

CTA CONSULTATION ON REFUND REQUIREMENTS

IAG INTERNATIONAL AIRLINES GROUP RESPONSE

Q1: 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?

A minimum of 72 hours from the end of an event that is outside of the control of the airline should be considered as a 'reasonable time'.

Q2: 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 refund should only be payable if a customer decides not to travel in the event of a 'lengthy delay'. For international flights departing Canada, 'lengthy' should refer to delays of more than 9 hours for flights > 3500km and 12 hours for flights > 6000km. This is in line with suggested reforms to Regulation EU261. The requirement should be limited to delays at the point of departure. We base our definition of 'lengthy' on the fact that airlines should be given a sufficient amount of time to recover a delay situation before refunds are applicable. Additionally, if a 'lengthy' delay is notified to customers a minimum period pre departure (e.g. 12 hours) and an alternative routing offered, the requirement to refund should not apply.

Q3: What should the refund cover? For example:

- **The unused portion of the passenger's ticket**
- **Any additional services the passenger purchased but did not use (for example seat selection or extra baggage)**
- **The full cost of the passenger's ticket if their trip no longer serves a purpose because of the flight disruption.**

The refund should cover the unused portion of the ticket rather than the whole itinerary, or the full cost of the ticket if the trip no longer serves its purpose.

Q4: How should airlines be required to refund the passenger? For example:

- **Using the same method used to buy the ticket.**
- **In monetary form (for example cash, cheque or a bank account deposit).**
- **Passenger's choice of money or other forms offered by the airline (such as vouchers or rebates).**

Refunds should be made using the same method as was used to purchase the ticket, or via an offer of vouchers if accepted by the customer as an alternative.

Q5: How much time should airlines have to provide refunds under the new requirements?

Under normal circumstances, a minimum of 7 working days should be sufficient for airlines to provide refunds to customers. This would be in keeping, for example, with the requirements under EU261. However, in circumstances where mass cancellations are driven

by events outside an airline's control (e.g. pandemic driven travel restrictions and border closures), this may well be insufficient and more time will be required. In such cases, and as our response to Q6 (b) explains, a minimum of 30 days would be more appropriate.

Q6 (a): Should there be greater flexibility in the requirements for certain types of airlines or certain situations? For example:

- **Based on airline size (smaller airlines may be, for example, less able to recover quickly after an event outside their control).**
- **If an airline provides essential services (for example to remote, regional or northern communities).**
- **If the event is large scale (as opposed to an isolated event like collision with wildlife).**
- **If an event could threaten an airline's financial viability (for example, one that results in operations being shut down for months).**

Certain large-scale situations merit provisions that give more flexibility. These could be defined as circumstances such as pandemic related travel restrictions/border closures, widespread closure of airspace, prolonged and widespread weather disruption, the grounding of an aircraft type or fleet due to safety reasons. At minimum the regulations should allow for increased flexibility in terms of the time permitted to process refunds and the possibility of offering alternatives to monetary compensation.

Q6 (b): If so, in what areas should flexibility be given? For example, should there be a different:

- **definition of 'lengthy delay'.**
- **Deadline to provide a refund to passengers.**

We refer to the answer to Q2, stating the definition of 'lengthy' should be sufficient to allow all airlines operating international flights to/from Canada, including airlines based outside Canada time to attempt to recover a delay situation before the refund requirement is applicable. As set out above, in those circumstances, a delay of 12 hours or more seems appropriate.

Refund deadlines need to be flexible enough to meet the scale of the event. In the early stages of the pandemic, rerouting was not an option for many carriers. Airlines were faced with mass refunds (millions of customers) and this created huge backlogs. At the same time, airlines (and industry more widely) had to secure the safety of their staff. Many airline staff who were processing the refunds had to adjust to home working at short notice with an inevitable impact on response times to customer requests. The pandemic experience has shown that periods as short as 7 days, whilst achievable in normal times, were not appropriate under pandemic conditions. We refer again our answer to Q5, that it is vital airlines be given a minimum of 30 days to process refunds under such conditions.

Q7: 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?

Factors that are reasonably beyond an airline's control (and can be seen to be reflected in, for example, guidance on the application of EU261, or reasons for the justified non-operation) include:

- a partial or total closure of the border or airspace, or a partial or total closure or reduction of capacity of the airport for a substantial period,
- travel restrictions based on nationality or place of residence, prohibition of all except essential travel, or bans on flights from or to certain countries or geographical areas,
- restrictions of movement or quarantine or isolation measures within the country or region where the airport of destination is located (including intermediate points),
- restrictions on the availability of services essential to support directly the operation of an air service,
- restrictions on airline crew movements significantly hampering the operation of air services from or to the airports served, including sudden bans on entry or the stranding of crew in unexpected locations due to quarantine measures.

Q8. 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 that whilst the Regulation EU261 requirement to refund customers within 7 days is workable under normal circumstances, as set out above, it is inadequate where instances of prolonged mass cancellations occur. EU policy makers have recognised the limitations of the Regulation in several areas, and proposals have been advanced to improve it, the revision process having been delayed for political reasons. The new CTA regulation needs to recognise that if it is to encompass events beyond the control of airlines, a 'one size fits all' approach will not work. Flexibility needs to be built in to deal with the specifics of extraordinary circumstances. Equally, the regulation should not be so prescriptive that it prevents airlines from offering more to their customers, as has happened in the US during the pandemic where airlines were able to offer vouchers in excess of the value of the ticket as an alternative to monetary compensation.

End.