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Convergence of Competition Rules in the Aviation Sector: Challenges and Solutions

Luping Zhang *

Introduction

Paradoxical is the word to describe the complexity of international cooperation in the aviation sector. In some areas, namely, international cooperation between or among airlines is common, such as examples of joint ventures and code sharing. In others, however, international cooperation between or among competition authorities in different countries is harder to be seen. On the one hand, states and airlines need international cooperation to maximum their profits. On the other hand, there are core areas, such as the competition rules that two states may find it hard to reach consensus even on the definition a simple concept.

Technology is not the only area that has been developing rapidly since 1944, a time when representatives all around the world to reach consensus on a history-making legislation in the international civil aviation sector. There has been discussion on the practical need to have a new Chicago Convention. Competition rules in the aviation sector are not foreseeable back then as one of areas that requires international cooperation.

Not all states have competition laws in their domestic jurisdiction, which indicated the hardship of the convergence of the competition rules at the first stage. Moreover, both domestic and international air transport may be exempted. Positive comity is one of three ways considered in lieu of full-scale convergence, which was neither feasible nor desirable at the time.

The three substitutes were "positive comity, extraterritorial enforcement, and multilateral initiatives."[1] Positive comity is a solution where there is no higher-level cooperation between or among states. The introduction of "positive comity" is included in the EC-U.S. agreement regarding the application of their competition laws in 1991. With development, the European Union has made great contribution in this field, either through inclusion of fair competition clauses in the air service agreements, for instance, the EU-U.S. Open Skies Agreement in 2010, or calling for cooperation between different national competition authorities.

Since competition authority symbols great sovereignty powers and sensitive business information may be involved, there is a certain limit to the cooperation between or among national competition authorities. In addition, international organizations have also made major contribution to the convergence process.

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International Civil Aviation Organization, Organization for Economic Cooperation and Development (OECD), World Trade Organization (WTO) and International Chamber of Commerce (ICC) have been making great efforts to promote fair competition in the aviation sector, each in their own way.

Since there is not yet any permanent solution to this problem, the interim solutions include the adaptation of EU Regulation 868/2004[2], positive comity and inclusion of fair competition clauses in the air service agreements. In the longer term, a global regime under either ICAO or WTO/GATS system remains to be seen.

Overview of the regulatory framework under the Chicago Convention

In 1944, one of the most important international conventions in international civil aviation was promulgated in Chicago. The Convention on International Civil Aviation (Chicago Convention) has contributed significantly to regulating international civil aviation. However, the economic field was hardly regulated in the Chicago Convention. Especially to the competition rules, the only applicable article is Article 44(e), which stipulates one of the objectives of the International Civil Aviation Organization is to "prevent economic waste caused by unreasonable competition."

Besides this clause, the whole Chicago Convention is almost silent on the issue of competition rules. One of the reasons is that at the time, no one foresees the rapid development of international air service. Therefore, economic regulation is not the focus of the Chicago Convention. Another reason is that the background of the Chicago Convention is set in a security-oriented era. At the time, the competition laws in various jurisdictions only began to emerge. It is practically impossible to count on the Chicago Convention to address any major convergence of competition rules. As the ICAO is established under the Chicago Convention, it is also theoretically impossible to expect any global regime at then to address this issue.

The convergence of competition rules in the aviation sector follows the golden rule in any sector: follow the money. The emergence of this problem is a product of liberalization of air services. At first, the competition laws develop in each domestic jurisdiction. With the growing liberalization in the traditionally highly regulated aviation sectors, three kinds of airline behavior are potentially subject to the application of multiple competition rules: co-operation, horizontal and cartel agreements, including inter-airline alliances; unilateral conduct including the abuse of dominance and mergers.[3]

Emergence and convergence of competition rules

- **Emergence of convergence of competition rules in the aviation sector**

From Bermuda I, Bermuda II to Open Skies Agreement, the model of air service agreements went through a liberalization process. With the heat of transatlantic cooperation, convergence of competition rules in the aviation sector becomes a hot topic. The first and foremost question is "Is there a need for regulatory convergence?"
In the global market, in the absence of regulatory convergence, the most likely situation is replication of merger control.[4] Merger control on a case-to-case basis

creates great uncertainty and inefficiency in the market. Another potential obstacle is the hardship of extraterritorial application of national competition rules, such as the "effects" doctrine under the U.S. antitrust laws. The negative effect of extra-territorial application of national competition rules include "efficiency, regularity and viability of international air transport." The theoretical concept of regulatory convergence comes into reality as on the practical side, it enhances efficiency and eliminates legal uncertainty.

One of the examples of the success of regulatory convergence is the interaction of EU and U.S. law on the state aid. On the one hand, EU member states are governed by strict regulations on the state aid. On the other hand, U.S. government is bound only by loose WTO rules. The transposition of EU law on state aid remedies the weakness on the U.S. side.

While EU and U.S. have set up a good example of the regulatory convergence of competition rules, the differences between their respective competition rules still exist. That leads to the second question "Are the conditions ripe for EU competition law and U.S. antitrust law to be converged?" All the benefits on legal certainty and efficiency as well as obstacles such as discrepancies need to be taken into account. It is crucial to iterate the main goal of convergence, which is to "avoid a regulatory failure that will induce multiple market failures."

If transatlantic cooperation opens the door for the convergence of competition rules on a bilateral level, the creation of Common Aviation Area gives a taste of the outlook of global cooperation in the future. The Common Aviation Area with neighboring countries is considered the second pillar of the emergence of an EU external aviation policy.[5] Neighboring countries have reached great consensus on certain economic regulation when signing agreements with the EU, keeping their respective regulatory framework in line with EU legislation. The gradual expansion is potentially forming a model towards a global solution.

Normative aspect: standard competition clauses in air service agreements

In the current model U.S. Open Skies Agreement, Article 11 is a fair competition clause. Article 11.1 stipulates "each Party shall allow a fair and equal opportunity for the airlines of both Parties to compete in providing the international air transportation governed by this Agreement." Fair and equal opportunity is a principal principle in fair competition. However, there is no clear definition of "fair and equal opportunity." One of the reasons is that the definition of "fair and equal opportunity" is hard to reach consensus in various jurisdictions. Article 11.2 emphasizes the importance of each Party's discretion to determine the frequency and capacity of the international air transportation based on commercial considerations. In addition, neither Party shall unilateral impose limitation capriciously. Article 11.3 also contains the same spirit of forbidden of negative imposition inconsistent with the purposes of the Agreement. Article 11.4 requires the minimum burden of the filing relevant schedules on a nondiscriminatory basis.

The most successful example of the inclusion of a fair competition clause is the air transport agreement between the European Community and its Member States and the United States of America in 2007. Article 20 and Annex 2each contains rules on competition and cooperation with respect to competition issues in the air transportation industry.

European Union has made great contribution to ensuring the compatibility with the competition rules in various jurisdictions. Besides the U.S.-EU Open Skies Agreement, the clause of the compatibility with the competition rules is also part of air transport agreement between the European Community and its Member States and Canada (2009), the Government of the Republic of India (2008) and the West African Economic and Monetary Union (2010) in Article 14, Article 4 and Article 6 respectively.

In the Asian-Pacific region, the agreement between the government of New Zealand and the government of Australia relating to air services (2002) contains a competition clause in Article 14. The air transport agreement between the governments of the member States of the Association of Southeast Asian Nations and the Government of the People's Republic of China (2011) contains two clauses: Article 10 "Safeguards" and Article 11 "Fair Competition".

Practical aspect: air cargo freight case

In the recent air cargo freight case, EU and non-EU airlines were accused of operating a worldwide cartel influencing the pricing of air cargo services by the imposition of surcharges for the operation of air cargo services. On 9 November 2010, the EU Commission fined eleven airlines a total amount of nearly 80 million euro. Except for Qanta airlines, all other airlines appealed from this decision. On 15 December 2015, the General Court decided to annul the EU Commission's imposition of fines. The Court notes that the grounds of the contested decision are not entirely internally consistent because they accused the carriers of running a single cartel but only provided price fixing evidence for smaller groups of companies on specific routes. Therefore, there is a contradiction between the grounds of the decision and its operative part. In conclusion, the Court rules that internal inconsistencies in the decision were liable to infringe the applicant's rights of defense and prevent the Court from exercising its power to review.

