



10 March 2016

Dear Colleagues,

Re. Alternative Dispute Resolution (ADR); Online Dispute Resolution (ODR)¹ and notice provisions under Regulation (EC) 261/2004

We have written to you previously as regards your duties under the Trader Information Requirements under Regulation 19 (as amended) of the ADR Regulations². I am writing to you again to inform you that we are commencing a compliance project as regards these duties, the details of which are set-out below and require actions to be taken by airlines.

To assist airlines with their own compliance we have provided in annexes to this letter a flow chart; summaries of requirements; and example text. These incorporate information set out in the recent joint CAA & DfT letter, dated 3 March 2016, on “Changes to the CAA’s policy on consumer complaint handling and ADR”. They are not intended as a substitute for reading the legislation³ or obtaining your own legal advice.

Compliance project – actions required to be taken by airlines

To assure ourselves that your airline is systematically complying with the requirements of the ADR Regulations, we request that you provide us with the following information:

1. Confirmation, or otherwise, that you have contracted with an ADR provider to handle your customer complaints.
2. Where you have contracted with an ADR provider to handle your customer complaints, the identity and contact details of this ADR provider and confirmation, or otherwise, that it has been approved by a Competent Authority in an EU Member State for handling aviation complaints.
3. A sample copy of the ‘deadlock’ letter you are using (i.e. the letter which meets the requirements of Regulation 19(2)). See Annex 7 for an explanation regarding the term ‘deadlock’.

¹ The ODR platform can be found on this link: <http://ec.europa.eu/odr>. Guidance from the [Department for Business, Innovation and Skills](#) and a factsheet from the [European Commission](#) are available.

² The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (as amended by) The Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015.

³ A consolidated set of Regulations is provided on our website at the following link: <http://www.caa.co.uk/Commercial-industry/Airlines/Alternative-dispute-resolution/>.

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4. Where relevant (see annexes), screenshots from your website and an extract from your terms and conditions of sale which meet the requirements of Regulation 19(1)(a) and (b).
5. Screenshots of the ODR information on your website which meet the requirements of Regulation 19A(3) and, where relevant (see annexes), Regulation 19A(1).

Note that the CAA has legal powers under the Enterprise Act 2002 and the Consumer Rights Act 2015 to take enforcement action over infringements of the provisions of the ADR Regulations and Regulation (EC) 261/2004.

Please send electronic copies of the information required above to consumerenforcement@caa.co.uk by **8 April 2016**.

If you have any concerns about meeting this deadline or you need any clarification please contact Katherine Smith (katherine.smith@caa.co.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Buffey', with a long horizontal flourish extending to the right.

Matthew Buffey
Head of Consumer Enforcement

Enclosures. List of annexes; Annexes 1-7.

