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Delegations will find attached document SWD(2023) 387 final.

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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the documents

Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 261/2004, (EC) No 1107/2006, (EU) No 1177/2010, (EU) No 181/2011 and (EU) 2021/782 as regards enforcement of passenger rights in the Union

Proposal for a Regulation of the European Parliament and of the Council on passenger rights in the context of multimodal journeys

{COM(2023) 752 final} - {SEC(2023) 392 final} - {SWD(2023) 386 final} - {SWD(2023) 389 final}

A. Need for action

What is the problem and why is it a problem at EU level?

Passenger rights apply to a growing market of around 13.4 billion passengers who perform 107 million journeys every year by using public transport. These rights protect passengers prior, during and after their journey, and are at the heart of the EU transport and consumer policy; they have become a flagship initiative of the Union.

The passenger rights framework consists of five different EU Regulations for air (2), rail, waterborne and bus and coach transport. Their implementation has led to a significant improvement of the protection of passengers in the last twenty years. However, despite the substantial progress made, including the recast of the rail Regulation in 2021, major challenges remain. First, passengers in all modes of transport do not fully benefit from their rights due to shortcomings in their implementation and enforcement. Second, the current legal framework does not provide protection to passengers undertaking a multimodal journey. Third, as observed during the COVID-19 pandemic, the reimbursement rules for air tickets are unclear when flights were booked via an intermediary.

What should be achieved?

This initiative seeks to ensure the proper functioning of the single market for passenger transport and to achieve a high level of consumer protection for passengers when travelling. To this end, its specific objectives are to: 1) ensure effective and efficient enforcement of passenger rights legislation across Member States, 2) ensure an effective complaint handling for passengers, 3) increase the protection of passengers facing travel disruptions in the context of multimodal journeys, 4) increase the information for and assistance of persons with disabilities or reduced mobility (PRM) when switching between transport modes, and 5) ensure a clear reimbursement process when air passengers booked via an intermediary.

What is the value added of action at the EU level (subsidiarity)?

Passengers must be able to assert their rights in the same manner and to benefit from the same protection in the European Union, regardless of the Member State where they travel. For these reasons, the problems mentioned above need action at EU level. On the other hand, the enforcement and monitoring of the application are tasks of the Member State.

B. Solutions

What are the various options to achieve objectives? Is there a preferred option or not? If not, why?

Three sets of policy options (PO1, PO2, PO3) have been assessed in the context of this Impact Assessment. Each set of options proposes solutions to one of the three identified problems but varies in terms of the scope of actions envisaged at EU level.

Options PO1.1 and PO1.2 focus on solutions to shortcomings in the implementation and enforcement of the existing passenger rights regulatory framework. PO1.1 aims to ensure the harmonisation of key existing rules in this area based especially on measures included in the new rail Regulation which has entered into force in June 2023. PO1.2 builds on PO1.1 and aims to the strengthening of compliance.

Options PO2.1, PO2.2 and PO2.3 address issues relating to the level of protection of passengers undertaking a multimodal journey, including PRM, by mirroring measures which have already been implemented under the existing Regulations for travels with a single mode. Policy measures take into account several multimodal ticket categories, i.e. single contracts of carriage offered by a carrier (category A), separate tickets bundled by intermediaries (category B) and separate tickets purchased by passengers separately on their own initiative (category C). PO2.1 provides passengers a basic level of protection to ensure that they receive minimum information and assistance, in particular for passengers with a single contract of carriage (category A). PO2.2 provides a more comprehensive level of protection than PO2.1: passengers (category A and B) should get real-time information on disruptions and possible next connections. In addition, the assistance of PRM when switching between modes would become more efficient and comprehensive with the introduction of “Single Points of Contact” at multimodal hubs. PO2.3 introduces a further level of protection by adding an additional right to passengers having a single contract of carriage (category A) to conclude an alternative transport contract where they miss a connection.

Options PO3.1, PO3.2 and PO3.3 address unclear rules related to the reimbursement of air tickets

booked via an intermediary. They include obligations on carriers and intermediaries to inform passengers about the reimbursement process, and to provide means of contact to the passenger. Under PO3.1, passengers may only request the reimbursement from the carrier and the intermediary is not part of the reimbursement processing; intermediaries must enable passengers to do so, by providing them with the necessary data. Under PO3.2 the carrier can decide whether passengers have to request the reimbursement from the intermediary or the carrier, while PO3.3 allows passengers to choose between reimbursement via the intermediary or to the carrier.