This case has great legal implications on various matters. From the aspect of convergence of competition rules, it is worthy addressing that the extra-territorial application of Article 101 of the TFEU, and Article 53 of the EEA Agreement. These provisions are "applicable to arrangements that are either implemented within the EU (implementation theory) or that have immediate, substantial and foreseeable effects within the EU (effects theory)"[6]. The effects theory originates from the U.S. antitrust laws. However, this doctrine is recognized in the Court of Justice in the *Woodpulp* case, an infringement of Article 101 of the TFEU "consists of conduct made up of two elements, the formation of the agreement, decision or concerted practice and the implementation thereof. If the applicability of the prohibitions laid down under competition law were made to depend on the place where the agreement, decision or concerted practice was formed, the result would obviously be to give undertakings an easy means of evading those prohibitions. The decisive factor is therefore the place where it is implemented."[7]

The extra-territorial application of competition rules faces jurisdictional challenges, such as the *Laker Airways* case, which will be analyzed in details in part III.

Potential solutions for convergence of competition rules

Bilateral cooperation

Towards the convergence of competition rules, there are efforts made on both bilateral and multilateral level. On a bilateral level, there are already institutional and normative achievements. Institutionally, cooperation between two States, especially their respective competition authorities in the aviation sector, for instance, between U.S. Department of Transportation and EU Commission, may end up with a Memorandum of Understanding. Fundamental institutional adaption is hardly foreseeable even on a bilateral level. Normatively, inclusion of a fair competition clause is a standard solution, as addressed in part II.

On a bilateral level, EU horizontal agreements, especially inclusion of fair competition clauses, and Memorandums of Understanding have contributed substantially to the convergence of competition rules. The 2010 U.S.-EU Open Skies Agreement not only contains competition clause(s), but also sets up a successful cooperation institutionally, as witnessed by the report "Transatlantic Airline Alliances: Competitive Issues and Regulatory Approaches." It is stated in the report: the "primary goal of this joint research project is to foster a common understanding of the transatlantic airline industry among United States Department of Transportation and European Commission staffs" and serves as a "basis upon which to build compatible regulatory approaches to competition issues in the airline sector." EU and U.S. airline industries have shared two similar features in the competition arena: similar competitive dynamics and similar competitive structures. The former also leads to the latter. The Commission and DOT have achieved fruitful results on competition matters. Besides this report, achievement also include discussions of analytical issues in specific cases and provision of appropriate waivers by respective parties. A good example is antitrust immunity, which plays a crucial role in international airline alliances. The DOT has the statutory authority to approve and immunize from the U.S. antitrust laws agreements relating international air transportation[8]. A class example is in 1993, the U.S. and the Netherlands implemented an Open Skies agreement and DOT granted antitrust immunity to Northwest and KLM case[9]. However, this does not imply there is little issue left unresolved between EU and U.S. In fact, it is equally addressed in Paragragh 62 of the report, there are four areas that remain different: "(a) the competition regime applicable to aviation, (b) mandates of the respective competition authorities, (c) tests for competition review and, finally (d) procedure."

What is also worth addressing is that EU has adopted Regulation 868/2004 concerning protection against subsidization and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community. The major concern is about unfair pricing practices by certain non-EU carriers on the transatlantic market. Its objective is to "protect EU air carriers against subsidization and unfair pricing practices causing them injury in the supply of air services from non-EU countries." Even though Regulation 868/2004 has not yet been applied in reality because no airline has brought any claim under this Regulation.

International efforts

On a multilateral level, the International Civil Aviation Organization (ICAO) plays the most crucial role, alongside with World Trade Organization (WTO), Organization for Economic Cooperation and Development (OECD) and International Chamber of Commerce (ICC). In specific, ICAO has contributed in two ways, one through hosting international conferences and discussion of the cooperation in the competition arena. For instance, in the report of the Worldwide Air Transport Conference, Challenges and Opportunities of Liberalization, section 2.3.3.2 covers safeguards against anti-competitive practices and section 2.3.6 refers to the conclusions on state aid/subsidies[10]. In the second edition of the Manual on the Regulation of International Air Transport, section 2.3.5 refers to the application of competition laws to air transport[11]. Section 2.3.6 discusses the effects of state aids and subsidies. The second way of the ICAO's efforts is to draft model fair competition clause and call on states to incorporate it into air service agreements. In the third edition of Policy and Guidance Material on the Economic Regulation of International Air Transport, it addresses competition laws in Part seven of the Broader Regulatory Environment[12]. In addition, it lists a model clause of "safeguards against anti -competitive practices" in the Appendix 4. In the ICAO Template Air Services Agreements, there are three clauses on competition issues. Article 15 addresses "fair competition" and calls for elimination of all forms of discrimination and unfair competition. Article 18 covers "safeguards" and lists examples of potential unfair competitive practices by airlines. Article 19 refers to provisions on "competition laws" in preparation for enforcement.

Besides ICAO, WTO also addresses certain competition issues in air services, even though the air service agreements regime is not established under the WTO/GATS system. In 1980, WTO issued an agreement on trade in air services, eliminating import duties on aircraft. Besides direct influence, WTO has launched an Air Services Agreements Projector, an analytical tool that displays the characteristics of air transport agreements in terms of relative openness and aviation traffic.
Besides rule-making, some international organizations have promoted the convergence process through recommendations and delivery of discussion reports. The OECD Competition Committee debated airline mergers and alliances in October 1999. The Committee also closely works with leading experts in the aviation sector. In the 121st meeting of OECD Competition Committee in June 2014, an expert paper was submitted on the topic of airline competition. Meanwhile, the ICC has issued a policy statement on convergence of competition law and policy in the field of air transport with special reference to the EU-U.S. context in July 1997. Even though the policy statement issued by the ICC does not have a formal legal effect, its recommendation in principle weighs a lot to airlines and national transportation authorities.

"Effects" doctrine under the U.S. antitrust laws

Another potential global solution is the application "effects" doctrine, originated from a U.S. antitrust case *United States v. Aluminum Co. of America*. In this case, the Second Circuit recognized that "any state may impose liabilities … for conduct outside its borders that has consequences within its borders which the state reprehends…"[13] Under this rationale, the court found that the Sherman Act covered agreements that "were intended to affect imports and did affect them…"Applying this test, the *Alcoa* court found jurisdiction existed over acts that occurred "entirely in Canada but had an anticompetitive effect in the U.S." However, the test for effects doctrine is diversified.

It applied to the *Laker Airways Limited v. Sabena Belgian World Airlines*, it held that "consequently, the principles underlying territorial jurisdiction occasionally permit a state to address conduct causing harmful effects across national borders. Territoriality-based jurisdiction thus allows states to regulate the conduct or status of individuals or property physically situates within the territory, even if the effects of the conduct are felt outside the territory. Conversely, conduct outside the territorial boundary which has or is intended to have a substantial effect within the territory may also be regulated by the state."[14] However, the process of extra-territorial application is not always smooth.

Separate proceedings have been brought in the United Kingdom, which increased judicial costs and legal uncertainty.[15] Moreover, states have recognized this doctrine in their national legislations, which include but are not limited to Brazil, India, South Africa and China.

Conclusion

This paper reviews regulatory framework of competition rules in air services. Air services start as a highly-regulated field in history. The first Chicago Convention has addressed little about economic regulation, not to mention competition rules, except for one clause outlining the vision of the establishment of ICAO at the time. The competition rules also develop comparatively late not until the second half of the twentieth century. With the liberalization of air service industry and maturity of competition rules, the conflict of different competition rules occurs inevitably. With international airline alliance and Open Skies Agreements, new instruments have been invented to resolve this issue. This includes antitrust immunity, transatlantic cooperation and the creation of Common Aviation Area. Today, many air service agreements contain fair competition clauses. There are also multiple fair competition clauses thanks to the efforts such as ICAO. In addition, case laws have contributed to the development of convergence of competition rules immensely. A recent decision by the CJEU annulling the Commission's fines imposition on major airlines on an airfreight case is one of the many examples.

Under the trend of liberalization of air services, the convergence of competition rules becomes growingly important. Potential solutions for this problem include bilateral and multilateral efforts, as well as application of extra-territorial application of the U.S. antitrust laws under the "effects" doctrine. On a bilateral level, a leading example is the cooperation between the U.S. DOT and the EU Commission issuing a transatlantic joint alliance report. Fruitful results have also been achieved by informal discussion and Memorandum of Understanding. On a multilateral level, international organizations like ICAO, WTO, OECD and ICC have contributed respectively through hosting conferences to issuing recommendations. A third solution is the extra-territorial application of domestic competition rules under the "effects" doctrine.

A full-scale convergence of competition rules remains a difficult mission due to legislative and judicial gaps between or among different jurisdictions. However, it is important to readdress the mission is not to achieve full-scale convergence, but to ensure regulatory mechanism in whatever form does support the growth of the aviation industry.

