



FCCPC

Federal Competition & Consumer Protection Commission

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May 4, 2021

FINAL REPORT

POSSIBLE VIOLATION OF PASSENGER (CONSUMER) RIGHTS - MRS NNEKA OGBONNA VS AIR PEACE ON FLIGHT P47210 FROM LAGOS TO WARRI ON DECEMBER 10, 2019.

Summary

The Commission received a complaint dated July 3, 2020, on behalf of Mrs. Nneka Ogbonna from Mr. Christopher Ogbonna, alleging violation of passenger rights on Air Peace Limited (Air Peace) Flight P47210 from Lagos to Warri on December 10, 2019.

Essentially, Mrs. Ogbonna alleged that Air Peace, its employees, agents and representatives breached its carriage contract, sexually and unlawfully assaulted, harassed, intimidated, extorted and abused her in violation of her rights. The complaint also alleged that Mrs. Ogbonna was prevented from boarding the plane with her hand luggage on the purported grounds that it would not fit in the overhead cabin of the aircraft.

Upon initial evaluation of the complaint, the Federal Competition and Consumer Protection Commission (Commission) issued a Preliminary Assessment and Notice of Inquiry (NoI) on August 4, 2020. Appropriate and relevant parties/authorities were included in the scope of inquiry; Air Peace, Federal Airports Authority of Nigeria (FAAN), and Nigerian Civil Aviation Authority (NCAA).

In a letter dated August 28, 2020, Air Peace disputed the accounts of Mrs Ogbonna. Air Peace claimed that Mrs. Ogbonna was not only unruly and disruptive, but also disobeyed flight protocols hereby delaying the flight. Air Peace also provided prevailing Incident Report and Passengers Manifest (showing contact details of all passengers on the flight as requested by the Commission).

FAAN responded to the NoI on August 28, 2020. FAAN claimed that it relied on reports of other parties involved. Based on that reliance, **“the response of the Airport Management (MMIA) corroborated the narration of events as stated by Air Peace Limited.”**

In furtherance of the investigation, the Commission provided the Preliminary Assessment and responses from the other parties/authorities to Mrs. Ogbonna. She refuted Air Peace's account and characterized same as false and misleading.

The Commission further progressed the investigation by reaching out to all passengers on flight P47210 who had their contact details on the passenger manifest provided by Air Peace. In doing this, the Commission propounded interrogatories requesting responses from the passengers.

The Commission considered the scope of the inquiry to include:

1. Whether Air Peace's conduct is considered obnoxious or an unscrupulous exploitation of Mrs. Nneka Ogbonna pursuant to relevant/prevailing laws and standards.

Analysis

1. Whether Air Peace's conduct is considered obnoxious or an unscrupulous exploitation of Mrs. Nneka Ogbonna pursuant to relevant/prevailing laws and standards.

When an undertaking agrees to perform any service for or on behalf of a consumer, the consumer has a right to performance of the service in a manner and quality that reasonable persons are generally entitled to expect¹.

The Commission shall ensure that consumers' interests receive due considerations at appropriate fora and provide redresses to obnoxious practices or the unscrupulous exploitation of consumers by companies, firms, trade associations or individuals.²

In an e-mail to the Commission dated August 20, 2020, Air Peace claims its cabin crew at boarding requested that Mrs. Ogbonna check in her bag as other passengers had already utilized most of the space in the overhead storage in the cabin. Air Peace asserted that carriage of cabin bags is subject to space availability and flight safety.

Mrs. Ogbonna alleged that while she was discussing with a member of the cabin crew at the entrance of the aircraft, the Pilot-In-Command was verbally abusive, specifically asking whether she was ***"stupid or deaf"***. In response, Air Peace claims Mrs. Ogbonna ***"threw a tirade at flight crew and insulted its staff, calling the pilot-in-command a stupid old man."*** However, Mrs. Ogbonna insists that she exercised restraint not to insult the Pilot.

¹ Section 130(1)(b) FCCPA

² Section 17(s) FCCPA

Documents provided to the Commission in evidence shows that the Pilot-In-Command asked that Mrs. Ogbonna be de-boarded on the grounds that her conduct was *“unruly”*. Documents also show that *“at some point, the pilot falsely announced over the aircraft’s public address system to the hearing of all other passengers that (Mrs. Ogbonna)... had hijacked the aircraft”*. This added to the already tense and agitated environment.

From the video footage and other evidence analyzed, there was in fact, animated conflict between Mrs. Ogbonna and airport/airline operatives. The flight was delayed and some passengers seemed aggravated. This could in part have led to the Pilot-In-Command deplaning the aircraft. The evidence further shows disembarkation of other passengers, possibly in preparation and for the convenience of an involuntary disembarkation or removal of Mrs. Ogbonna.

The video footage also shows airport security attempting to convince Mrs. Ogbonna to disembark the aircraft, including threat of physical removal. Mrs. Ogbonna however claims Air Peace operatives physically assaulted her and broke her belt.

Further video footage appears to suggest that Mrs. Ogbonna ultimately disembarked the aircraft on her own, in compliance with security requests and pleas. The evidence shows that Mrs. Ogbonna was transported from the foot of the aircraft to the terminal building for further processing.

An airline’s contract of carriage for domestic flights generally consists of the passenger’s ticket, any applicable tariffs and the airline’s Conditions of Carriage. These Conditions of Carriage govern many of the issues that may arise before, during, and after a passenger’s flight.

Consumers are entitled to information in a plain and understandable language.³ Air Peace’s Cabin Baggage Policy states that *“the airline reserves a right to request that a carry-on baggage be dropped for check-in where the crew reasonably believes it will not fit into the cargo hold”*. It is unclear what Air Peace means and perhaps not understandable to the passenger as Air Peace does not sufficiently clarify whether its cargo hold is different from overhead cabins in its policy.

Mrs. Ogbonna and all other passengers had a right to board the flight, be transported to their destinations on time and to be informed of Air Peace’s Conditions of Carriage. Air Peace was required to deliver their service in a reasonable manner and quality that the passengers are entitled to expect.

³ Section 114 Federal Competition and Consumer Protection Act, 2018

Findings

The Commission finds:

1. Air Peace's Cabin Baggage Policy published on its website⁴ is unclear, could confuse passengers and result in conflict;
2. There is no evidence of specific efforts or institutionalized protocol by Air Peace to de-escalate what had become a sensitive and contentious situation. Air Peace flight deck and cabin crew as well as ground service agents will benefit from appropriate sensitivity training and skills in de-escalation and conflict resolution;
3. Mrs. Ogbonna's claim of sexual and physical assault by Air Peace's cabin crew could not be substantiated;
4. Mrs. Ogbonna's claim of harassment and intimidation by Air Peace could not be substantiated;
5. Mrs. Ogbonna's claim of extortion could not be substantiated;
6. Mrs. Ogbonna's claim of abuse of fundamental human rights is a matter of certain legal standards and a different judicial and enforcement mechanism;
7. The rights, prerogative and expectations of other passengers for on-time departure and safe flight operations was compromised by the conflict and in part by Mrs. Ogbonna's insistence on not complying with the announcement of the Pilot-in-Command to deplane and only did so after extensive persuasion and or further action by airport security operatives;
8. Prevailing aviation regulations vest the ultimate responsibility for operating a flight safely in the Pilot-In-Command;
9. The Pilot-In-Command's obligations and powers in this regard includes declining to transport a passenger considered unruly or who may constitute a potential compromise to other passengers' convenience and safe operations.

Tam. Tamunokonbia

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⁴ www.flyairpeace.com