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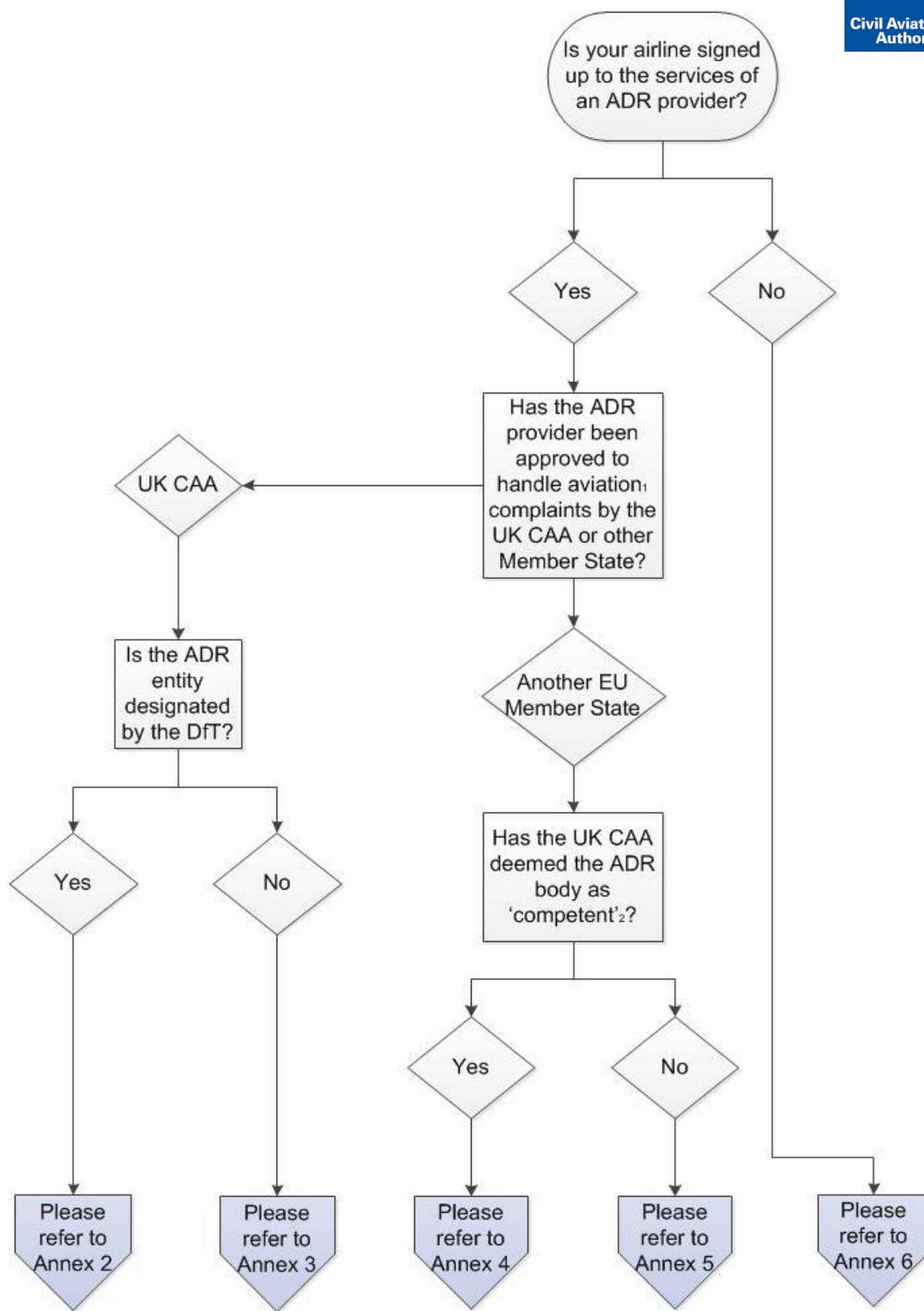
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Annex 4 - Summary of requirements and example text	Airline is signed up to an ADR scheme provided by an ADR body approved by a Competent Authority in another EU Member State (to handle aviation complaints) and which the CAA has deemed 'competent' ⁶ ; and is not designated by DfT.
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⁴ Airlines can keep themselves informed of ADR bodies which have been approved by the UK CAA via this webpage: <http://www.caa.co.uk/Commercial-industry/Airlines/Alternative-dispute-resolution/>.

⁵ Designated to handle complaints under Regulation (EC) 261/2004 and Regulation (EC) 1107/2006.

⁶ Should your airline be considering using an ADR body approved by another European Member State please contact the UK CAA as you may need to demonstrate that ADR body's 'competency' so as to meet your obligations as regards the Trader Information Requirements.



¹ Consumer complaints for disputes stemming from aviation services contracts.

² Should your airline be considering using an ADR body approved by another European Member State please contact the UK CAA as you may need to demonstrate that ADR body's 'competency' so as to meet your obligations as regards the Trader Information Requirements.

Annex 2 - Airline is signed up to an ADR scheme provided by an ADR entity approved by the CAA and designated¹ by DfT.

ODR provisions of Regulation 19A	Notice provisions under Article 14(2) of Regulation (EC) 261/2004 ²	ADR Regulation 19 – complaints concerning Regulations (EC) 261/2004 & (EC) 1107/2006	ADR Regulation 19 – other complaints ³
<p>Airline <u>must</u>:</p> <ul style="list-style-type: none"> • Provide a link to the ODR platform on its website and explain that this may be used to resolve complaints; • On its website, provide consumers with an email address of the trader to which complaints can be addressed. (It is the CAA’s view that an online form is not an acceptable means of compliance; rather, it must be an email address.) <p>Airline <u>must</u> also:</p> <ul style="list-style-type: none"> • Provide a link to the ODR platform in any offer made by email; • Inform consumers of the ODR platform and that they may use the platform for resolving disputes; • Include information on ODR in their online terms and conditions of sale. 	<p>Airline <u>must</u> inform consumers of the contact details of the ADR entity it is signed up to at the point required by Article 14(2).</p>	<p>At the point of ‘deadlock’ (see annex 7) of the complaint, the airline <u>must</u> inform the consumer on a durable medium:</p> <ul style="list-style-type: none"> • That the airline cannot reach agreement with the consumer; • The name and web address of the ADR entity to which the airline is signed up; • Whether the airline is obliged or prepared to use the services of this ADR entity for this complaint. <p>Airlines <u>must</u> also provide the name and web site address of the ADR entity on its website and also in its terms and conditions of sale.</p>	

¹ Designated to handle complaints under Regulation (EC) 261/2004 and Regulation (EC) 1107/2006.

