

AIRLINES SECTOR

OVERVIEW

In the previous three years, the aviation industry as a whole has seen record-breaking air traffic as a result of increased airline competition to draw more passengers by offering discounts, deals, or miles or by providing additional air services. The aviation business has a bright future because of the sector's development, but on the other side, consumer safety worries have increased.

According to official data and sources, the passenger air traffic in India's civil aviation sector for the years 2017–18 consisted of 183.9 million people, while the cargo air traffic was more than 22.1 lakh metric tonnes.

GROUND FOR COMPLAINT

- Cancellation /Rescheduling of Flights /Delays are a normal practice.
- Poor responses while enquiring on phones.
- Misinformation provided by Airlines staff when called on phones.
- Promised services are not provided.
- Long procedure in getting refund or even denial of refund.
- Denying boarding to the passengers having valid tickets and reported at proper check in time at the last moment due to overbooking or some unknown reasons.
- Misleading advertisement that invites passengers for free travel.
- Misinformation on confirmed booking.
- Unfriendly terms and conditions framed by the private airlines which caused discomfort to the passengers.
- Loss of baggage for which compensations are not paid or when paid it is very less.
- Pilferage of baggage.
- No proper guidance when the passengers are in harness.
- Misbehavior at the counter.
- Minor faults in booking through airlines/agents net may cost dearer to the passenger.
- Data breach by the Airlines company.

WHEN COMPLAINTS WOULD NOT BE ACCEPTED

There are various situations which might cause the complaint to be rejected. These include situations where the consumer is unable to file an appeal against an order within a period of three months, where the complaint is based on a frivolous cause of action, where the complaint falls outside the jurisdiction of the authority approached, and when the complaint has been filed under wrong sections of the act, and other such situations. This requires careful reading of all acts and regulations.

COMPLAINT REDRESSAL SYSTEM

The consumer must first reach the service provider through the customer care of the particular airlines. On unsatisfactory response the customer may reach out to the following:

1. Public grievance , Ministry of civil aviation:

Airsewa portal and Centralized Public Grievance Redress And Monitoring System (CPGRAMS)

By Ministry Of Personnel, Public Grievances & Pensions Department Of Administrative Reforms & Public Grievances.

<https://pib.gov.in/PressReleasePage.aspx?PRID=1895740>

Furthermore, the consumer can know about their rights through:

2. Integrated Grievance Redressal Mechanism (INGRAM):

Information on:

- What are the passenger rights in case of delays and cancellation of flights?
- Where to complain?
- Medical Emergency
- Facilities
- AirSewa app

<https://consumerhelpline.gov.in/faq-details.php?fid=Airlines>

The consumer may also reach :

3. Under Section 17 of the Airport Economic Regulatory Authority of India Act, 2008, the **Airport Economic Regulatory Authority Appellate Tribunal** was created to decide any disputes between service providers and customers. In accordance with Section 31(1) of the Act, appeals against the Tribunal's rulings must be filed with the Supreme Court.

4. Approaching any other appropriate judicial or quasi-judicial body:

The complainant is free to take the service provider to a court or any other suitable venue (judicial or quasi-judicial). The proceedings in consumer commissions are not mired by the niceties of procedure, allowing the complainant to file a complaint for himself. As a consumer, the aggrieved party can take the service provider to the appropriate consumer commission, based on the pecuniary and territorial jurisdiction. The jurisdictions of the various consumer commissions are as follows-

a) *District Commission:* The aggrieved consumer can reach out to the District Commission under section 34 of the CPA, 2019, which provides that the district commission shall entertain matters where the value of the goods or services paid as consideration does not exceed more than one crore rupees.

b) *State Commission:* In cases where the value of the goods or services paid as consideration is more than one crore, but less than 10 crores, the consumer can approach the State Commission. Moreover, in cases of unfair contracts, the State Commission has original jurisdiction and the consumer can be directly approached. An appeal against the order of the District Commission can also be made under section 47 of the CPA, 2019.

c) *National Commission:* The National Commission can entertain matters where the value of goods or services paid as consideration exceeds 10 crores. Section 58 also provides that complaints against unfair contracts can be entertained by NCDRC when the amount of value paid exceeds 10 crores. The NCDRC also has appellate jurisdiction against the orders of any State Commission and Central Authority.

Moreover, it must also be kept in mind that section 100 of the CPA, 2019 provides that the remedy under CPA is in addition and not in derogation of other available remedies.

Another remedy available to consumers is mediation. Chapter 5 of the Consumer Protection Act provides for establishing mediation cells and resolving consumer complaints using mediation.