The preferred policy package combines policy options PO1.2, PO2.2 and PO3.2.

What are different stakeholders' views? Who supports which option?
Stakeholders agree in general with the relevance of the problems identified as well as the objectives.

As regards PO1, many national enforcement bodies (NEBs), carriers and terminal operators support PO1.1, as it does not include obligations on risk assessments and passenger rights awareness programs for these stakeholders. PO1.2 is supported by consumer organisations as the option goes further on obligations for carriers and terminal operators to provide passengers with information on their rights. Well performing NEBs, carriers, terminal operators and intermediaries also support PO1.2, as it ensures that the NEBs monitoring, and enforcement activities are more transparent and predictable.

As regards PO2, consumer associations support PO2.3, as it would entail a high protection of consumers. Carriers and intermediaries rather support PO2.1 in view of the current level of development of the multimodal ticketing market. NEBs are more favourable to PO2.2.

As regards PO3, airlines and intermediaries support PO3.2; a European passenger association also supports PO3.2. A European consumer association would possibly prefer PO3.3, but also be favourable towards PO3.2 because the passenger can always approach the carrier as a last resort (when the intermediary does not pay within the deadline). NEBs support PO3.1.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

The general objective of this intervention is to ensure the proper functioning of the single market for passenger transport and to achieve a high level of consumer protection for passengers when travelling within one mode or when switching modes during their journey by enabling passengers, carriers, intermediaries and (especially for PRM) terminal operators and national administrations in an efficient and effective manner to apply and enforce these rights.

The benefits of the preferred policy package are expected to fall on different stakeholders' groups, namely: carriers, intermediary ticket vendors, terminal operators, national enforcement bodies and passengers.

Passengers: the ultimate beneficiaries of this initiative are the passengers whose awareness about their rights is expected to increase because of the action of carriers, terminal managers, and enforcement authorities. In addition, passengers (including PRM) would enjoy more rights to information and assistance when performing a multimodal journey, and would benefit from easy reimbursement of air tickets. Total benefits for passengers are estimated at EUR 2,187 million, expressed as present value over 2025-2050 relative to the baseline, of which EUR 2,165.3 million correspond to hassle costs savings. Hassle costs savings are driven by the time saved thanks to: the higher clarity on the reimbursement procedure (EUR 1,679.1 million), the Single Point of Contact for PRMs (EUR 277.3 million), the use of an EU-wide standardised form for reimbursements and compensation requests (EUR 147 million), the complaint-handling mechanism for multimodal passengers (EUR 43.3 million) and the assistance for PRM passengers travelling under category A multimodal tickets (EUR 18.6 million). In addition, passengers benefit of assistance rights in the event of a missed connection during a multimodal journey (in particular the right to reimbursement and re-routing as well as a right to care in the form of e.g. refreshments, meals and accommodation), estimated at EUR 20.1 million, and of the use of the cheaper option of an Alternative Dispute Resolution (ADR) body, estimated at EUR 1.6 million.

***Carriers*:** will benefit from quicker and more efficient procedures, increased transparency about the compliance of operators, B2B rules with air travel intermediaries when processing reimbursements together with them, competitive advantage thanks to their good reputation, coordinated investigations across borders, effective cooperation between NEBs and ADR bodies. They will indirectly benefit from

clearer rules on liability in the context of multimodal travel, as well as from the publishing for risk assessments, as it will level the industry playing field across Member States and makes monitoring factors more transparent. In addition, hassle costs savings for carriers due to the complaint-handling mechanism for multimodal passengers are estimated at EUR 35.3 million, expressed as present value over 2025-2050 relative to the baseline.

Intermediaries: will benefit from an official role in the reimbursement process of air tickets booked via them - if the carrier so decides and they agree to this. Intermediaries may also indirectly benefit from clearer liability rules in the context of multimodal travel, in particular where they properly inform passengers on the separate nature of the transport tickets that these intermediaries have combined and sold for a given multimodal journey. In addition, hassle costs savings for intermediaries due to the complaint-handling mechanism for multimodal passengers are estimated at EUR 24 million, expressed as present value over 2025-2050 relative to the baseline.

