



5 December 2018

Dear Colleague,

**Re-routing in accordance with Article 8 of Regulation EU261/2004 and the CAA's view on compliance**

In August last year the CAA commenced a project to review airlines' compliance with the re-routing requirements under Article 8 of Regulation EC261/2004 (the Regulation). As part of this project we sought information from the largest 30 airlines flying to and from the EU on their re-routing policies and the options they provide to passengers in the event of a flight cancellation. The responses showed a varied picture in relation to re-routing on other airlines, with the majority of airlines demonstrating that re-routing passengers on other airlines was an option that was available to them, but providing little clarity over the circumstances in which this option would be taken up. Further, in general there was little clarity over how airlines made passengers aware of their rights and options under the Regulation, and in particular that passengers may be entitled to be re-routed on the services of another airline.

In order to seek to ensure greater clarity and consistency in how airlines interpret the legal obligations in Article 8 of the Regulation, the CAA has decided to set out its view on the applicable law and to set out also the circumstances in which it would be likely to consider enforcement action for breaches of Article 8 which harm the collective interests of consumers. The CAA's view can be found in Annex 1 to this letter.

In developing its view, the CAA has sought to be pragmatic in its interpretation of Article 8 of the Regulation. Taking the specific wording of the Regulation literally, the requirement in Article 8(1)(b) to provide passengers with "re-routing under comparable transport conditions, to their final destination at the earliest opportunity" could be interpreted as requiring airlines to re-route passengers on the next available flight to their final destination, in the same class of cabin, regardless of which airline is operating the flight. However, the CAA recognises that this interpretation could, in some scenarios, lead to outcomes where the benefit to consumers of being re-routed on the next available flight is outweighed by the cost incurred by the airline<sup>1</sup> in re-routing them. This is especially the case when, at late notice (e.g. an on-the-day cancellation), the airline is obliged to purchase tickets on another airline (or other transport mode) even though the affected passengers would arrive at their destination only slightly earlier than if the airline re-routed the passengers on its own services.

Although the CAA has sought to be pragmatic in its interpretation of Article 8 of the Regulation, it recognises that some airlines may need to make adjustments to their policies, procedures, systems and passenger information in order to align themselves with the CAA's view. Where this is the case, we expect airlines to start to work towards making the necessary adjustments straight away. However, we appreciate that it may

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<sup>1</sup> Costs which are ultimately passed through to aviation consumers.

take some time for airlines to make the necessary adjustments, in particular to IT systems, but also to train consumer facing staff and update passenger information. We expect airlines to have completed this process within the next six months – i.e. by 30 June 2019. We will take account of these expectations when deciding how to use our enforcement powers. If an airline is not compliant within this six month period, we would expect the airline to be able to demonstrate that it had taken all reasonable steps to achieve compliance as quickly as possible thereafter.

Yours sincerely

A handwritten signature in black ink that reads "Paul Smith". The letters are cursive and slightly slanted to the right.

Paul Smith  
Group Director, Consumers and Markets