5. Central Consumer Protection Authority

If the commission finds violations of rights of consumers or in notice of trade practices which is unfair it can inquire or cause an inquiry, either on receipt of complaint or suo moto or as directed by Central Government. If the commission finds, after preliminary inquiry, of an existence of a

prima facie case of consumer rights violation or it is in notice of any unfair trade practice or any wrong or inaccurate advertisement which is prejudicial to public interest or to the interests of the consumers, it can order an investigation by the District Collector or by Director General.

The consumer can complain to the District Collector of the respective district for investigation and subsequent proceedings by the CCPA. He/she/they can also submit a complaint via email, at com-ccpa@nic.in.

REGULATORY BODIES:

The **Directorate General of Civil Aviation (DGCA)**, which oversees air transport services, air safety, and airworthiness standards, enforces civil aviation laws. The **Airports Authority of India (AAI)** develops, modernises, cares for, and oversees civil aviation infrastructure on the ground and in Indian airspace. The tariff for aviation services and passenger service fees are set by the **Airport Economic Regulatory Authority (or AERA)** in order to keep track of performance requirements for service quality, continuity, and dependability. The **Bureau of Civil Aviation Security (BCAS)**, which India has ratified, ensures that aviation security regulations adhere to national and international duties and air safety treaties.

ACTS AND GUIDELINES:

- The Aircraft Act, 1934 and the Aircraft Rules, 1937.
- The Airports Authority of India Act, 1994
- The Carriage by Air Act, 1972
- Airports Economic Regulatory Authority of India Act, 2008 (“AERA Act”)
- Aircraft (Security) Rules 2011

All acts can be accessed here- <https://www.civilaviation.gov.in/ministry-documents/acts>

Other important regulations and orders:

1. **AIC 09/2020 dated June 12, 2020 on “Requirements for grant of Operating Authorisation to Foreign Airlines under the Bilateral Air Services Agreements”**

It imposes restrictions on foreign airlines' ownership, real control, and safety credentials.

https://aim-india.aai.aero/eaip-v2-01-2022/pdf/Official%20AIC/AIC2020/AIC09_2020.pdf

2. **The Airports Authority of India (Ground Handling Services) Regulations, 2018 and the AVSEC Order No. 03/2009 dated August 21, 2009 -**

impose limitations on foreign airlines using self-handling for activities involving the handling of passengers and their belongings.

<https://www.aai.aero/en/node/94878>

3. **AIC 09/2020 dated June 12, 2020 on the “Requirements for grant of Operating Authorisation to Foreign Airlines under Bilateral Air Services Agreements”**

imposes certain requirements on carriers flying to and from the airports in your jurisdiction.

4. **The Aircraft (Investigation of Accidents and Incidents) Rules, 2017**

establishes the Aircraft Accident Investigation Bureau of India, which is in charge of investigating accidents or incidents involving any aircraft that occur during or after their navigation in or over India. It also specifies the powers and duties of the investigating body, the investigation process, how incidents are to be reported, and the authority of the inquiry officer.

<http://164.100.60.133/accident2012/Aircraft%20Investigation%20of%20Accident%20and%20Incident%20Rules%202017.pdf>

5. **AIC S. No. 16/2021- September 23, 2021**

establishes a voluntary reporting mechanism for anyone who observes, is involved in, or has information of a situation that may pose a risk to flight safety, while still maintaining the reporter's privacy.

https://aim-india.aai.aero/eaip-v2-08-2022/pdf/Official%20AIC/AIC2021/AIC_2021_16.pdf

6. All corporate entities, including airlines, are required by the **Information Technology (Indian Computer Emergency Response Team and Manner of Performing Functions and Duties) Rules, 2013** ("CERT-in Rules") to **notify the Indian Computer Emergency Response Team** ("CERT-in") in case of a cybersecurity breach, which addresses consumer privacy concerns.

7. **Civil Aviation Requirements (CARs) issued by the DGCA under Rule 133A of the Aircraft Rules-**

Section 3, Series “M”, Part IV

“Facilities to be provided to passengers by airlines due to denied boarding, cancellation of flights and delays in flight”.

8. India is a party to the following **conventions**:

Warsaw Convention (1929), the Hague Protocol (1955), the Montreal Convention (1999) and the Cape Town Convention.

LANDMARK JUDGEMENTS:

1. Station Manager, Air India, Aizawl v. Dr. K. Vanlalzami D/o K. Lalthanmawia

The airline was held negligent in providing service to the Complainant, for which, they were liable to pay suitable compensation.