² Under Article 14(2) of Regulation (EC) 261/2004, in the event of denied boarding, cancellation, or long delay, airlines are required to provide consumers with a written notice setting out their rights under the Regulation and the contact details of a designated complaint handler.

³ For example in relation to baggage under the Montréal Convention or in relation to general disputes arising where the consumer alleges that the business is not trading fairly.

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Annex 2 cont. - Example text for 'deadlock' letter and website, where the airline is signed up to an ADR scheme provided by an ADR entity approved by the CAA and designated by DfT.



Letter: *"This letter represents our final consideration of your complaint. If you are not happy with the outcome you can refer your complaint to [Insert name and website of an approved ADR entity]. [Insert name of approved ADR entity] is approved by the Civil Aviation Authority to provide dispute resolution services and an independent view of your complaint under the Alternative Dispute Resolution (ADR) for Consumer Disputes (Competent Authorities and Information) Regulations 2015. You will need to refer your complaint to them within 12 months of this letter.*

[Insert name of airline] is signed up to the services of [insert name of approved ADR entity] and is therefore willing to submit itself to its ADR procedure.

As a consumer you may use the European Commission's online dispute resolution platform to submit your complaint if you wish. This can be done by completing the electronic form available via this link: <http://ec.europa.eu/odr>."

Website: *"If you would like to make a complaint please contact our customer relations team who can be contacted at: [airline's e-mail address]. More information on our complaints procedures can be found [insert link].*

If for any reason you are unhappy with our response to your complaint, you can refer your complaint to [Insert name and website address of an approved ADR entity] who are approved by the Civil Aviation Authority to provide an independent review of complaints and dispute resolution services. You will need to refer your complaint to them within 12 months after our final response.

[Insert name of approved ADR entity] can be contacted on: [Insert contact details]. Or, you may use the European Commission's electronic form: <http://ec.europa.eu/odr>."

ODR provisions of Regulation 19A	Notice provisions under Article 14(2) of Regulation (EC) 261/2004 ²	ADR Regulation 19 – complaints concerning Regulations (EC) 261/2004 & (EC) 1107/2006	ADR Regulation 19(2) – other complaints ³
<p>Airline <u>must</u>:</p> <ul style="list-style-type: none"> • Provide a link to the ODR platform on its website and explain that this may be used to resolve complaints; • On its website, provide consumers with an email address of the trader to which complaints can be addressed. (It is the CAA’s view that an online form is not an acceptable means of compliance; rather, it must be an email address.) <p>Airline <u>must</u> also:</p> <ul style="list-style-type: none"> • Provide a link to the ODR platform in any offer made by email; • Inform consumers of the ODR platform and that they may use the platform for resolving disputes; • Include information on ODR in their online terms and conditions of sale. 	<p>Airline <u>must</u> inform consumers of the contact details of the CAA’s complaint handling service PACT at the point required by Article 14(2).</p> <p>At the same time, it <u>may</u> also provide the contact details of the ADR entity to which it is signed up, and set out the benefits of this scheme (e.g. decisions binding on the airline) should the consumer wish to make a complaint.</p>	<p>At the point of ‘deadlock’ (see annex 7) of the complaint, the airline <u>must</u> inform the consumer on a durable medium:</p> <ul style="list-style-type: none"> • That the airline cannot reach agreement with the consumer; • The name and web address of the ADR entity to which the airline is signed up; • Whether the airline is obliged or prepared to use the services of this ADR entity for this complaint. <p>At the point of ‘deadlock’, the airline <u>may</u> also signpost the CAA’s complaint handling service PACT.⁴</p> <p>Airlines <u>must</u> also provide the name and web site address of the ADR entity on its website and also in its terms and conditions of sale.</p>	<p>At the point of ‘deadlock’ of the complaint, the airline <u>must</u> inform the consumer on a durable medium:</p> <ul style="list-style-type: none"> • That the airline cannot reach agreement with the consumer; • The name and web address of the ADR entity to which the airline is signed up; • Whether the airline is obliged or prepared to use the services of this ADR entity for this complaint. <p>Airlines <u>must</u> also provide the name and web site address of the ADR entity on its website and also in its terms and conditions of sale.</p>

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³ For example in relation to baggage under the Montréal Convention or in relation to general disputes arising where the consumer alleges that the business is not trading fairly.

