

CHAPTER IV

CONSUMER PROTECTION

The Civil Aeronautics Board, in accordance with President Johnson's program, has been most active in its efforts to protect and promote the interests of the air passenger or shipper. The rapidly expanding air transportation industry and the tremendous growth in the use of air transportation have created increased problems in the handling of air passengers and air cargo. Quite logically, this has resulted in an ever increasing number of complaints received by the Board from consumers and communities against various segments of the air transport industry.

The Board's Consumer Complaint Section has dealt with such complaints effectively. Each complaint is handled individually and the carrier is urged to take corrective measures so that such occurrences will not happen again. Where necessary, the Board has taken regulatory action to better protect the consumer.

For instance, consumer complaints protesting failure of airlines to honor reservations culminated in regulatory action by the Board, effective in October 1967, imposing a penalty payable to passengers who were overbooked or denied boarding on a scheduled aircraft. This regulation has resulted in improved reservations procedures on the part of the airlines and denied boardings, because of overbooking or oversales, appear to be reduced. The experience of the airlines, as reflected in reports on denied boardings, is continuously studied to determine if further improvements of this problem can be made.

Also in 1967 the Board made a consumer service survey of domestic airlines. A team of Board staff visited each scheduled airline and made a thorough study of consumer complaints received by that airline as well as the methods employed by the air carriers in the handling of such complaints. This pinpointed the most prevalent consumer problems in air transportation. The Board then called to the attention of the airlines the results of the survey and offered suggestions as to the improvement of their operations and the handling of consumer complaints. As a result of the program, the airlines became more aware of the most important types of complaints received by them and the Board and the carriers have engaged in programs looking towards improvement in customer service and towards a reduction of complaints.

The Board's Office of Community and Congressional Relations has engaged in efforts to improve the relations between the community and the air carrier. Before this office was established, the community's only avenue towards obtaining improved air service was through a formal proceeding. This office, however, on an informal basis has held over 200 meetings with civic officials and the community leaders and the air carriers with the objective of obtaining improved air service through informal means. Most communities now recognize that where they have air service problems, their most effective method of correcting such situation is through the Office of Community and Congressional Relations.

Carrier Liability: Baggage

In September 1966, after full evidentiary hearing, the Board concluded that the lawful liability for damaged or lost baggage was not less than \$500.00. All trunkline and local service carriers were directed to so conform their tariffs for transportation wholly within the 48 contiguous states and the District of Columbia, the geographical framework established by the Board when it set the matter for investigation.

Some carriers have extended the \$500 limitation to interstate transportation beyond the geographical area mentioned above. However, this is not uniformly the case, and other carriers continue to maintain liability limits as low as \$100. In July 1968, the Board addressed all U. S. scheduled carriers, urging that they conform their baggage liability provisions to the Board's decision for all interstate and overseas transportation. The majority of the carriers have indicated their intention to do so.

Carrier Liability: Passengers

On May 13, 1966, the Board approved an agreement between various air carriers, foreign air carriers and other carriers under which the carriers would assume increased liability for personal injury and death incurred during transportation by air subject to the Warsaw Convention or the Protocol to the Convention (Order E-23680).^{1/} The Convention and the

^{1/} The Warsaw Convention is the common term applied to the Convention for the Uniformity of Certain Rules Relating to International Transportation by Air 49 Stat. 3,000. The United States became a party to the Convention in 1934, but has not ratified the Hague Protocol to amend the Convention.

Protocol limit the carrier liability in most cases to approximately \$8,300 or \$16,600, respectively for international transportation as defined therein. Under the terms of the agreement, the carrier parties stipulated that they will provide in their conditions of carriage, including applicable tariffs filed with any government increased liability limits up to \$75,000 for provable damage; and will waive defenses available under the Convention, thus accepting the principle of liability without fault. In countries where provisions are made for a separate award of legal fees and costs, the limit is \$58,000, exclusive of legal fees and costs.

At the time of approval, 31 carriers had become signatories to the agreement, and these carriers provided by far the greater portion of international transportation to, from, and within the United States. As of June 1968, there have been 107 signatories to the agreement, including 46 United States carriers.^{2/} The carrier list now includes all the principal carriers providing transportation to and from the United States, and the agreement will apply to almost all international transportation to or from the United States. The effect of the agreement and the tariff revision made pursuant thereto will be a salutary increase in the protection given to passengers over that previously applicable under the Convention or Protocol.

^{2/} As a result of mergers, there are now 41 United States carrier entities participating in the agreement.

The carrier agreement stemmed from efforts made by the International Air Transport Association (IATA) to effect an arrangement among the principal carriers by air, (including non-IATA carriers) to increase the liability limits for personal injury or death stipulated in the Convention or the Protocol. The purpose of this carrier action was to provide a basis upon which the United States Government could withdraw its Notice of Denunciation to the Warsaw Convention. This notice had been previously given November 15, 1965,^{3/} because of the extremely low limits of liability for personal injury or death to passengers whose transportation was subject to the Convention.

The action of the United States Government in giving the Notice of Denunciation, and in subsequently accepting the carriers' proposal, effected a substantial increase in protection offered to most international passengers flowing both from the increased dollar amounts and the assumption of liability without proof of negligence. At the same time the public was able to retain the benefits stemming generally from the uniformity of conditions of carriage and applicable law provided in the Convention or Protocol.

^{3/} As provided in Article 39 of the Convention, a notice of Denunciation would become effective in 6 months, or in this case, May 15, 1966.