National public authorities: recurrent enforcement costs savings for national public authorities are estimated at EUR 5.9 million, expressed as present value over 2025-2050 relative to the baseline. Costs savings are due to an easier way to evaluate compliance for carriers and terminal operators, without having to do more in depth and costly monitoring activities, the use of standard claim forms which easy monitoring activities and the expected decrease in the number of court cases. In addition, they are expected to experience hassle costs saving due to the complaint-handling mechanism for multimodal passengers (EUR 71.4 million, expressed as present value over 2025-2050 relative to the baseline).

The total benefits of the preferred policy option are estimated at EUR 2,323.6 million relative to the baseline, expressed as present value over 2025-2050.

What are the costs of the preferred option (if any, otherwise of main ones)?

The total costs of the preferred policy package are estimated at EUR 575.2 million in addition to the baseline over the period 2025 to 2050, expressed as present value.

For ***carriers***, total costs are estimated at EUR 144.5 million expressed as present value over 2025-2050 relative to the baseline, of which EUR 51.2 million adjustment costs and EUR 93.3 million administrative costs. The largest share of adjustment costs is driven by the right to reimbursement or re-routing, the right to care and the right to PRM assistance for passengers having a single contract of carriage (category A), and by the the need to put in place the system for providing real-time information to passengers for multimodal ticket categories A (single contracts of carriage) and B (separate tickets bundled by intermediaries). The administrative costs are largely driven by the requirement to report, following the set up of service quality standards and a quality management system.

For terminal operators, total costs are estimated at EUR 321.9 million expressed as present value over 2025-2050 relative to the baseline, of which EUR 319.5 million adjustment costs and EUR 2.3 million administrative costs. The requirement to establish a “Single Points of Contact” (SPC) for PRM at multimodal hubs makes up a large part of the adjustment costs (EUR 316.5 million), while the administrative costs are driven by the requirement to report on results, following the set up of service quality standards and a quality management system.

For intermediaries, total costs are estimated at EUR 75.2 million, of which EUR 17.8 million adjustment costs and EUR 57.5 million administrative costs. The administrative costs are mainly driven by the need to change the information systems, to inform passengers on the reimbursement process. Claim agencies may experience losses, estimated at EUR 1.6 million, due to the use of the cheaper option of an Alternative Dispute Resolution (ADR) body.

For national public authorities, total costs are estimated at EUR 32 million, of which EUR 30.6 million enforcement costs, EUR 1.4 million administrative costs and EUR 0.02 million adjustment costs.

What are the impacts on SMEs and competitiveness?

The impacts of the preferred policy package will affect larger and smaller enterprises, with SMEs also likely to experience a significant impact due to their size and resource limitations. This is especially the case with intermediary ticket vendors and small transport operators such as bus and coach and waterborne operators. In this context, an SME exemption has been included for a policy measure bearing particularly large costs for SMEs (i.e. providing real-time information to passengers for multimodal ticket categories A (single contracts of carriage) and B (separate tickets bundled by

intermediaries)).

Will there be significant impacts on national budgets and administrations?
The preferred policy package makes it possible to implement and enforce passenger rights better, making the work of the national authorities more efficient. Raising awareness of passengers about their possibility of submitting reimbursement and compensation claims to an Alternative Dispute Resolution (ADR) body will save administrative costs for courts, due to decreased litigation acts, and thereby a decrease in litigation costs. The total costs for national public authorities are estimated at EUR 32 million, while the costs savings at EUR 77.3 million, leading to net benefits of EUR 45.3 million, expressed as present value over 2025-2050 relative to the baseline.

Will there be other significant impacts?
The preferred policy package will result in some social impacts: while impact on employment will be marginal, benefits related to fundamental rights would materialise in a higher level of consumer protection, including for PRMs (e.g. establishment of Single Points of Contact for PRMs at multimodal hubs). The preferred policy package is also expected to have some positive environmental impacts; it will make mobility with collective transport solutions more attractive and may contribute to people choosing to use individual cars less, which may have a positive impact in terms of reducing CO_2 and other pollutant emissions, as well as on congestion.

Proportionality
The preferred policy package does not exceed what is necessary to reach the overall policy objective to ensure the proper functioning of the single market for passenger transport and to achieve a high level of consumer protection for passengers when travelling.

D. Follow up

When will the policy be reviewed?
The policy will be reviewed after an adequate period of time following the proposal's adoption. Policy measures will require time to take effect and to generate impacts; the Commission will have a solid base to monitor an effective implementation through the enforcement and reporting by NEBs. Unless implementation issues occur, this will not be less than 5 years after the legislation comes into force.