⁴ Although this is not a legal requirement of the ADR Regulations, since it is the shared view of the CAA and DfT that, for complaints under Regulations (EC) 261/2004 and Regulation (EC) 1107/2006, all consumers should be able to make a complaint to a body designated by the DfT, this option should also be presented at the deadlock point.

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Annex 3 cont. - Example text for 'deadlock' letter where the airline is signed up to an ADR scheme provided by an ADR entity approved by the CAA but not yet designated by DfT.



Letter: *"This letter represents our final consideration of your complaint. If you are not happy with the outcome you can refer your complaint to [Insert name and website of an approved ADR entity]. [Insert name of approved ADR entity] is approved by the Civil Aviation Authority to provide dispute resolution services and an independent view of your complaint under the Alternative Dispute Resolution (ADR) for Consumer Disputes (Competent Authorities and Information) Regulations 2015. You will need to refer your complaint to them within 12 months of this letter.*

[Insert name of airline] is signed up to the services of [insert name of approved ADR entity] and is therefore willing to submit itself to its ADR procedure.

As a consumer you may use the European commission's online dispute resolution platform to submit your complaint if you wish. This can be done by completing the electronic form available via this link: <http://ec.europa.eu/odr>.

Alternatively, you can log your complaint with CAA's Passenger Advice and Complaints Team (PACT) by completing the online complaint form via the CAA website: www.caa.co.uk/passengercomplaints. Under the subtitle 'How the CAA can Help' you will need to click on the link 'Refer your complaint to us'. You can then access the CAA's consumer portal where you can submit your complaint to PACT.

Please note that PACT's complaints service cannot require airlines to take any particular action; whereas the outcomes of the ADR process are binding upon the airline."

Website: *"If you would like to make a complaint please contact our customer relations team who can be contacted at: [airline's e-mail address]. More information on our complaints procedures can be found [insert link].*

If for any reason you are unhappy with our response to your complaint, you can refer your complaint to [Insert name and website address of an approved ADR entity] who are approved by the Civil Aviation Authority to provide an independent review of complaints and dispute resolution services. You will need to refer your complaint within 12 months after our final response.

[Insert name of approved ADR entity] can be contacted on: [Insert contact details]. Or, you may use the European Commission's electronic form: <http://ec.europa.eu/odr>.

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Annex 4 - Airline is signed up to an ADR scheme provided by an ADR body approved by a Competent Authority in another EU Member State (to handle aviation disputes) which the CAA has deemed 'competent'¹ and is not designated² by DfT.



ODR provisions of Regulation 19A	Notice provisions under Article 14(2) of Regulation (EC) 261/2004 ³	ADR Regulation 19 – complaints concerning Regulations (EC) 261/2004 & (EC) 1107/2006	ADR Regulation 19(2) – other complaints ⁴
<p>Airline <u>must</u>:</p> <ul style="list-style-type: none"> • Provide a link to the ODR platform on its website and explain that this may be used to resolve complaints; • On its website, provide consumers with an email address of the trader to which complaints can be addressed. (It is the CAA's view that an online form is not an acceptable means of compliance; rather, it must be an email address.) <p>Airline <u>must</u> also:</p> <ul style="list-style-type: none"> • Provide a link to the ODR platform in any offer made by email; • Inform consumers of the ODR platform and that they may use the platform for resolving disputes; • Include information on ODR in their online terms and conditions of sale. 	<p>Airline <u>must</u> inform consumers of the contact details of the CAA's complaint handling service PACT at the point required by Article 14(2).</p> <p>At the same time, it <u>may</u> also provide the contact details of the ADR body to which it is signed up, and set out the benefits of this scheme (e.g. decisions binding on the airline) should the consumer wish to make a complaint.</p>	<p>At the point of 'deadlock' (see annex 7) of the complaint, the airline <u>must</u> inform the consumer on a durable medium:</p> <ul style="list-style-type: none"> • That the airline cannot reach agreement with the consumer; • The name and web address of the ADR body to which the airline is signed up; • Whether the airline is obliged or prepared to use the services of this ADR body for this complaint. <p>At point of 'deadlock', the airline <u>may</u> also signpost the CAA's complaint handling service PACT.⁵</p> <p>Airlines <u>must</u> also provide the name and web site address of the ADR body on its website and also in its terms and conditions of sale.</p>	<p>At the point of deadlock of the complaint, the airline <u>must</u> inform the consumer on a durable medium:</p> <ul style="list-style-type: none"> • That the airline cannot reach agreement with the consumer; • The name and web address of the ADR body to which the airline is signed up; • Whether the airline is obliged or prepared to use the services of this ADR body for this complaint. <p>Airlines <u>must</u> also provide the name and web site address of the ADR body on its website and also in its terms and conditions of sale.</p>

