



Minister Cora van Nieuwenhuizen
Ministry of Infrastructure and Water Management
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Date 24/4/2020

Dear Minister Cora van Nieuwenhuizen,

Further to my previous letter, thank you for the attention you have been paying to the extremely difficult liquidity situation that airlines in Europe and beyond are suffering from the COVID-19 pandemic and related travel restrictions.

Regulation 261 has provided European consumers the highest levels of protection against air travel contingencies in the world for over a decade, and airlines have strictly complied with it. But this Regulation, like many others, was not designed to take into account the extraordinary circumstances that we are all facing today. Airlines cannot immediately refund all the tickets that have been cancelled due to travel restrictions: they will surely face insolvency, with millions of European citizens potentially losing their jobs and livelihoods in the process.

Over the past few weeks, IATA and other European airline associations have been reaching out to EU Institutions to offer a neutral, fact-based portrayal of the impact the crisis has had on airlines' cash position in the hope that they would recognize and act on the need for immediate relief from Regulation 261's requirement that refunds be made within seven days. We have done so with the utmost respect for passengers' rights, and full acknowledgement that any such relief would be granted on a strictly temporary basis.

With this in mind, and taking into account all the views received from the European Parliament and the Commission, the airline industry believes that a minimal and temporary modification of the Regulation 261 would ensure:

- a) That the spirit of the Regulation remains intact;
- b) The right of the passenger to choose between a cash refund or a voucher is maintained; and
- c) That relief should be limited in time and return to the full existing provisions that refunds be made within seven days once this crisis is contained.

In order to meet this goal, **the airline industry proposes that Regulation 261 be temporarily modified to extend the refund period from seven days to up to 12 months.** By the end of that period, the airline would have to reimburse in cash the full amount. Alternatively, the passenger could opt for a refundable voucher for future travel.

We urge for this pragmatic, immediate and limited regulatory measure, which will give European airlines the time they need to recover, resume the critical role they play in economies and honor their engagements with consumers. We believe our compromise solution presents the following advantages:

- It would preserve the right of the passengers to choose a full cash refund (that will be paid at a later stage).
- It would avoid many airline bankruptcies, reducing the needs of any guarantee fund, should it be created, and avoiding likely systemic consequences for the financial sector on credit card acquirers, aircraft leasing companies and related banks.
- It would protect all consumers affected, not just those from airlines that may eventually receive state aid.
- It would incentivize airlines to offer vouchers as a more attractive alternative to cash refunds, thereby providing greater benefit for consumers.
- It would ensure the preservation of the European airline industry model, one based on healthy competition among airlines of small, medium and large size that provide affordability and connectivity between all consumers and regions across the Union.



The suggested period of 12 months is justified by two logical reasons:

- a) That airlines have time to provide a significant offer - by reopening flight schedules when travel restrictions allow - to enable vouchers to be used as an alternative; and
- b) That airlines are able generate enough cashflow to refund passengers without further aggravating their cash position.

Any shorter period would not be enough to meet these conditions and may even have negative consequences of an increase in credit holdbacks by airlines' credit card acquirers (meaning that payments of new tickets to airlines will be deferred by credit card companies, increasing the liquidity squeeze on airlines). The legal certainty provided by the amendment of the Regulation is equally needed by airline creditors and will help reducing the risks of systemic collapses.

The situation is critical. Every day without operations, the cashflow position of airlines is deteriorating, increasing the risk of insolvency and therefore making a comprehensive solution more costly and difficult. Any other elements of such comprehensive solutions, such as state guarantees for vouchers, can and should be explored at a later stage. But without this urgent amendment to Regulation 261, any alternative solution will come too late for many airlines.

We kindly request your support of this position at the upcoming Council of Ministers of Transport on 29 April, and that urge the Commission to propose a temporary amendment to Regulation 261 to extend the refund period from seven days to 12 months. The Council has a unique opportunity to trigger a debate around a proposal that could be approved by the European Parliament at its next plenary sitting in May. We call upon all EU Institutions to work together on an immediate solution, and we thank you once again for your involvement on this issue.

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Rafael Schwartzman
Regional Vice President Europe