

## European and US regulatory developments

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#IATAGMD



As you've heard from Marie and Willie, although things are improving, the industry is still in a delicate position. Government's should consider carefully what to prioritize. And regulation should focus on what's proportionate.

Key regulatory developments in Europe and US matter because regulation enacted in these two regions is often mirrored by other governments.

While global harmonization can be good, it is important that regions learn from best practice and only mirror the smartest and most useful regulations.

# Europe is not prioritizing what consumers & business need from air transport

European businesses hugely value air connectivity

Key results from a survey of 500 European businesses using air connectivity identified some priority areas for improvement:

- Reducing costs (42%)
- Improving/upgrading airport infrastructure (37%)
- Improving links between public transport and air networks (35%)
- Reducing delays (35%)
- Decarbonization (33%)



European businesses hugely value the connectivity that is provided by airlines. Independent polling company Motif, commissioned by IATA, surveyed a cross-section of 500 European businesses that use air transport services. They discovered that although 93% of the businesses surveyed were positive about Europe's air transport network, a number of areas for improvement were identified, including:

- Reducing costs
- Improving/upgrading airport infrastructure
- Improving links between public transport and air networks
- Reducing delays
- Decarbonization

Note that many European politicians are doing the *opposite* of these - introducing airport capacity caps, adding costs through taxation, and failing to tackle delays by refusing to reform air traffic management.

## European Policies: Environmental leadership, but some detail concerns

### ReFUEL EU

- EU proposal to **mandate an equal spread of SAF** across all EU airports
- What we need is a **flexibility mechanism** that **decouples SAF supply** from the overall **EU-wide target** ('Book and Claim')
- This would **empower airlines to play an active role** in the SAF purchasing process, and **enable SAF production to increase fastest** where it is most efficient

### European Tax Directive

- **No environmental benefit** to an aviation tax
- **Drains finance out of aviation** that could be invested in green technologies which would **genuinely reduce CO2 emissions**
- The link between a flight tax and reducing flying is not straightforward. Many people will economise on other aspects of their trip **before they choose to cancel their flight**. Thus a tax serves only to **damage wider the EU tourism and hospitality sector**



IATA is a trusted partner with governments and where governments show leadership we will support and back them. Europe deserves credit for its leadership on decarbonization. We are grateful for Europe's work at ICAO on the Long-Term Aspirational Goal that was agreed a few weeks ago. And we support the aims of European regulators to increase SAF use in line with our net-zero CO2 target. However, we do have some concerns with the details of European policies.

**Fit for 55** is the EU initiative to reduce carbon emissions 55% by 2030. For the measures aimed at aviation, there are two elements that particularly concern us.

**Refuel EU.** We are concerned that the EU Commission approach is focusing on the stick and not the carrot. Mandating an equal spread of SAF across all EU airports. What we need is a flexibility mechanism that decouples SAF supply from the overall EU-wide target – a 'book and claim' system. This would empower airlines to play an active role in the SAF purchasing process, and enable SAF production to increase fastest where it is most efficient. The EU Parliament gets this and we support their push for this in the discussions which are underway.

**European Tax Directive.** It is worrying to see that discussions on the implementation of a jet fuel tax continue despite there being no environmental benefit whatsoever. A tax merely drains finance out of aviation that could be invested in green technologies which would genuinely reduce CO2 emissions. Moreover, the link between a flight tax and reductions in flying is not straightforward. Many people will economise on other aspects of their trip before they choose to cancel their flight. Thus a tax serves only to damage wider the EU tourism and hospitality sector.

## European Policies: Single European Sky

- Reforming European air traffic management could generate CO2 savings of 6-10%. There's no excuse for the lack of progress
- Another opportunity was missed this week, with the negotiations over SES2+ between EU states and parliament postponed
- We need to see a proper independent referee to regulate air navigation service providers, and significant targets including for fuel savings
- It's time European states put aside sovereignty questions. It is not about national sovereignty: it's about working together



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**We need to see a proper independent referee to regulate air navigation service providers, and significant targets including for fuel savings**

**It's clear EU Member states are not yet ready for meaningful discussion on SES2+. This week they postponed discussions with the European Parliament on independent regulation, target setting and other key matters.**

**Now our hopes rest with the Swedish and Spanish Presidencies of the Council, which we hope will lead to progress towards a final agreement in 2023.**

**Sovereignty cannot be the real issue. European states deregulated borders on the ground decades ago (Schengen) yet they cannot agree to do it in the air!**

**This isn't a matter of sovereignty. It's a matter for states working together.**

## European Policies: Entry-Exit System

The EES digitalizes entry into the Schengen area

- We're concerned about the **readiness of many EU states** and welcome the move towards a "progressive" implementation starting in May 2023, although details are extremely unclear
- The priority should be to **ensure a smooth implementation with no disruption for passengers** or Schengen connectivity. It is concerning that no European states have begun a public information campaign.
- Airlines should not have to pay for the equipment – this is a **national responsibility**



The **European Entry/Exit System (EES)** registers all third-country nationals entering and leaving the Schengen area. It will replace the current manual practice of stamping passports. Airlines are fully committed to the implementation of EES. But based on the status of implementation provided by several member states, we remain highly concerned about the entry into operations of EES in the current deadline.