¹ Should your airline be considering using an ADR body approved by another European Member State please contact the UK CAA as you may need to demonstrate that ADR body's 'competency' so as to meet your obligations as regards the Trader Information Requirements.

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Annex 4 cont. - Example text for ‘deadlock’ letter where the airline is signed up to an ADR scheme provided by an ADR body approved by a Competent Authority in another EU Member State (to handle aviation complaints) which the CAA has deemed ‘competent’ and is not designated by DfT.

Letter: *“This letter represents our final consideration of your complaint. If you are not happy with the outcome you can refer your complaint to [Insert name and website of an approved ADR body]. [Insert name of approved ADR body] is approved by an EU Competent Authority to provide dispute resolution services and an independent view of your complaint under the Alternative Dispute Resolution (ADR) for Consumer Disputes (Competent Authorities and Information) Regulations 2015. You will need to refer your complaint to them within 12 months of this letter.*

[Insert name of airline] is signed up to the services of [insert name of approved ADR entity] and is therefore willing to submit itself to its ADR procedure. As a consumer you may use the European commission's online dispute resolution platform to submit your complaint if you wish. This can be done by completing the electronic form available via this link: <http://ec.europa.eu/odr>.

Alternatively, you can log your complaint with CAA’s Passenger Advice and Complaints Team (PACT) by completing the online complaint form via the CAA website: www.caa.co.uk/passengercomplaints. Under the subtitle ‘How the CAA can Help’ you will need to click on the link ‘Refer your complaint to us’. You can then access the CAA’s consumer portal where you can submit your complaint to PACT.

Please note that PACT’s complaints service cannot require airlines to take any particular action; whereas the outcomes of the ADR process are binding upon the airline.”

Website: *“If you would like to make a complaint please contact our customer relations team who can be contacted at: [airline's e-mail address]. More information on our complaints procedures can be found [insert link].*

If for any reason you are unhappy with our response to your complaint, you can refer your complaint to [Insert name and website address of an approved ADR body] who are approved by an EU Competent Authority to provide an independent review of complaints and dispute resolution services. You will need to refer your complaint within 12 months after our final response.

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Annex 5 - Airline is signed up to an ADR scheme provided by an ADR body approved by a Competent Authority in another EU Member State (to cover aviation disputes) which the CAA has not deemed 'competent'¹ and is not designated² by DfT.



ODR provisions of Regulation 19A	Notice provisions under Article 14(2) of Regulation (EC) 261/2004 ³	ADR Regulation 19 – complaints concerning Regulations (EC) 261/2004 & (EC) 1107/2006	ADR Regulation 19(2) – other complaints ⁴
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⁴ For example in relation to baggage under the Montréal Convention or in relation to general disputes arising where the consumer alleges that the business is not trading fairly.

⁵ Although this is not a legal requirement of the ADR Regulations, since it is the shared view of the CAA and DfT that, for complaints under Regulation (EC) 261/2004 and Regulation (EC) 1107/2006, all consumers should be able to make a complaint to a body designated by the DfT, this additional option should be presented to the consumer at the deadlock point. In addition to this, and in addition to it simply being a matter of good customer service, it is the CAA's view that this additional signposting can mitigate the enforcement risk for airlines as a result of any isolated failure to comply with Article 14(2) of Regulation (EC) 261/2004.

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Annex 5 cont. - Example text for 'deadlock' letter where the airline is signed up to an ADR scheme provided by an ADR body approved by a Competent Authority in another EU Member State (to handle aviation complaints) which the CAA has not deemed 'competent' and is not designated by DfT.

Letter: *"This letter represents our final consideration of your complaint. [Insert name of approved ADR entity] is approved by the Civil Aviation Authority to provide dispute resolution services and an independent view of your complaint under the Alternative Dispute Resolution (ADR) for Consumer Disputes (Competent Authorities and Information) Regulations 2015.*

[Insert name of airline] is not signed up to the services of [insert name of approved ADR entity] and is therefore not willing to submit itself to its ADR procedure.