[1] *Where Trade and Competition Intersect, Chapter 5, The United States Department of Justice [Internet]. 25 June 2015. [Accessed 03 March 2016]; Available from: https://www.justice.gov/atr/chapter-5.*

[2] *Regulation (EC) No 868/2004 concerning protection against subsidization and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community, Official Journal L 162 , 30/04/2004 P. 0001 – 0007, 21 April 2004; Available from:http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004R0868*

[3] *Mendes de Leon, P. Competition Issues in the Air Transport Sector. Study for the OECD in 20011 (DAF/COMP/LACF (2011) 9.*

[4]*See Lykotrafiti A. Consolidation and Rationalization in the Transatlantic Air Transport Market— Prospects and Challenges for Competition and Consumer Welfare. 76 J. Air L.& Com.718 2011.*

[5] *See P.16. of the Communication From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions; the EU's External Aviation Policy—Addressing Future Challenges [Internet]. 27 September 2012. [Accessed 28 February 2016]; Available from: http://ec.europa.eu/transport/modes/air/international_aviation/doc/com_2012_556_fr.pdf.*

[6] *See Paragraph 1035, Commission Decision relating to a proceeding under Article 101 of the TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport, Case COMP/39258 – Airfreight [Internet]. 09 November 2010. [Accessed 03 March 2016]; Available from: http://ec.europa.eu/competition/antitrust/cases/dec_docs/39258/39258_7008_7.pdf.*

[7] *Joined cases C-89, 104, 114, 116, 117 and 125 to 129/85, Ahlström and others v. Commission [1988] ECR 5193.*

[8] *See 49 USC A§ 41308-41309.*

[9] *Gillespie W. and Richard O. Antitrust Immunity and International Airline Alliances [Internet]. 11-1 February 2011. [Accessed 28 February 2016]; Available from: https://www.justice.gov/atr/antitrust-immunity-and-international-airline-alliances.*

[10] *Report of the Worldwide Air Transport Conference, Challenges and Opportunities of Liberalization, Doc 9816, ATConf/5 2003 [Internet]. 24-28 March. [Accessed 28 February 2016]; Available from: http://www.icao.int/sustainability/Documents/Compendium_FairCompetition/Compendium.pdf.*

[11]*Manual on the Regulation of International Air Transport, Second Edition [Internet]. 2004. [Accessed 28 February 2016]; Available from: http://www.icao.int/sustainability/Documents/Compendium_FairCompetition/InternationalOrganisations/ICAO-doc/ICAO-Doc9626_en.pdf.*

[12] *Policy and Guidance Material on the Economic Regulation of International Air Transport, Third Edition [Internet]. 2008. [Accessed 28 February 2016]; Available from: http://www.icao.int/sustainability/Documents/Doc9587_en.pdf.*

[13] *Beckler R. and Kirtland M. Extraterritorial Application of U.S. Antitrust Law: What Is a "Direct, Substantial, and Reasonably Foreseeable Effect" Under the Foreign Trade Antitrust Improvements Act. Texas International Law Journal 2003; Vol 38: 13.*

[14] *Laker Airways Ltd. v. Sabena Belgian World Airlines*, 731 F 2d 909 (D.C. Cir.1984)

[15] *Cannon R. Laker Airways and the Courts: A New Method of Blocking the Extraterritorial Application of U.S. Antitrust Laws. Journal of Comparative Business and Capital Market Law 1985; 7: 63-87.*

Using and Protecting Safety Information: The Role of Legal Counsel in Fostering a Positive Safety Culture in the Context of Society's Expectation for Justice

Dominic Carlo Marino *

Introduction

The ability to conduct aviation activities in a safe manner depends on the ability to develop good practices which proactively address safety risk. In order to do this, evidence must be used to verify that the practices in use are adequate to address the risks which exist across the aviation industry. To achieve this, a complete a picture as possible of the safety risks which exist is needed. Not all safety risks will fall into the categories of either serious incidents to be investigated by the independent accident investigations authority (AIA) or even those subject to mandatory reporting requirements to the aviation authority. A complete risk picture therefore depends on a safety culture in which industry participants are willing to speak up, through voluntary reporting, when they notice or commit an action which could compromise safety.

However, such actions could also be punishable by either criminal prosecution, dismissal, employment restrictions, or other sanctions. Sometimes, such sanctions may indeed be appropriate to achieve a safe system or necessary to ensure justice. But there must be a clear and consistent means by which these interests are balanced and appropriate decisions can be made regarding the use of safety information. This requires the development of transparent policies to ensure safety information protection (SIP) whilst being honest regarding other interests which must be balanced with positive safety culture, and therefore, clarifying the instances in which protection of information may be limited because of the need to address those other interests.

Lawyers are inherently involved in this process, and may fulfil a very important role in developing clear policy regarding how such decisions will be made. Transparent policy and results consistent with it are crucial components of the safety culture needed for a well-developed State Safety Programme pursuant to Annex 19 on the State level, as well as the corresponding development of safety management systems (SMS) at service provider[1] level.

This article will discuss the contextual need for SIP in developing a positive safety culture whilst analysing the need to administer justice. First, the history of SIP development will be discussed, which has led to the adoption of several provisions within ICAO Annexes 13 and 19 as well as Regulation (EU) No 376/2014.

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Second, we will examine which actions can be taken by the National Aviation Authorities (NAAs) to implement these provisions and provide clarity to stakeholders. Third, we will discuss which actions can be taken at service provider level to ensure that the policies of an organisation are reflective of national policy and can foster the best possible safety culture within its specific legal and operational environment.

One note of caution: this article will propose ideas for lawyers in the context of developing policies for SIP. If you are a lawyer, please be aware of the regulatory requirements regarding professional conduct as well as appropriate representation of clients in the jurisdiction in which you are qualified to practice. The author is a qualified lawyer, but is by no means able to give advice on the specific conduct which may be appropriate for a lawyer in each jurisdiction. Please ensure that any action you take to implement SIP is in compliance with your professional requirements. In addition, national constitutional structures may not allow for some of the ideas proposed. Be mindful of local constitutional requirements as you determine which solutions are appropriate for your jurisdiction.

Achieving Societal Expectations of Specific and General Justice in the Aviation Context

The concept of justice is as old as society itself. Every culture throughout history has deemed certain behaviours and conduct to be appropriate or inappropriate, largely because society finds either acceptable or unacceptable the consequences which are deemed to result from the behaviour in question.

Justice has two distinct but closely related facets. The first of these is specific, existing on a micro-level and pertains to an individual action in order to determine how the situation should be addressed. This could involve discussions of punishment, compensation, rehabilitation or corrective action, or other means by which society seeks to remedy a situation that it considers unjust enough for the State to intervene and take action. This aspect of justice seeks to address the needs of specific victims and ensure that those who commit wrongs against the public interest are dealt with appropriately.

The second more general aspect of justice, however, is ensuring on a macro level that such socially unacceptable conduct can be prevented as much as possible. Instead of looking to address the needs of specific victims, general justice looks to prevent future victims. This aspect involves discussions of deterrence but sometimes involves the use of specific instances of enforcement to set examples, even if the punishment may seem excessive. In addition to deterrence, there may be discussions of which other techniques would best lead to avoidance, and which of these techniques is most effective.

Sometimes, the desire for deterrence leads to the belief that deterrence through punishment is either the only or most effective option available to society in preventing future harm. And indeed, for some types of conduct, this may be true. However, it is not universally true, and there may be some other methods for avoidance that are more effective when it comes to certain types of conduct.

To promote justice, society should look to achieve both specific and general justice at a level which addresses the need for both. Specific justice cannot be administered without looking at the effects of specific decisions on general justice. For example, courts cannot excuse every petty thief without expecting that theft will increase because potential thieves will realise that they will not be punished. But likewise, general justice cannot be addressed without looking at the needs associated with a specific case. An example of this would be where a mass-murderer receives no punishment for his/her crimes because he agrees to cooperate with prosecutors in gang-surveillance. Even though general justice might favour reducing future crimes by gang members, those relatives and friends of the victims also have a specific need to see this person punished by the judicial system. Failure to do this actually harms general justice as well, in that it could encourage vigilantism. So the particular result needs to be tailored to the specific and general needs of those involved. A reduced sentence in exchange for cooperation could be the means of achieving this.

As is evident in the preceding paragraph, justice often involves the balance of several interests. In the context of aviation, there is a similar need to achieve justice as elsewhere in society. To do so, interests need to be balanced and, as discussed above, prevention of future occurrences might achieved through punishment (deterrent effect), but other means of avoidance may be more targeted.

