be required to refund passengers? For example:

Airlines should refund its passengers at its own will between two options: by using the same method used to buy the ticket or; by other forms offered by airlines such as voucher or rebates. In the last case, passenger choice should be clearly submitted by email or on the airline website (passenger consent).

5. How much time should airlines have to provide refunds to passengers under the new requirements?

Airlines should have at least 30 days to conclude the refund analyses and to approve the refund. Please note that at the end of that proceedings, the refund amount will be sent to passenger's credit institution.

6. a) Should there be greater flexibility in the requirements for certain types of airlines, or in certain situations? For example:

The airline size, operation and financial condition should be considered in order to give to the airlines greater flexibility.

b) If so, in what areas should flexibility be given? For example, should there be a different:

The time to provide a refund should be different considering the airline size, its operation and its financial liquidity , so it may possible to avoid bankruptcy.

7. Events since March have shown that some situations caused by a pandemic are outside of airlines' control, while others may be within airlines' control. An airline's business decision to consolidate flights during a pandemic could sometimes be considered within its control, while government travel restrictions, employee quarantine or self-isolation, and additional hygiene procedures are examples of pandemic-related situations [the CTA considers](#) outside airlines' control. Are there other, specific pandemic-related situations that you think should be considered either within or outside airlines' control?



TAP believes that flight cancellation due to lack of passengers (who decided not to travel and request a refund / rerouting) should be considered as being outside airline's control. In fact, airlines should not be obliged to operate an (almost) empty flight since it has negative environmental and financial effects.

8. The CTA will consider the legal frameworks in the European Union (EU) and the United States (US) in developing the new regulation on refunds. What particular aspects of these frameworks should the CTA consider?

CTA should consider the definition of extraordinary circumstances as defined on the Regulation 261/2004 amendment proposal; and a "lengthy delay" as a delay for a period of at least 5 hours, as defined in regulation 261/2004.

Lisbon, 01.03.2021.