



EUROPEAN COMMISSION

7.7.2023

SEC(2023) 392

REGULATORY SCRUTINY BOARD OPINION

Better protection for passengers and their rights

{COM(2023) 752-753}

{SWD(2023) 386-387}



Brussels,
RSB

Opinion

Title: Impact assessment / Better protection for passengers and their rights

Overall opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

EU rules ensure that passengers receive a minimum level of protection in cases of serious delays and cancellations, irrespective whether they travel by air, rail, ship, bus and coach.

This report stems from the ‘Sustainable and Smart Mobility Strategy’ and aims at better harmonisation, implementation and enforcement of the EU passenger rights. It also explores how to protect better passengers during multimodal journeys. Furthermore, it looks into passenger rights for reimbursement of airline tickets bought through intermediaries. It is complementary to the amendment of the air passenger rights Regulation No 261/2004, currently with the co-legislators.

(B) Summary of findings

The Board notes the additional information provided and commitments to make changes to the report. However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

- (1) The report does not explain clearly enough the scale of the problem nor the magnitude of its consequences.**
- (2) The report does not bring out clearly the benefits of the options. It does not sufficiently assess the proportionality of the preferred combination of options.**
- (3) The One In, One Out cost assessment does not comprehensively set out the administrative and adjustment costs.**

(C) What to improve

- (1) The problem analysis should be strengthened to present better the scale of the problem across various transport modes in particular the multimodal travel. It should demonstrate with more evidence the enforcement problems related to the current passenger protection**

This opinion concerns a draft impact assessment which may differ from the final version.

rules. It should clearly identify the market failure that the initiative tackles and explain why some of the problems identified cannot be mitigated by other measures (e.g. travel insurance). It should also clearly explain the magnitude of the consequences of the problems for all the actors involved.

(2) The rationale behind the choice of the preferred option needs to be better anchored in a strengthened analysis of benefits. The report should make the benefits of this initiative more evident, using more developed qualitative argumentation where enhancing quantitative analysis is not possible. The analysis should provide the evidence of consumer detriment and convincing arguments on how it would decrease as a result of the new measures. It should better explain who would be responsible and bear the costs of providing assistance to persons with reduced mobility during multimodal travel, in particular regarding the establishment of Single Point of Contacts. Based on a strengthened analysis of benefits, the report should deliver a more developed and comprehensive assessment and comparison of the options in terms of effectiveness, efficiency and coherence better justifying that the expected benefits of the preferred package will outweigh its costs. It should also strengthen the proportionality assessment of the preferred combination of option.

(3) The report should clarify and adjust the One In, One Out cost calculations so that all the costs related to providing information to passengers are accurately taken into account in the approach.

(4) The report should provide a more detailed assessment of the impacts on competitiveness of the most affected economic actors. The competitiveness check scoring should better reflect the analysis in the main report, in particular regarding the price and international competitiveness. The analysis of capacity to innovate should go beyond the likely take up of digital solutions and expand into the data management potential.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board’s findings before launching the interservice consultation.

If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.

| | |
|---------------------|---|
| Full title | Impact Assessment report accompanying the Proposal for a Regulation of the European Parliament and the Council on common rules for enforcement of passenger rights, passenger rights for multimodal journeys, and reimbursement of airline tickets bought via an intermediary |
| Reference number | PLAN/2021/11684 |
| Submitted to RSB on | 7 June 2023 |
| Date of RSB meeting | 5 July 2023 |