We must recognise in this context that ICAO has 191 Member States, and that the societies in each of them have different criteria for what justice entails. Countries will vary widely on what they deem to be inappropriate conduct. For example, drug possession leads to punitive sanctions in some jurisdictions, rehabilitative sanctions in others, and is not prohibited in others. Countries also vary on which judicial remedies are considered appropriate. Some states administer the death penalty, others have abolished it, and others have never used it. Despite this variety, the ICAO Member States have agreed that the prevention of future accidents is a desirable outcome within the context of general justice, and they have agreed to take actions to achieve this outcome.

Determining how to contextualise those practices which have proven to prevent aviation accidents within an individual legal system requires a degree of legal anthropology. It is not possible to isolate the desire to prevent future aviation accidents from the other aims which the justice system seeks to accomplish. Nor can the cultural values be easily changed which have led the jurists to believe that the judicial practices used are the best means of accomplishing that particular society's expectations. Therefore, the practices which have been proven to improve safety culture will need to be integrated into an already-existing cultural context of justice. This is why it is helpful to think of the distinction between specific and general justice. Cultures may disagree on how specific cases should be dealt with, but they will almost always agree that the intent is to prevent future occurrences.

How SIP Became Recognised and Adopted in Aviation

"Speak up if you see something unsafe!" That was a crucial lesson learned in the aftermath of the Tenerife disaster of 27 March 1977[2] which involved 583 fatalities and remains the deadliest accident in aviation history. In the wake of the accident, in addition to the official investigation which was led by Spain's (CIAIAC) as the State where the occurrence took place, several other studies were performed.

One of these was a Human Factors Report conducted by the Air Line Pilots Association (ALPA)[3] which studied the behavioural factors that led to the tragic outcome. Several recommendations were made, including two recommendations on p. 28 of the report which read:

"During the course of its investigation the Study Group met, and had to deal with, certain hindrances to its ability to obtain all available information. Some ideas also surfaced that we thought should be emphasized, though not directly associated with the Tenerife accident.
Recommendations regarding these conditions are presented here:

1. Attention should be drawn to the negative effect which fear of legal consequences has on the full disclosure of all factors which may have contributed to an aviation accident or incident.
2. Attention should be drawn to the negative effect which the "Freedom of Information Act" has on the thoroughness and effectiveness of aircraft accident and incident investigation in the USA."

In learning from the Tenerife accident, investigators realised that a number of factors were likely to discourage those with safety concerns from articulating those concerns, and that the failure to learn of key safety risks was preventing them from being addressed before an event occurred which would be formally investigated by the competent AIA. It became acknowledged over the next several years that a positive safety culture was needed to ensure that concerns could be addressed before serious risk of loss of life ensued, and ICAO ultimately adopted measures calling for a non-punitive approach regarding the reporting of safety information.

First, Annex 6 was amended to include paragraph 3.2.4, which establishes that flight data analysis programmes shall be non-punitive and shall contain safeguards to protect source(s) of data.

Paragraph 5.12 was added to Annex 13, requiring that a State conducting an investigation of an accident or incident shall not make certain types of records available for purposes other than the investigation of the accident or incident unless "the appropriate authority for the administration of justice (now replaced with the term "competent authority") in that State determines that their disclosure outweighs the adverse domestic and international impact such action may have on that or any future investigations".

Several resolutions were also adopted by the ICAO Assembly. In 1995, Assembly Resolution 31-10 urged the Contracting States to implement voluntary and non-punitive reporting systems.

At the 33rd ICAO Assembly in 2001 , Assembly Resolution A33-16 was adopted to include protection of information in the context of the Global Aviation Safety Plan (GASP). A33-17 was also adopted which urged States "to examine and if necessary adjust their laws, regulations and policies to protect certain accident and incident records in compliance with paragraph 5.12 of Annex 13", and instructed ICAO to "develop guidance materials to support States in this respect".

At the 35th ICAO Assembly[4], it was acknowledged that the laws which existed in many States did not provide for adequate protection of safety information as required by ICAO, and the Assembly called for the States to examine their national laws to ensure the protection of safety information obtained through safety data collection and processing systems (SDCPS), and commissioned the development of guidance to assist them. This guidance was originally published as Attachment E to Annex 13, but in 2016 it has been upgraded (amendment 15) to Appendix 2. In fact in the Annexes to the Chicago Convention, Attachments contain supplementary informative material, while Appendices have the status of standards and recommended practices.

The text in this ICAO guidance clarified that the purpose for protecting safety information was not to interfere with the administration of justice, but rather "to ensure its continued availability so that proper and timely preventative actions can be taken and aviation safety improved." The guidance further articulated the need for an appropriate balance between the need to protect the safety information in order to improve aviation safety and the need for the administration of justice. Principles of exception are contained in the guidance which exclude the protection of safety information in cases of reckless conduct, gross negligence or wilful misconduct. In addition, the test in 5.12 of Annex 13 was adopted in this guidance, providing for protection of the information unless the competent authority determines that disclosure outweighs the adverse domestic and international impact on future availability of safety information. In order to address the concerns which the ALPA report indicated in the Tenerife investigation, the guidance provided that members of the public seeking safety information would need to justify its disclosure and provided criteria to be met.

Adoption of Annex 19 on Safety Management - SIP in the Context of SMS and SSP

Annex 19 was proposed at the ICAO High Level Safety Conference in 2010 to promote some of the highly-regarded practices in safety management at both the State level and the stakeholder level. This new ICAO annex was implemented in two phases. The first of these consolidated existing safety management provisions from other annexes to the new annex. This phase was completed in less than 2 years, leading to the adoption of the 1st edition of Annex 19 by the ICAO Council in February 2013, with applicability in November 2013. The second phase of Annex 19 implementation then focused on enhancing requirements for Contracting States, and reorganising the material on the basis of the eight 'critical elements' for safety oversight. This phase was completed with the adoption of Amendment 1 to Annex 19, leading to 2nd edition of the Annex published in July 2016. It will become applicable in November 2019.

When the 1st edition of Annex 19 was published in 2013, existing SIP provisions in Annex 13 regarding SDCPS were transferred to Chapter 5 of Annex 19 as these relate more closely to safety management rather than accident and incident investigation. However, those provisions relating to protection of information in the course of an investigation remained within Annex 13. In order to ensure the legal guidance for SIP was available in both contexts, the legal guidance which appeared as Attachment E (now Appendix 2) to Annex 13 was duplicated as (not transferred to) Attachment B of Annex 19.

In the second edition of Annex 19, several enhancements were made to SIP in the area of Safety Management. The Chapter 5 provisions were enhanced and clarified, and the principles within the legal guidance at Attachment B were revised and upgraded to the level of SARPs and published as Appendix 3.

To summarise SIP provisions in the new version of Chapter 5 of Annex 19:

- Standard 5.3.1 mandates that States accord protection to safety data captured by and safety information derived from voluntary reporting in accordance with Appendix 3.
- Recommendation 5.3.2 suggests that such protections be extended for mandatory safety reports as well.
- Standard 5.3.3 limits the use of safety data, safety information, and the analysis of both to the purposes of maintaining or improving safety, unless a competent authority determines that an exception applies in accordance with Appendix 3.
- Standard 5.3.4 clarifies that SIP does not prevent a State from taking preventive, corrective, or remedial action that is necessary to maintain or improve safety. (This is very important and will be discussed later in this article)
- Standard 5.3.5 requires States to take "necessary measures, including the promotion of a positive safety culture, to encourage reporting".
- Recommendation 5.3.6 encourages States to adjust their applicable laws, regulations and policies as necessary to "facilitate and promote safety reporting".
- Recommendation 5.3.7 suggests that States develop "appropriate advance arrangements between their authorities and State bodies entrusted with aviation safety and those entrusted with the administration of justice" based on the principles in Appendix 3.
- Standard 5.4.1 requires States sharing information internationally to agree the level of protection and conditions on which such information will be shared, and requires the principles in Appendix 3 to be applied in such agreements.

The principles in Appendix 3 provide that:

- States shall ensure that their national laws, regulations and policies offer protection for safety data and safety information.
- A balance must be struck between the need to protect safety data and information and the need for proper administration of justice.
- The conditions under which safety data and information qualify for protection must be specified.
- Safety data and safety information are to remain available for the purpose of maintaining and improving safety.
- Safety data and information are not to be used in disciplinary, civil, administrative or criminal proceedings, nor shall such information be disclosed to the public nor used for any purposes other than maintaining or improving safety unless a principle of exception applies.