Therefore we welcome the latest steps taken by the EU to start with a "progressive approach" and delay the entry into operations to May 2023 – or even later.

The priority has to be to ensure an efficient start of operations and a smooth passenger experience while not risking Schengen connectivity.

Last but not least we are against carriers having to pay for equipment used to control the Schengen border

## Double-Dutch

### Schiphol flight reduction from 500k to 440k

- Was made with no consultation
- No data or economic analysis presented
- Dutch government should scrap decision and start again with a genuine consultation

### Dutch aviation tax

- Triples on Jan 1 – will have no positive environmental impact
- Will impact EUR4.8bn in GDP and 62,000 jobs
- Investment decisions already impacting Dutch economy

Schiphol's capacity failures in the summer highlight urgent need to review EU261 compensation payments. It is not correct that airlines should have to continue to compensate passengers for delays caused by airports.



The reduction of aircraft movements at Schiphol from a limit of 500,000 to 440,000 to reduce noise and NOx emissions, came without any warning or consultation. The government has reluctantly agreed to a consultation based on the ICAO balanced approach, but since the decision has already been taken it is not clear what the consultation will achieve. No assessment has been made of the economic and social damage the cuts will cause. Nor has the government presented any up-to-date data to explain what NOx and noise benefits will be achieved. It's essential the Dutch government start again, with a proper consultation based on accurate data and with a full balanced economic and environmental assessment.

Meanwhile on 1 January the Dutch ticket tax will triple to EUR 26.43. Our economics team estimates that will impact approximately EUR 4.8 billion in GDP and 62,000 jobs. Needless to say, this will damage the dynamism of the Dutch economy and its international influence, which depends hugely on global air connectivity. Corendon airlines, for example, has already announced it will expand in Brussels, not Amsterdam.

If the Government must raise an environmental tax, then the money should be used directly to make aviation more sustainable, e.g. investing directly in SAF.

Finally, Schiphol's failure to deliver its declared capacity this summer, leading to sudden and arbitrary cuts to flights, highlights a failing in the system where airlines are held accountable to recompense passengers for delays. Where delays are caused by airports or ANSP inability to deliver declared capacity we need to see a regulation that hold airports and ANSPs responsible for EU261 fines.

## The UK: Benefits of Brexit?

### **Few signs of Brexit benefits so far, but the UK does have opportunities**

- New slot regulations should align more closely with Worldwide Airport Slot Guidelines
- Passenger Rights reform can clarify 'extraordinary circumstances'

### **Competitiveness of the UK economy post-Brexit is crucial**

- APD should be cut. It certainly should not increase in line with inflation
- Heathrow charges must be reduced
- Government investment in SAF should increase to bring sustainability and competitiveness gains



Two years on from Brexit it would appear there are as yet no tangible Brexit benefits for the aviation industry. On the contrary, there is additional regulatory red tape, increased costs, and immigration restrictions make it harder to hire more workers.

There are some opportunities coming up. The UK will be diverging from EU Regulations on slots and passenger rights. On slots, we hope that in the case of both the EU and the UK, that the regulations will align more closely with the Worldwide Airport Slot Guidelines and the UK now has the freedom to choose this. On passenger rights, there is scope for the UK to set out a more flexible and responsive framework, and the ability to develop a more clearly defined definition of extraordinary circumstances.

The UK should increase its financial commitments to seed fund the establishment of SAF facilities in the UK. This currently stands at just £165m. The UK needs to push harder if it is to stay globally competitive in the SAF race.

## US Developments – priorities in proportion

### SAF priorities in the right place

- SAF policies have prioritized incentives not mandates
- \$400bn in support for CO2 reductions and blender tax credit has made US a world leader in SAF production

### Refunds Notice of Proposed Rulemaking

- Is an invitation for passengers holding non-refundable tickets to call in sick when their plans change
- Rules like this add to the cost of flying for everyone
- If airlines have to plan for a certain number of tickets that could be redeemed at any time, that has a cost
- It's just like reserving a hotel room: the non-refundable purchase is always cheaper than a refundable one



Much as with the overall environmental leadership shown in Europe, we can look to the US for leadership on decarbonization. In the case of the US, we feel they have put the right combination of policies in place to push production of SAF. The passing of the Inflation Reduction Act in the United States has allocated around USD\$400 billion to the reduction of carbon emissions. Particularly crucial to Net-Zero 2050 is the inclusion of a SAF blender tax credit and a clean fuel production tax credit.