You can log your complaint with CAA's Passenger Advice and Complaints Team (PACT) by completing the online complaint form via the CAA website: www.caa.co.uk/passengercomplaints. Under the subtitle 'How the CAA can Help' you will need to click on the link 'Refer your complaint to us'. You can then access the CAA's consumer portal where you can submit your complaint to PACT."

Website: *'If you would like to make a complaint please contact our customer relations team who can be contacted at: [airline's e-mail address]. More information on our complaints procedures can be found [insert link].*

An Online Dispute Resolution platform has been set up by the European Commission: <http://ec.europa.eu/consumers/odr/> which provides easy access to alternative dispute resolution (ADR).

Alternatively, you can log your complaint with CAA's Passenger Advice and Complaints Team (PACT) by completing the online complaint form via the CAA website: www.caa.co.uk/passengercomplaints. Under the subtitle 'How the CAA can Help' you will need to click on the link 'Refer your complaint to us'. You can then access the CAA's consumer portal where you can submit your complaint to PACT."

Annex 6 - Airline is not signed up to an approved ADR scheme at all.

ODR provisions of Regulation 19A	Notice provisions under Article 14(2) of Regulation (EC) 261/2004 ¹	ADR Regulation 19 – complaints concerning Regulations (EC) 261/2004 & (EC) 1107/2006	ADR Regulation 19(2) – other complaints ²
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¹ Under Article 14(2) of Regulation (EC) 261/2004, in the event of denied boarding, cancellation, or long delay, airlines are required to provide consumers with a written notice setting out their rights under the Regulation and the contact details of a designated complaint handler.

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Annex 6 cont. - Example text for the 'deadlock' letter where the airline is not signed up to an approved ADR scheme at all.



Letter: *This letter represents our final consideration of your complaint. [Insert name of approved ADR entity] is approved by the Civil Aviation Authority to provide dispute resolution services and an independent view of your complaint under the Alternative Dispute Resolution (ADR) for Consumer Disputes (Competent Authorities and Information) Regulations 2015.*

[Insert name of airline] is not signed up to the services of [insert name of approved ADR entity] and is therefore not willing to submit itself to its ADR procedure.

You can log your complaint with CAA's Passenger Advice and Complaints Team (PACT) by completing the online complaint form via the CAA website: www.caa.co.uk/passengercomplaints. Under the subtitle 'How the CAA can Help' you will need to click on the link 'Refer your complaint to us'. You can then access the CAA's consumer portal where you can submit your complaint to PACT."

Website: *'If you would like to make a complaint please contact our customer relations team who can be contacted at: [airline's e-mail address]. More information on our complaints procedures can be found [insert link].*

An Online Dispute Resolution platform has been set up by the European Commission: <http://ec.europa.eu/consumers/odr/> which provides easy access to alternative dispute resolution (ADR).

Please note, [Insert name of airline] are not currently subscribed to an approved ADR scheme therefore neither the ODR platform nor any approved ADR providers will be able to accept your complaint.'

You can log your complaint with CAA's Passenger Advice and Complaints Team (PACT) by completing the online complaint form via the CAA website: www.caa.co.uk/passengercomplaints. Under the subtitle 'How the CAA can Help' you will need to click on the link 'Refer your complaint to us'. You can then access the CAA's consumer portal where you can submit your complaint to PACT."

Annex 7 - Explanation of the term 'deadlock' to assist in compliance with Regulation 19(2).

'Deadlock'

Regulation 19(2) sets out information which all airlines must provide when they have completed their consideration of a consumer's complaint. Airlines must inform the consumer on a durable medium:

- That the airline cannot settle with the consumer;
- The name and web address of an approved ADR entity;
- Whether the airline is obliged or prepared to use the services of this ADR entity.

A number of airlines have requested clarification on the point at which they should provide the information required by Regulation 19(2) to the complainant.

Regulation 19(2) states that this should take place when "the trader has exhausted its internal complaint handling procedure when considering a complaint". That is to say that the airline's final offer has been made and there is no further consideration of the complaint. This is often referred to as 'deadlock'.

It is our view that if letters to complainants do not inform them that further consideration by the airline is possible, and how they can go about requesting this, then that such letters are 'deadlock' letters and should therefore include the Regulation 19(2) information.

The systematic absence of the Regulation 19(2) information at this point will be seen by the CAA as a breach of the ADR Regulations. Further, the absence of this information at the relevant point does not prevent ADR entities from considering the complaint.