- States are to accord protection to such information by specifying the type of protection accorded, by establishing a formal procedure for such protection, by ensuring that the information is not used for purposes other than those for which it is collected, and when a principle of exception does apply, by using the information in disciplinary, civil, criminal or administrative proceedings only under authoritative safeguards.
- Principles of exception are only deemed to exist if a competent authority determines that:

facts and circumstances reasonably indicate that the occurrence may have been caused by gross negligence, wilful misconduct or criminal activity, or

the release is necessary for the proper administration of justice, and the benefits of releasing the information outweigh the domestic and international impact such release is likely to have on future collection and availability of safety data and information, or

the release is necessary for maintaining or improving safety, and the benefits of releasing the information outweigh the domestic and international impact such release is likely to have on future collection and availability of safety data and information.

- States with right-to-know laws such as freedom-of-information laws shall create exceptions from public disclosure to ensure the continued confidentiality of data and information.
- If disclosure is made pursuant to a principle of exception, such disclosure is to be made in compliance with applicable privacy laws regarding the treatment of personal information, or the data is to be disclosed in a de-identified, summarised or aggregate form.
- States shall ensure that each SDCPS has a designated custodian who applies the protections contained in this appendix.
- States shall provide specific measures of protection regarding access by the public to ambient workplace recordings, and shall do so through national laws and regulations, and treat such data as privileged in accordance with the principles of protection and exception as provided in this appendix.

To transpose the ICAO provisions into rules immediately and directly applicable to citizens, the_ EU has adopted a European Safety Information Reporting Regulation[5] which implements the principles as the Annex 19 SIP provisions, through common rules legally binding and uniform across the European Member States. In addition, the European Regulation is designed to facilitate a more easily accessible data repository for use across the European Union and other States bound by the regulation. However, although the European Regulation establishes common rules for data protection across the Member States in the aviation context, there are limitations to the ability to do so because, as articulated in paragraphs (39) and (43) of the preamble, criminal law and administration of justice are still largely regulated at national and not EU level.

In addition, Article 15 Section 4 of the European Regulation mandates that the competent authorities for aviation safety oversight and the competent authorities for the administration of justice shall “cooperate with each other through advance

administrative arrangements. These advance administrative arrangements shall seek to ensure the correct balance between the need for proper administration of justice, on the one hand, and the necessary continued availability of safety information, on the other." This reflects the Annex 19 Recommendation 5.3.7, but uses the word "shall" instead of "recommendation", since in the EU legislation, to achieve legal certainty, there are never 'recommendations'.

These new provisions create a very promising opportunity for development in the area of SIP within the context of effective safety management[6]. Lawyers at different levels across the system can play a key role in assisting the development of policy which reflects these international standards, and applies them to the specific situation in which the client operates.

Suggestions for National Aviation Authorities (NAAs) – Developing Robust and Transparent Policy for SIP – How to Engage and What to Review

Do not underestimate the importance of the role which legal counsel for the NAA inherently has in fostering a positive safety culture at the national level. In fact, the lawyer may sometimes be the most critical person to drive improvements in safety culture. The advice which he/she gives and the actions he/she makes in terms of policy-making will have huge repercussions. This topic should be approached with a massive sense of responsibility for safety culture, knowing that the effect can be monumental.

The most important task for NAA legal counsel regarding safety culture is to lead or proactively participate in the development of transparent policies and procedures regarding the use of safety information, and ensure that the subsequent treatment of such information always happens in a manner consistent with such policies and procedures.

In developing these policies and procedures, counsel will naturally need to know what the criminal law in the jurisdiction provides in terms of punishment for various offences. However, this may not always be the easiest task, because several NAAs or even national ministries for transport are unlikely to employ experts in criminal law. The major exception would be if the NAA already takes an active role in participating in prosecution. Nevertheless, it will be important to understand which offences exist and which sanctions can result for each offence.

Recall that Annex 19 Appendix 3 already creates a principle of exception from SIP in cases involving gross negligence, wilful misconduct or criminal activity. However, does local law provide punishment for offences using either negligence or strict liability principles as the standard? If so, it will be important to know this, and determine if the NAA would find protection to be appropriate for these situations. This will assist you in preparing for your discussions with the relevant authorities responsible for administering criminal law. Determine in advance what the potential punishment might be under all scenarios, and determine whether you are of the opinion as counsel for the NAA that justice indeed requires exceptions or limitations on protection of the information in these scenarios, despite the effect that this might have on safety culture.

If you do not think that justice requires an exception to the protection of information for certain offences, you will need to convince the relevant authorities that protection should apply.

As you do so, think of the two facets of justice which were discussed earlier in this article, the specific and the general. Do not attempt to impede the pursuit of specific justice because we have a desire to advance general justice through positive safety culture, but likewise realise that specific justice should not impede general justice either. General justice is important to overall justice, which is why safety culture is essential for justice. You are not challenging ethnic beliefs, nor are you suggesting that an alternative legal system is better suited for aviation safety. You are only looking to ensure that the practices needed for aviation safety are established in your country's legal system. Thinking in this way will prepare you well as you plan your discussions with the relevant authorities involved in administering criminal justice.

Another note regarding the criminal justice authorities, they will likely think of themselves as the experts regarding application of the criminal laws, and they are absolutely right! They will likely acknowledge you as an expert when it comes to aviation safety regulation, but as soon as the line is crossed into crime and punishment, they will probably no longer view you as an expert. You do not want to tell them how to administer specific justice, but since you are an expert in aviation safety, and aviation safety is crucial to general justice, and even more specifically, safety culture has a huge effect on general justice, this is why your points are relevant. Presenting your ideas in this way is more likely to lead to warmer reception. This will be critical whether or not legislative changes are needed.

As both Annex 19 Recommendation 5.3.7 encourages on the global scale and the European Reporting Regulation Article 15 Section 4 implements inside the EU, NAAs should develop advance administrative arrangements with the competent authorities for administering criminal justice. The ability to do so may be restricted by local constitutional requirements or possibly the willingness of the competent criminal justice authorities to do so. Likewise, there may be disagreements between the aviation authority and the criminal justice authorities, and in these cases you may not be able to secure as many protections as you would favour, but what is most important is to provide clarity to the participants in the aviation system regarding the protections which will exist.

As you engage with the authorities which usually make decisions on whether to issue prosecutions or issue administrative sanctions, here are a few considerations to keep in mind. Can the law empower the NAA to make the decision regarding prosecution? If not, can the law allow for the NAA to provide an analysis regarding its view of the case and how the principles in Appendix 3 should be applied?

After the engagement with the criminal justice authorities, if there are identifiable situations in which national law will require disclosure, even though application of the Appendix 3 principles would lead to protection, articulate in your SIP policy the specific reasons why the information cannot be protected.

Instead of simply stating, “because national law requires”, attempt to include in the agreement a clear logical explanation as to why the criminal justice authorities maintain the position that the national interest requires the use of the information and what national values are served by denying protection in this case. This demonstration of clarity will assist in developing a positive safety culture. Even though individuals may not agree that an exception should exist, at least they can understand why there is a national interest in the exception. On the other hand, an expectation of protection which is unmet by the legal system will impede the development of a positive safety culture.

The desired outcome is a clear policy which you can present to aviation participants advising them when protection will apply and when it will not apply. The higher degree of clarity, the better. It will also be important to illustrate how the process will be administered to determine when and how protection applies. Make sure to write this policy in a manner that can be easily understood by participants in the aviation system, rather than only by lawyers!

In situations where legal certainty cannot be achieved in terms of protection (e.g. a court could rule either way that information is/is not subject to protection under local law), at least be sure to explain who makes the decision, what criteria will be applied by the decision maker, what process the decision maker will use, and what rights individuals/organisations may have if they disagree with the decision.

In your SIP policy, be sure to also include language which reflects Annex 19 Standard 5.3.4. In certain situations, it may be necessary to maintain or improve safety to take action which would be considered detrimental to the reporting party. By no means should aviation participants be led to believe that NAAs or their employers should be prohibited from taking such actions because positive safety culture prohibits it. Positive safety culture is designed to enhance safety, not inhibit it. As stated above, transparency is important in order to avoid creating expectations which cannot be met.

If safety information must be used as described in the preceding paragraph, the participant should receive an explanation regarding why the action taken was necessary to improve or maintain safety. The decision maker should be clear about what the potential outcome is which must be avoided, and why the action taken was necessary to avoid the unacceptable risk of such an outcome. It would be helpful to explain which less-detrimental actions were considered, but why they were determined to be inappropriate, particularly if the aviation participant suggested them. If such a procedure is adopted for making these types of decisions, be sure to include it in the published policy on SIP.