However, in some other regulatory areas, there is a lack of understanding being shown by significant portions of Congress and regulators on some fundamental aspects of aviation both technically and in terms of business practices.

We have a significant issue with US DOT's "Refunds Notice of Proposed Rulemaking". This is a rule that defines when refunds or vouchers are due when there are changes and cancellations. It gives passengers non-expiring vouchers when they decide not to travel due to an emergency or if they self-diagnose with a serious communicable disease. DOT is essentially inviting passengers holding non-refundable tickets to call in sick when their plans change.

These stipulations are an unnecessary intrusion on airlines business practices, which wouldn't be tolerated by any other business sector.

It stems from a misplaced belief that "the plane will fly anyway" and that a seat is a permanent asset that can be resold. This is a fundamental misunderstanding of the airline business. An airline seat is not like a TV that can be returned and sold again. It is a one-off perishable, like a ticket to see your favorite rock group. Once it is sold, it must be used, or it expires.

Rules such as this add to the cost of flying for everyone. If airlines have to plan for a certain number of tickets that could be redeemed at any time, that has a cost. This should not be surprising. When you reserve a hotel room, or buy a train or theatre ticket the non-refundable purchase is always cheaper than a refundable one.

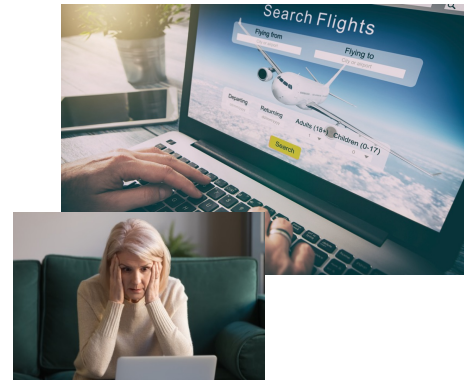
We believe this rule is disproportionate – the proverbial sledgehammer to crack a nut.



## US Developments – priorities in proportion

### Ancillaries Notice of Proposed Rulemaking

- Requires airlines and agents to display ancillary fee information on first search page
- Airlines have been unbundling since 2018 and passengers are fully aware of the cost of ancillaries
- It clutters the initial search page, makes the ticket purchasing process confusing, and requires fundamental changes in airline and agent distribution practices with little benefit to consumers
- This NPRM is a solution in search of a problem



Continually adding regulations and costs will gradually reduce the competitiveness of travel and doing business into, out of, and within the United States.



We have a similar problem with another Notice of Proposed Rulemaking, this time to do with ancillaries. In this case, the first two bags, the change and cancellation fees, and family seating are being referred to as 'critical' ancillaries, requiring airlines and agents to display the fees on the first search page. The information must be dynamic and personalized to a passenger if they identify themselves.

This would require fundamental changes in airline and agent distribution practices with little evidence it would benefit consumers.

Airlines and IATA strongly oppose this as an unjustified intrusion in airline business practices. Airlines have been unbundling since 2018 and passengers are fully aware of the cost of ancillaries before their final purchase. Cluttering the initial search page with information that is not even relevant to some passengers will make the airline ticket purchasing process confusing with almost no overall time savings.

This would be like going on a hotel website and being offered pricing for the laundry, a beer in the bar, and the restaurant meal before you have a chance to book a room.

This NPRM is a solution in search of a problem.

Once again, airlines are being overregulated because the costs are seemingly "hidden". But there is a cost and it will gradually reduce the competitiveness of travel and doing business into, out of, and within the United States.

## Regulation: the good, the bad and the ugly

- We support good regulation
- Even in the best of times regulation is costly. Now in particular we need regulations to be **proportional** and focus on **priorities** to get people traveling efficiently
- Aviation is like a convoy – only as strong as its weakest link. Governments must understand the delicate chain and consult at all levels to ensure regulation works for the consumer and business all over the globe.



Even at the best of times, regulation can be costly for airlines to implement. We're not against good regulation, but where more regulation is considered, it should be proportional and focus on priorities to get people traveling efficiently.

Aviation is like a convoy – only as strong as its weakest link. Governments must understand the delicate chain and consult at all levels to ensure regulation works for the consumer and business all over the globe

# Thank you

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