



AUTHOR / KEY CONTACT

Airline's flawed claim-handling platform



Linda Jacques
Partner

✉ Linda.jacques@LA-law.com
☎ 01202 702611

Airline's flawed claim-handling platform – in breach of EU regulations.

In a recent Court of Appeal decision – Dore and Another v Easyjet Airline Co Ltd [2022] EWCA Civ 1553 the Court found that a poorly designed online portal for handling passenger claims, put the airline in breach of their obligations under article 15 of regulation (EC) no 261/2004 ("Article 15").

This provides that airlines cannot limit or waive their obligations to passengers under the regulation through derogation or restrictive clauses in the contract of carriage.

What happened?

In the summer of 2019, the Passengers flew with Easyjet between two cities in Italy – Milan and Alghero. It was common ground that the Passengers were entitled to 250 euros compensation due to the flight experiencing a seven-hour delay.

The appeal focused on the interpretation of clause 19.6 of the Airline's terms and conditions, This stated that Passengers' claims must first be submitted to the Airline's online portal, giving the Airline 28 days to respond, before engaging third-party claims services.

Contrary to clause 19.6, the Passengers engaged a third-party service shortly after the flight. The Passengers submitted an application via the Airline's portal, but not until much later in April 2021.

For some reason or other, the portal system automatically generated a transaction error email, which provided a transaction reference and requested that the information be re-entered. Notably, the email did not identify any particular error or set out the information entered prior to submission. There was no ability for the customer to revert to a draft form – the email simply asked that the recipient start again and enter all information about their flight.

The claims service brought a County Court claim on the Passengers' behalf. The Airline rejected the claim

because the Passengers did not use the online portal before the engaging a claims service and commencing proceedings, contrary to clause 19.6 of the Airline's terms. The Passengers asserted they had and referred to the transaction error email generated prior to commencing proceedings. Entering their booking reference into the portal was a necessary pre-condition to submitting a form and therefore must have done so to trigger the email.

The lower courts rejected the Passengers' claim, citing there was insufficient evidence to support that the information submitted to the portal qualified as claim.

The Passengers appealed, asserting it was unfair to require a passenger to provide the information submitted given that the Airline's records should put them in a better position to provide it.

The Appeal

The Court of Appeal found in the Passengers' favour. The notable findings are:

1. Since leaving the EU, UK passengers have retained the right to compensation from Airlines for substantially delayed booked flights.
2. Passengers were not restricted from engaging a claims service to make an application on the Airline's portal. The Airline's preference was irrelevant.
3. Contrary to the lower Court's finding, the transaction error email evidenced that the Airline had correctly identified the Passengers, their flight and booking references. The Passengers had therefore satisfied clause 19.6.
4. The Court reviewed what would constitute a "material barrier" to put the Airline in breach of Article 15. Authorities such as *Bott v Ryanair* [2019] 1 WLR 3375 suggested a well-designed portal would not go as far as to waive or limit the Airline's obligations to compensate Passengers for flight delays. In the present case, the defective user interface of the Airline's portal amounted to a "material barrier", which consequently put the Airline in breach of Article 15.
5. It is in the public's interest for airlines to have an automated online system for handling claims that is easy to use, accessible and clear.

Comment

This judgment reminds us that the regulation drafting surrounding airline passenger compensation favour the passenger's rights.

For airlines

- Automatic online systems for handling claims remain a practical and legal processing method, but require a competent design and must be customer friendly.
- The decision implies that such systems will require ongoing maintenance and support to ensure they do not fall foul of Article 15.

For passengers

- Passengers are encouraged to refer to the airline's terms and conditions prior to making a claim in the interest of a speedy compensation payment.

Need advice?

We work with airlines, aircraft operators and airports to provide assistance and advice in a range of commercial, regulatory and legal matters. Find out more about our [aviation law services](#) or contact us at online.enquiries@LA-law.com.