In some jurisdictions, the NAA may want to examine national employment laws and protections for “whistle-blowers”. It may be that labour laws allow for liberal sacking of employees with little protection for those who expose in good faith the existence of a safety risk. Whilst the NAA may not want to become the adjudicator of labour disputes, it should at least know whether the structure of national employment law is having a supportive or detrimental effect on safety culture and the willingness of individuals to come forward. Only then can the NAA determine whether and how to go about implementing protections for employees who are subject to retaliation for reporting safety risks.

If there is evidence which demonstrates that fear of retaliation is a deterrent, several options for addressing this may be available. Legislative changes to employment laws may be difficult and may not be necessary. There may be other adequate means of mitigating this risk. One possibility is to review the actions taken by a particular service provider in response to those who come forward. Even without intervening in a specific case, an NAA can enquire what company policy exists and how it is used by the stakeholder to prevent retaliation against those who come forward regarding safety risks. This is a valid question to ask because corporate behaviour can pose a risk to a positive safety culture, and this risk may be more prevalent when national employment laws provide fewer safeguards against retaliation.

Discuss through wide stakeholder engagement your proposed SIP policy and address any concerns which arise. If something in your policy is not robust, revise it to strengthen it. Stakeholder engagement and consultation is a key component of testing a proposed policy for its effectiveness.

Developing Corporate Policies Reflecting the Published NAA Policy and Enhancing Corporate Safety Culture

Whereas the previous section discussed how national policy should be made, this section speaks of the role of a company lawyer in developing policies and procedures based on national SIP policy.
Recall that as an industry participant, you should discuss your NAA's policy on SIP with the NAA. Raise any issues ahead of time where you can foresee a conflict between the policy and the applicable law in your jurisdiction. If you find a legal pitfall, or even lack of legal clarity, discuss your concerns openly with the NAA. Seek solutions by agreement with the NAA rather than a resolution through the judicial system. A positive safety culture is enhanced by the robustness of the NAA's SIP policy, and a robust SIP policy is one which can adequately address challenges brought by industry stakeholders.

Your company's SIP policy should reflect the national policy, and do so in a manner which is very clear to your employees. If there are advance administrative arrangements between the NAA and the authorities for administering criminal justice, these should be cited in your policy. It should be clear to your employees which criteria are used on the national level to determine what information is protected and what is not. Ensure that you explain the procedures to be used in determining if protection is appropriate, who the decision-maker will be, and what right the individual has if he/she disagrees with the decision. You should also explain what company support will be available to the employee in going through the process. If there will be a company decision on whether to support the employee seeking protection (i.e. whether the company believes that protection is appropriate), be sure to explain clearly this company process, who will make the company decision, and what criteria will be used. The key is to provide as much clarity as possible. In this manner, employees will know what to expect when they submit safety reports, even if they do not entirely agree with the policy. But unmet expectations of protection, on the other hand, lead to catastrophic consequences on safety culture. Clarity is your best ally.

As mentioned above in the NAA policy discussion, pay close attention to Annex 19 Standard 5.3.4, and make it clear to employees that safety information can always be used as necessary to improve or maintain safety, even if this results in an action which is detrimental to the reporting party or another individual. But as mentioned in the NAA policy discussion, develop a clear policy regarding how such decisions will be made. The decision should clearly articulate the outcome which must be avoided and why the decision is necessary to prevent an unacceptable risk of such outcome. It would be helpful to explain why less-detrimental alternatives are insufficient to address the risk. In other words, give as much evidence as possible to explain why a decision which could be considered detrimental to an employee is necessary to improve or maintain safety.

Be sure to engage with your employees as you implement this policy, answer questions posed by them, and try to address as many issues brought up by them as possible. Ideally, this should be done before the final version of the policy is enacted. It is best not to have several substantial revisions of a policy, as this could lead to confusion rather than the clarity which is your ally in developing safety culture.

Additional Practical Advice for Corporate Counsel in Developing Positive Safety Culture

It is appropriate to test the effectiveness of your SIP policy periodically to ensure that the desired effect on safety culture is being achieved. You should interview employees from different areas of the company and evaluate how knowledgeable they are regarding SIP policy. In addition, ascertain as best as possible the willingness of employees to raise safety concerns and the level of confidence which employees have that such concerns will be appropriately addressed.

In this context, do not discount the value of anonymised surveys. They are a useful engagement tool which can test the robustness of your SIP policy and its effect on your safety culture. If the results from the survey are consistent with what you hear openly and participation rates are high, this is a likely indication that your organisation has a positive safety culture. If, however, many of your employees do not want to participate in the survey, or the survey results include responses which are indicative of problems within your safety culture, this is an opportunity to address these issues. If labour relations issues exist within your organisation, take this into account as necessary when analysing the results, but do not fear the results. Addressing safety concerns raised by employees can only be to your benefit.

In cases involving labour-management disputes, be mindful of an enhanced role which the company lawyer can fulfil in maintaining or enhancing safety culture. In the modern aviation corporate context, labour-management disputes are not easily avoidable, and this often results in strained communication between both sides. In some cases, employees will raise legitimate safety concerns, but they might not be received as such because management views them as a labour issue. Likewise, employees may sometimes attempt to claim that labour-related grievances are safety-related. In these situations, the company lawyer should be willing to engage with both sides, but particularly the safety manager and accountable manager in order that they can determine and address legitimate safety concerns, and then communicate effectively to employees that such concerns are being addressed. This can mitigate the effects of the labour dispute on safety culture.

In addition, safety risks can sometimes be created by decisions made by management, including change management and restructuring. This can pose a challenge for the lawyer. It is a natural human tendency to become defensive when receiving information which could lead to culpability, or even failure to fulfil one's responsibilities. In these instances, the temptation to ignore and cover-up must be resisted, and often, the lawyer will need to be the voice of conscience. If a safety risk exists, it needs to be adequately addressed, and engagement between the company lawyer and other company managers can reassure them that their best legal protection is to correct the problem rather than avoid the issue. Doing so benefits both corporate responsibility and safety culture.

The complete picture of justice requires that your company or organisation takes the actions necessary to avoid risks materialising in harmful ways. This is only possible if those risks are known by those responsible for addressing them. That is why positive safety culture is so important and why the protection of safety information plays a critical role. Developing transparent policies regarding SIP is extremely important, as is consistently supporting those in your organisation to develop the positive safety culture upon which the aviation system relies.

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[1] *According to Annex 19 to the Chicago Convention, service providers are aircraft operators, aerodrome operators, air navigation service providers and other organisations providing operational aviation services.*

[2] *On 27 March 1977, two Boeing 747s collided on the runway at Tenerife North Airport (TFN) in the Canary Islands. The AIA for Spain (CIAIAC) determined that the fundamental cause of the crash was that the pilot of the KLM 747 took off without clearance. In the wake of this disaster, Crew Resource Management (CRM) was developed in order to encourage crew members to raise concerns to each other and for those in command to address such concerns. This resulted in the transformation of cockpit culture from a largely hierarchical system to an atmosphere which favours mutual decision making.*

[3] *The Human Factors Report was published by ALPA in 1979 and was compiled by P.A. Roitsch of Pan Am (who was the first test pilot of the 747), G.L. Babcock of United Air Lines, and W.W. Edmunds of ALPA.*

[4] *ICAO working paper A35-WP/52 provides a complete analysis of the issues affecting Contracting States.*

[5] *Regulation (EU) 376/2014*

[6] *ICAO has developed tools which may assist those involved in this area: Doc 9859 - Safety Management Manual (SMM) Chapter 4 (currently being revised based on Annex 19 Amendment 1 and will likely be reissued this summer) Doc 10053 – Manual on Protection of Safety Information, Part 1 – Protection of Accident and Incident Investigation Records*

Just Culture - Attitudes vs Behaviours

Giacomo Dusi *

Every day more than 30.000 airplanes fly safely over Europe: more than 17.000 European air traffic controllers offer their professional experience to make this possible. Air Traffic Controllers must undergo a long training in order to get their licence and they are also constantly kept updated with continuous training. Although they receive a high-quality formation and despite the fact that they carry out their duties in a highly professional manner, air traffic controllers still remain human beings and as such they are more or less likely to commit mistakes. Sometimes flight safety can be compromised by involuntary events.

During the last century safety studies evolved a lot. The first way to implement safety was the prescriptive approach that is put into practice issuing laws and prescriptions to follow in order to avoid bad events. An example of one of the first prescriptions was the Information Bulletin No.7 regarding Air Commerce Regulations published by the Department Of Commerce - Aeronautics Branch - United States Government Printing Office, Washington, 1928.