2. Trans Mediterranean Airways v. Universal Exports and Anr.

The National Commission had no legal problems exercising its authority since, for the purposes of Rule 29 of the Second Schedule to the CPA and the Warsaw Convention, it was regarded as a court located on the territory of the High Contracting Party. Accordingly, in light of CPA and Warsaw Convention requirements, the National Commission under CPA has the authority to consider and rule on complaints made by consignors seeking reimbursement for a carrier's lack of service.

3. Sri Dibakar Bhattacharjee v. The Airport Director, Airport Authority of India, Air India (Airport Office) and ors.

After speaking with all parties and reviewing the documentation, the Commission concluded that the luggage of the complainants was lost, a fact that cannot be disputed, and that as it was handled by OP airline employees, the company cannot escape its responsibility in the situation. The Commission concluded that the complainants had significant financial loss as well as great stress and mental anguish from having to arrange for the required garments.

4. Air France v. O.P. Srivastava and Ors.

The court ruled that airlines must place strict restrictions on ticket cancellations rather than arbitrarily allowing overbooking since doing so could result in the emergence of unfair business practices with the intention of making a profit.

SAMPLE OF THE COMPLAINT

<https://cdrc.gujarat.gov.in/images/pdf/1-CC-Eng.pdf> - DCDRC format.

<https://cdrc.gujarat.gov.in/images/pdf/1-CC-Eng.pdf> - SCDRC format.

<https://ncdrc.nic.in/cc.html> - NCDRC format.

IMPORTANT LINKS AND RESOURCES

International Civil Aviation Organization (ICAO)- <https://www.icao.int/Pages/default.aspx>

More data and resources on consumer rights and airlines. Has an e-library to make consumers informed.

Safety and Standards and Recommended Practices (“SARPs”)-

<https://www.icao.int/safety/safetymanagement/pages/sarps.aspx>

India follows the ICAO guidelines on SARP

FAQs - <https://consumerhelpline.gov.in/faq-details.php?fid=Airlines>

Airline Sector FAQs

1. What are the passenger rights in the event of flight delays & cancellations?

- At the time of booking, the airline must clearly “indicate” the amount of refund money that will be given to passengers in case of cancellation, the charter states.
- If any passenger is denied boarding due to overbooking of a flight, the passenger would not be liable to hold the airline for compensation if he or she is given an alternate flight within one hour of the original flight’s departure.
- In case of a delay of over 24 hours, the passenger should be offered free hotel accommodation.
- If the flier is not informed 24 hours before departure or she misses a connecting flight due to cancellation, the airline has to offer compensation.
- If a flight is delayed by over six hours, the airline needs to communicate the rescheduled time more than 24 hours before the original departure time. The airline also needs to offer customers either a full refund or an alternative flight.

- In case of a delay of over 24 hours, the passenger should be offered free hotel accommodation. Free stay should also be offered if flights departing between 8 pm and 3 am are delayed for over six hours.
- Airlines also need to offer meals and refreshments to passengers in case of delays beyond a certain period. For example, the passenger should get refreshments if a flight that has a block time of two-and-a-half hours is delayed by two hours or more.
- But for flights that have a block time between two-and-a-half hours and five hours, the delay has to be three hours for the passenger to be eligible for refreshments. If a flight doesn't fall into these two categories, the delay has to be over four hours for the airline to offer refreshments.
- (Block time is the time between the departure of a flight from the gate and arrival at the destination gate).

2. Cancellation

- Airlines need to inform passengers about flight cancellation 24 hours before the scheduled departure time. In this case, the customers should be offered either a full refund of the ticket amount or an alternative flight.
- If the flier is not informed 24 hours before departure or she misses a connecting flight due to cancellation, the airline has to offer compensation. The compensation amount ranges between ₹5,000 and ₹10,000, depending on the block time. Also, if the passenger is already at the airport and there's a delay, the flier should get refreshments while the staff arranges an alternative flight.
- Diversion: In case a flight is diverted, the airline should disembark the passengers at the nearest airport and provide refreshments.
- The airline will have no obligation to pay "compensation" if delay or cancellation happens due to circumstances beyond the control of the airline. These include political instability, natural disasters, riots, floods, government regulations, meteorological conditions, security risks, and so on.
- While the passenger can ask for a refund or alternative flight, he may not be liable to get compensation.
- A passenger has the right to receive a refund of statutory taxes, user development, and passenger service fees levied by the airlines in case he/she cancels the ticket. The right to refund will be subject to the airline's internal policy in the case of a foreign airline.
- Passenger allowed Lock-in option for 24 hours (after booking the ticket) in which the passenger can cancel or amend the ticket without any additional charges.