ANNEX: Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

| I. Overview of Benefits (total for all provisions) – Preferred Option | | |
|---|------------------------|---|
| <i>Description</i> | <i>Amount</i> | <i>Comments</i> |
| Direct benefits | | |
| Benefits to passengers (in million EUR, expressed as present value over 2025-2050 relative to the baseline) | EUR 21.7 million | Benefits to consumers due to certain assistance rights in the event of a missed connection during a multimodal journey (in particular the right to reimbursement and re-routing as well as a right to care in the form of e.g. refreshments, meals and accommodation) and due to the use of the cheaper option of an ADR body, rather than seeking remedy through the more costly civil courts represented by a claim agency, which will take a fee. |
| Passengers will benefit much more from their rights, and they have new rights for travelling multimodal. | Assessed qualitatively | The initiative deals with many recurrent issues which make it difficult for them to make use of their rights as a passenger. Passengers including PRM are equipped with much better tools to make use of their rights: they will be made much more aware about them, have claim forms at their disposal which carriers cannot refuse to deal with, they can inform themselves easily about the service quality standards of a carrier, they are now for the first time protected when switching modes during a multimodal journey, and they can receive their reimbursements without worrying to whom to turn to and when the money has to be on their account in case an intermediary is involved in this process. Their complaints can be taken care of much faster, because the NEBs can request supporting documents within a certain deadline, and passengers have to be informed about ADR bodies – a cheap and efficient way of solving disputes with transport operators or intermediaries. |
| Enforcement costs savings for national public authorities (NEBs) (in million EUR, expressed as present value over 2025-2050 relative to the baseline) | EUR 5.9 million | Costs savings for national public authorities due to an easier way to evaluate compliance for carriers and terminal operators due to service quality standards and reporting of carriers and terminal operators., without having to do more in depth and costly monitoring activities, the use of standard claim forms which ease monitoring activities and the expected decrease in the number of court cases. |
| NEBs will be much better equipped to deal with their tasks | Assessed qualitatively | NEBs will have a concrete legal basis to request information vital to the monitoring and enforcement effort, making it more efficient and less time consuming. It remains their decision how NEBs organise their monitoring and enforcement activities, more transparency about the approach taken may lead to the exchange of good practices and enhance the cooperation between them. |
| Carriers and terminal operators have a better level playing field | Assessed qualitatively | Transparency about the risk evaluation of NEBs and the monitoring based on it, the possibility that the Commission can ask NEBs to investigate, that all carriers have to be transparent about their service quality standards, giving compliant carriers a competitive advantage, that the B2B relationship with intermediaries is clarified on EU level, all |

| | | |
|---|------------------------|--|
| | | this leads to an improved business environment for carriers. |
| Intermediaries | Assessed qualitatively | Their role in the reimbursement process is clarified which may enhance the trust of passengers in them. Intermediaries have if need be also a right to redress if they pre-finance reimbursements. Intermediaries may also indirectly benefit from clearer liability rules in the context of multimodal travel, in particular where they properly inform passengers on the separate nature of the transport tickets that these intermediaries have combined and sold for a given multimodal journey. |
| Positive impact on compliance with the rules | Assessed qualitatively | The preferred policy option would help to address the current issues with compliance difficulties, while avoiding changes that would make the rules more difficult to report on and enforce, thus generating a net positive impact. |
| Indirect benefits | | |
| Functioning of the internal market | | Improving the monitoring and enforcement by NEBs is expected to contribute to a level playing field. |
| Technological development | | Accelerated deployment of innovative technologies is expected due to the requirements, specifically on collecting and publishing data on service quality standards, obligations for reporting and to respect the deadlines for reimbursements if an intermediary is involved. |
| Administrative cost savings related to the 'one in, one out' approach* | | |
| - | - | - |

| II. Overview of costs – Preferred package of policy options | | | | | | |
|--|--------------------|-----------|---|--|-----------------|---|
| | Citizens/Consumers | | Businesses | | Administrations | |
| | One-off | Recurrent | One-off | Recurrent | One-off | Recurrent |
| Direct adjustment costs (in million EUR, expressed as present value over 2025-2050 relative to the baseline) | - | - | For carriers: 31.3 million For terminal operators: 7 million For intermediaries: 89.3 million | For carriers: 20.5 million For terminal operators: 342.7 million For intermediaries: 0.3 million | - | - |
| Direct administrative costs (in million EUR, expressed as present value over 2025-2050 relative to the baseline) | - | - | - | For carriers: 93.2 million For terminal operators: 2.5 million For intermediaries: 0.03 million | - | For national public authorities: 1.4 million |
| Direct enforcement costs (in million EUR, expressed as present value over 2025-2050 relative to the baseline) | - | - | - | - | - | For national public authorities: 30.6 million |

| II. Overview of costs – Preferred package of policy options | | | | | | | |
|---|--|--------------------|-----------|---|---|-----------------|-----------|
| | | Citizens/Consumers | | Businesses | | Administrations | |
| | | One-off | Recurrent | One-off | Recurrent | One-off | Recurrent |
| <i>Costs related to the 'one in, one out' approach</i> | | | | | | | |
| Total | Direct adjustment costs (in million EUR, expressed as present value over 2025-2050 relative to the baseline) | - | - | For carriers: 31.3 million For terminal operators: 7 million For intermediaries: 89.3 million | For carriers: 20.5 million For terminal operators: 342.7 million For intermediaries: 0.3 million | / | / |
| | Indirect adjustment costs | - | - | - | - | / | / |
| | Administrative costs (for offsetting) – <u>costs per year relative to the baseline</u> | - | - | - | For carriers, terminal operators and intermediaries: 5.2 million per year (of which, EUR 5.1 million for carriers, EUR 0.1 million for terminal operators and EUR 1,401 for intermediaries) | | / |