WHAT'S WRONG WITH EUROPE'S RULES ON PASSENGERS' RIGHTS?

News / Airlines

You know those conversations where you do a double-take about what the other person has just said? I had that experience this week, when listening to a senior executive of a leading UK airline.

It is neither fair nor relevant to say which carrier. That's partly because the remark was little more than an aside, and partly because I suspect what he said applies equally to other airlines.

To set the context: he was talking about the many challenges of ground handling, and got on to the subject of how his airline seeks to minimise delays.

I imagine that cutting down on long waits is something every traveller favours. The European Union cares, too. The passenger-rights regulation known as EC261 punishes errant airlines. The

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carrier must pay between €250 and €600 in compensation (depending on the length of flight) to every passenger who arrives three hours or more behind schedule. The only defence: that the delay was down to “extraordinary circumstances,” which doesn’t include technical problems or crewing issues.

Airlines despise the rule, but they have to live with it. And in a very matter-of-fact way, my well-meaning friend inadvertently revealed how they seek to limit the damage.

“Of course, if we are approaching a three-hour delay, we may decide to accelerate the turn-round by leaving bags behind.”

Here’s a scenario of what that means in practice. The plane you are due to be flying on arrives two hours late. What with one thing and another – congestion on the ground, waiting for a gate to become available, that sort of thing – the delay for your flight starts to approach that three-hour threshold. An airline may rationally decide not to load some of the baggage to avoid paying out delay compensation to long-suffering passengers.

I imagine that is the sort of revelation that gets people texting “WTF???”. I meekly responded “Gosh, really?”, before fully considering the implications.

Arriving home to find your case is still on holiday is annoying enough. When you are setting off on a trip, discovering your suitcase has been “short-shipped” (airline-speak for left behind) is infuriating, especially if you have plans to explore.

A suitcase chased me around the Canaries after it dawdled at Gatwick, while Air New Zealand’s friendly baggage team texted the good news that my backpack had arrived in Auckland just as my departing flight was taxiing to the runway.

An airline that wilfully chooses to leave some bags behind will incur more than just passenger venom. Reuniting the luggage with the losers involves dispatching taxis and vans around the country, costing a small fortune. But evidently at least one airline considers it a lesser evil than the large fortune they stand to pay out should passengers (sometimes abetted by claims handlers) assert their rights after a three-hour delay.

Take away the compensation, and imagine the following announcement from the flight deck: “It’s your captain speaking. Only half the bags have been loaded. We can either set off now, and be two hours 55 minutes behind schedule, or wait for another 10 minutes to load the remainder.”

There would be uproar in the cabin at the very suggestion of inconveniencing half the people on board. Of course passengers would vote to wait another 10 minutes for the bags to be loaded. Yet pilots are unlikely to conduct an onboard referendum so long as EC261 specifies a blunt three-hour boundary between paying out nothing and being exposed to compensation claims amounting to tens of thousands of pounds.

Europe’s passenger-rights law was well intentioned. But it has had the unintended consequence of mightily frustrating some travellers by incentivising airlines to leave luggage behind.

The EU is supposed to be revising passenger-rights regulation to be less extreme, but progress is far more delayed than any airline. Meanwhile, if you find yourself booked on a flight that is approaching a three-hour delay, keep an eye on the baggage handlers. But don’t blame them – or the airline – if you find yourself bereft at baggage reclaim.

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