3. Where to Complain

- If the airline is not sticking to the norms provided in the passenger charter, the passenger needs to first complain at the airline's help desk or email them. If she is not satisfied with

the resolution provided by the airline, she can file a grievance with the ministry of civil aviation through its AirSewa portal or APP.

4. Medical Emergency

- The airlines will be liable to pay Rs 20 lakh in case a person dies on-board or suffers bodily injury only due to the fault of the airline.
- Death due to natural causes on board has no compensation.
- Passenger dies or undergoes bodily injuries onboard an aircraft: Limit of liability to be paid by the airline must be the same for both international and domestic passengers.
- Baggage lost, delayed, or damaged: a) Limit of liability to be paid by the airline to be the same for both international and domestic passengers, and b) the minimum compensation will be as follows: Rs. 3,000 per kg for loss of baggage, Rs. 1,000 per kg for delay and Rs. 1,000 per kg for damage of baggage.

5. Facilities

- Airlines to have seats that are designated as acceptable for persons with disabilities free of charge, which will remain blocked until close to the time of departure.
- All airports must provide the following medical facilities at the airport:
 - Medical doctor – available at all hours the airport is operational,
 - Ambulance, minimum medical support (including oxygen cylinders and defibrillators), trained medical personnel, Standard Operating Procedures to care for medical emergencies for both inbound and outbound passengers.
- Airports must provide meet-and-greet facilities for all passengers.
- Airports must provide toilets outside departure and arrival terminals.
- Airports/airlines must provide minimum one Helpdesk for passengers.
- Airports must provide passengers with free 30-minutes Wi-Fi services.
- Airports must provide affordable F&B outlets.
- All the above rights are over and above the ones that exist currently.

6. AirSewa app

- AirSewa app brings together all the stakeholders on a common platform to ensure timely and effective handling of customer grievances and to disseminate real-time data.

7. Wi-Fi Connectivity in Flights

- Both domestic and international airlines are allowed to offer internet services and mobile services on-board an aircraft in Indian airspace provided certain security requirements are met:
 - Internet services can be provided from the moment a plane takes off and personal electronic devices (PED) have to be put on flight mode.

- Mobile services can be allowed only when an aircraft is over an altitude of 3,000 meters.

8. General

- The airlines shall display their policies regarding compensation, refunds, and the facilities that will be provided by the airline in the event of denied boarding, cancellations, and delays on their respective websites as part of their passenger Charter of Rights.
- Passengers shall be fully informed by the airlines of their rights in the event of denied boarding, cancellations, or delays of their flights so that they can effectively exercise their rights provided at the time of making bookings/ticketing, they have given adequate contact information to the airline or their agents.
- The obligation of airlines to fully inform the passenger(s) shall be included in ticketing documents and websites of the airlines and concerned third parties (GDS and travel agents) issuing such documents on airlines' behalf.
- Airline shall display policy on their respective websites about passenger handling in the event of cancellation and delays. Airline counters at airports shall disseminate reasons for cancellation and delays to the affected passengers and attend to their grievances.
- Each Airline shall appoint a Nodal officer and Appellate Authority to settle passenger grievances in a stipulated time frame. Airlines shall conspicuously display the details of the Nodal Officer and Appellate Authority on their respective website.
- The internal grievance mechanism of airlines shall be transparent with a provision of online complaint handling. All complaints registered shall be issued a unique reference number.
- Is it mandatory for all arriving international passengers to carry a COVID negative certificate?
- All international passengers arriving must carry a COVID-19 negative certificate (issued within 72 hours from departure).
- Passengers without the certificate will be mandated to undergo an RT-PCR test at the airport.

9. What is an Air Bubble flight?

- An Air bubble is a bilateral arrangement between two countries where airlines from both countries can operate international flights with a set of regulations and restrictions.

10. Are all flights to and from UK suspended?

- As per the circular issued by the Ministry of Health and Family Welfare, GOI, dated December 21, 2020, all flights to and from the UK are suspended till 23.59 hours on December 31, 2020. The suspension will commence from 23.59 hours on December 22, 2020.

11. What is the screening process for international passengers upon arrival?

- The below process will be undertaken upon arrival:
 - Thermal scanning and pulse oximeter reading
 - Verification of self-reporting form
 - Confirmation on downloaded apps - Arogya Setu app, Quarantine Watch app, and Apathamitra app

12. What is the process of categorization of symptomatic & asymptomatic passengers upon arrival?

- Symptomatic passengers: Segregated from others and will be sent to a COVID health centre for testing.
- Asymptomatic passengers: 14 days of home quarantine / submit RT-PCR negative certificate upon arrival and self-monitor their health.