It is evident how written rules are essential to define the guidelines to follow in order to prevent incidents or accidents; however, this measure is obviously still not sufficient in order to reach the purpose of safety due to the presence of external factors which can interfere and compromise it.

Because of the unpredictability of the aforementioned external factors, prescriptive safety has evolved into 'reactive safety', that is an approach in which every unwanted event is followed by an investigation that aims at finding out the exact reason which has led to the event. This investigation is then followed by new prescriptions or rules in order to avoid that the event could happen again. It is not difficult to understand that this approach to safety is only a way to solve problems which have already happened and not a way to prevent them.

As suggested by F. Tomasello[1], we can list many examples of reactive safety regarding flights, i.e. seatbelts, oxygen masks, emergency slides, ALS (Alerting Service), SAR (search and rescue), Reg. 996/2010, ANSV. All these safety measures and/or items have the purpose to react in some way to an event that has already occurred.

As has just been said, the safety approaches listed above are useful to react after an event has already occurred: however, it would be better to prevent it, rather than dealing with it. In this light, a new way to think safety is the proactive approach, in which the main aim is “to make things go well” instead of avoiding getting hurt.

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The first studies about proactive safety were conducted by Herbert William Heinrich in 1931 but only after so many years these studies are now applied to aviation. During his research, H. Heinrich empirically estimated that for every accident that cause serious injuries there are 29 events causing minor injuries and 300 more events with no injuries.

These results can be represented in what is called "Heinrich's Pyramid" (Figure 1).

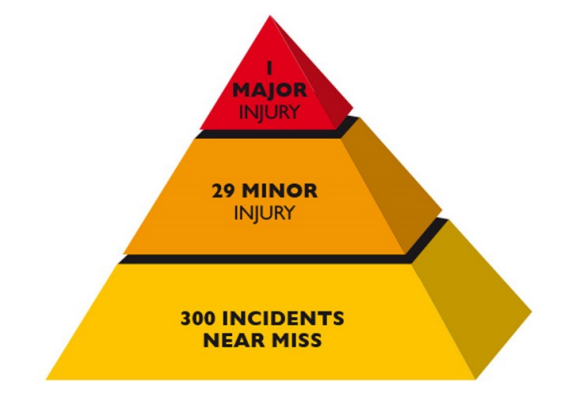
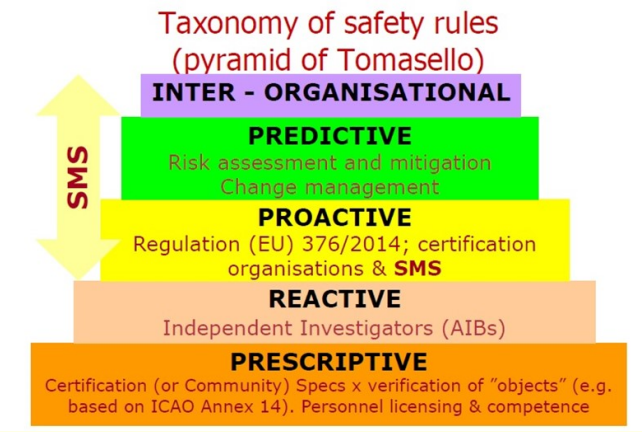


Figure 1

Another pyramid, called "Pyramid of Tomasello" (Figure 2), is used to describe the taxonomy of safety rules from the prescriptive approach to the latest two new approaches, namely predictive safety and inter-organisational safety. This pyramid makes it easy to understand how every lower step is essential to build a base in order to support each following step.



If one would look up the word proactive in a dictionary, he would probably get to a definition similar to the following one: "controlling a situation by causing something to happen rather than waiting to respond to it after it happens".

But, how is it possible to predict an event? How is it possible to perceive that something is going to happen?

Answering to these questions leads to the conclusion that it is impossible to implement a proactive approach without human participation: indeed, only a human being involved in the process is able to understand if something is going wrong or could possibly go wrong.

The proactive safety, as studied by Heinrich, assume that every "big event" is preceded by a series of minor events: a small human intervention is enough in order to avoid them to evolve into incidents or accidents. Most of those little human interventions are routine and unconscious actions; understandably then it is in some cases not at all so easy to determine which events could evolve into something worse. This task is entrusted in all its entirety to professionals involved in the operations: in fact, they are the only ones who are able to discern between harmless and potential dangerous events.

Due to all the peculiarities reported above, the proactive safety is based on safety reports filled by the operators in which they describe the events or missed events they were involved in. There are two types of reports related with the severity of the events: mandatory reports and voluntary reports.

In Europe, with the implementation of the Reg. 376/2014, a list of events that operators must report, called MOR[2], has been published. Article 5 of the same EU Reg. delineates the guidelines that very EU country has to follow in order to implement a VOR[3] system. The VOR is a report related to all those events that are not included in the MOR list but that have been evaluated by the professionals as potentially dangerous.

Within this process of reporting it is really important to ensure a high level of trust between operators and their organisation: indeed, trust is necessary for the employees to feel free to report every possible lack met during work, with no fear to be blamed. The main purpose of safety reports is not to blame and punish those professionals who honestly commit, and admit, their mistake; in fact, the target is to evaluate and study the event with the aim of finding possible critical points or procedural errors. The safety investigator does not look for the responsible of the mistake but focuses on the reason why the mistake has been committed.

This process is called "Just Culture" and it is implemented in aviation as well as in medicine.

One of the main Just Culture researchers, Sidney Dekker, makes some criticism about mandatory safety reports. In his research, Dekker points out how such long lists of events that are mandatorily to be reported are in fact nothing other than a mirage of a real boundary between voluntary and mandatory. This stands in contrast with the principle of 'non-punishment' foreseen by Just Culture. Professor Dekker claims that it is not possible to catalogue all the events that can actually happen: for this reason the compiler has to determine if an event is exactly the same as the one in the list or not. At this point it is clear that the compiler is forced to make a choice and by doing so he inevitably falls into a voluntary reporting system. Moreover, if the compiler makes a mistake by omitting to report a mandatory event, he may be subject to sanctions, which also goes against the

principle of 'non-punishment'. This loop, originated by the uncertainty about the type of report to be filled, will inevitably lead to increase the number of reports that will continue to be more and more unnecessary, for the sole purpose of not penalise their compilers.

Dekker's scepticism appears to be fairly straightforward and not overly prone to controversy. However, if the only effect of this loop was to increase the number of reports filled, this would not necessarily be a disadvantage for safety.

Although recent initiatives to promote Just Culture have made significant progress, many aspects and characteristics of the propensity to report critical security events are still unexplored. From a psychological point of view, the difference between attitudes and behaviours is very important. Feeling favourable about reporting does not necessarily translate into an actual reporting activity. In other terms, you may agree that reports are useful, but you do not necessarily generate and subdue them.

Attitudes can only explain some of our behaviours, but behaviours are also mediated by other factors, primarily expectations about how the context will react to such behaviours (in the specific case: expectations about how reports will be used and anticipations on how this would affect the filler).

According with these indications, this research has the following objectives:

- Explore the attitudes of professionals working in high-risk contexts towards reporting critical events, and in particular: the degree of agreement/ disagreement on reporting utility, the degree of disposability to invest personal effort in reporting, evaluating how much effort would be needed, who should report (in case there are roles that are more suitable to reporting than others), an assessment in which cases it is more useful to report and what are the advantages and disadvantages of the reporting activity.
- Detect reporting behaviours, and in particular: investigate whether and how many reports have been submitted in recent months, the reason why they have or have not been submitted and what are the expected consequences.

The expected results are:

- detect and explain the possible presence of fear or reticence in reporting critical safety events;
- to assess whether the prepared questionnaire can in the future be a valid tool for measuring Just Culture inside single organizations, in order to individuate bad attitudes and so plan measures to mitigate them;

To test if and how Just Culture is ingrained in the organizations and how professionals are involved in this process, a questionnaire was created from scratch and then distributed to a group of professionals operating in aviation (i.e.: pilots, air traffic controllers, technicians), in medicine (i.e.: doctors, nurses,) and in other sectors. The objectives of the survey were: observe professionals' attitudes and behaviours towards safety report, disclose fears and reticence of professionals in reporting, and evaluate if the survey could be used inside an organization to evaluate how the Just Culture climate is perceived by employees.

The survey was composed by 74 questions divided in 9 sections:

1) Compiler - information about the compiler (age, job, organization)

2) Incident Reporting System - understand if an incident reporting system is implemented in the compiler's organization and if not determine the knowledge of the compiler about safety reports and Just Culture

3) Anonymity - explore if the safety reports are anonymous and if anonymity is preserved within the compiler's organization.

4) Feedback - disclose if the compiler usually receives a feedback on its safety report

5) Personal impact of safety reports - disclose any positive or negative personal impact after the safety report has been filled

6) Importance of reporting - understand how important compilers consider reporting

7) How to fill - find out what tools compilers dispose of to send reports

8) Just Culture climate - disclose how the compiler feels the Just Culture climate in its organization

9) Evaluation of survey - evaluation of the survey by the compiler to understand if it is possible to use the survey within each organization.

The questionnaire was designed using the free Google Module platform through which it was possible to structure the questionnaire in the 9 sections required; thanks to the platform it was also possible to utilise the collection of data in digital format, thus reducing response time and facilitating data processing operations.

It has been decided to include in the research people who are employed in professions that foresee the possibility of being in more or less close relationship with events that can lead to personal injury or, in the worst of cases, to loss of human lives. The choice to involve in the research professionals employed in non-aeronautical sectors wants to confirm or confute the thesis - through the results of the questionnaire - that the psychological approach of people to events reporting can be considered the same, regardless of the working sector considered.

Dekker's research on Just Culture in support of this often show an interplay between aviation and medicine. At this purpose it is possible to consult some interesting online material - particularly worthy of note are the studies of Prof. N. Kodate ('Factors affecting willingness to report patient safety incidents in hospitals'). However, if medicine's Just Culture turns out to be a florid research field, much less material has been published with respect to aviation.

The survey was distributed to 43 professionals. 34 filled surveys were received back; 6 of the 34 compilers reported the absence of a safety reporting system in their organization.

The aim of the survey was rather to gather some qualitative information than amass a lot of quantitative data. As the number of people involved is not too high it is possible to consider the results as a trend indication.

Data provided about the age of the compilers allows us to formulate a first hypothesis about the positive link between the age of the compilers and the positive approach to safety. It is possible to theorize that younger professionals who have been educated and raised in a Just Culture's climate apply its principles more naturally, without having to change any perspective in this regard. If the questionnaire had to be extended in the future to all the members of a single company, we would be able to find out if older employees who started their career at a time when safety was less shared and studied are now easily integrated into this new way of thinking safety or still have difficulties in living up to the new Just Culture's climate. This hypothesis however needs to be validated considering a larger and specific sample.

Given the professional diversity of questionnaire compilers, it has become necessary to identify the sector of membership in order to make a first comparison between aviation and other sectors. The collected results show that 71% of compilers belong to the aviation sector, 23% to the medical/nursing area and the remaining 6% to other sectors, i.e. a pharmacist and a train driver.

Most compilers belong to the aviation sector because of a professional proximity with the researcher, but within this scope it can be seen that just over a half are Air Traffic Controllers or FISO[4] Operators, while the remaining part of them is composed by pilots and/or other operators.

Regarding the medical/nursing area it was decided not to make a distinction between each different profession as it was considered that the presence or absence of a reporting system is closely related to the health structure in which workers operate and not to the specific profession who is being carried out. It is presumed that if an hospital has a safety reporting system, all health care staff are required to report and not just a single category of professionals.

Among the main results emerging from the survey, it is possible to focus on 4 areas.

Regarding the anonymity of the report, the survey highlighted that only 61% of the compilers felt protected its anonymity, 28% not entirely and the last 11% not at all. Evaluating the open answer about the anonymity, it is possible to understand how professionals think it important to fill anonymous reports; in 7 cases professionals talk about how they feel more free to report in this way and in some answers it is possible to find explicit evidence of the fear of retaliation after filling a report.

Few professionals were more critical about anonymous reports and sustain the importance of having the possibility to get back directly to the compiler in order to investigate the events more closely.

A good solution in this sense has already been implemented by EASA. In the reporting system adopted by EASA the filler has to sign the report with his name; however, the investigator will be the only one who knows the filler’s name.

Analysing the answers about the feedback it is possible to underline how in many cases the feedback sent to the filler is not followed by concrete changes in procedures. 54% of the fillers usually receive a feedback after a safety report but only 39% of all fillers observe some kinds of adjustments aimed at solving the problem reported. It is demonstrated also by more recent studies by Sidney Dekker how: "if, through reporting, they have an opportunity to actually contribute to visible improvements, then few other motivations or exhortations to report are necessary"[5].

If these deficiencies affect directly the willingness to report, it is important to underline that 93% of the fillers believe safety report is important and that the remaining 7% think the report is important when applied in the same way to all employees; this 7% is composed by 2 medicine professionals - one is a nurse and one is a physiotherapist - and both sustain the safety report in their hospital is not applied universally and some categories are protected by a sort of Omerta ("silence"). Nobody thinks safety report as unnecessary.

The fillers were also asked to indicate if their reports number could be increased using personal devices such as smartphones, laptops and tablets. The reason for this question comes from the assumption that using personal devices enables the filler to be more at ease with the report and ensures more privacy and protection of personal data.

21% of the fillers already have the possibility to use personal devices for safety reports, 32% think its reports number will certainly increase by using these, 25% are doubtful and the rest 22% believe its reports number will not change.

Giving access to personal devices to the 32% who believe their safety reports number could increase is expected to produce a significant increment in the number of reports and for this reason it is really important to discover latent bugs.

In the last part of the survey fillers where asked to evaluate how they perceive 'just culture' inside their organization; it was asked to evaluate the organization on a scale ranging from 1 to 5 where 1 would mean 'totally blame culture' and 5 'totally just culture'.

To better understand the results, they were divided in 2 macro-areas: aviation and medicine. In aviation it is possible to find evaluations on all scales - the average value is 3,6, the median is 3, the minimum value is 2 and maximum value is 5. The average evaluation is medium-good; it shows that a good job has been done to increase just culture inside aviation, also considering the presence of some maximum votes. It is important to take into account the presence of 2 outliners with evaluation '1'; these cases were investigated individually and revealed 2 particular situations inside the organization where the personal relationships were partially compromised due to previous events. In one of those cases the relationship is hard due to former military legacies.

On the other hand, in medicine the perception of 'just culture' is slightly different.

In this case the average value is 3,2, a little bit lower than as for aviation, the median value is 3; the range of evaluation, however, spans only between 2 and 4. These results show how medicine is a little bit late in just culture spread than aviation, but nobody perceives a blame culture climate.

In fact, the first quartile is equal to 2,5. On the basis of the analysis of the answers received it is possible to see how the 'Safety reporting system' is not yet completely widespread in medicine as instead it is in aviation.

Analysing the results in a more global perspective it is possible to point out how essential it really is to increase the privacy data protection in order to improve the report's quantity. One way to follow could be the implementation of reporting tools to fill the report with personal devices such as smartphones and tablets; this way it would be possible to provide the filler with the freedom he needs to reconstruct the event in the comfort and quietness of his home, taking the time he needs to provide an accurate description of the event. It is also necessary to improve personal data protection in smaller organizations, (10/15 employees) where the small dimensions of the group encourage a very fast circulation of information.

In the future better results could be achieved making use of the survey only inside one organization in order to focus on a specific work environment where all employees are all treated equally. For this reason, the survey could be made available to organizations that will require it for internal investigation.

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[1] *F. TOMASELLO, Tassonomia dei processi per la safety aeronautica, Lezioni del docente, Università Parthenope, Ottobre 2014.*

[2] *Mandatory occurrence reporting*

[3] *Voluntary occurrence reporting*

[4] *Flight Information Service Officer*

[5] *S.Dekker, Just Culture - Balancing Safety and Accountability, Ashgate 2012*

The EU launches the "Open and Connected Strategy"

Alessandra Laconi *

On 8th June 2017, the European Commission has detailed how it intends to implement its aviation strategy, adopting a series of measures concerning competition (as the EU seeks to maintain the competitiveness and health of the aviation industry), ownership and control, mitigation of air traffic control (ATC) strikes, and public service obligation (PSO) routes.

In 2015, the Commission adopted the "Aviation strategy for Europe", the main purpose of which was to strengthen the entire EU transport network, granting a global aviation leadership and removing barriers to growth.

Therefore, in the recent "Open and Connected Aviation" package the European Commission developed four key measures to further support open and connected aviation markets in the EU and beyond, *i.e.*:

- a regulatory proposal aimed at protecting air transport competition;
- guidelines on how to interpret the EU's airline ownership and control rules;
- best practices to mitigate the impact of ATC strikes;
- PSO guidelines.

In particular:

- the Commission is proposing new regulation to address unfair competition (Proposal for a Regulation of the European Parliament and of the Council on safeguarding competition in air transport, repealing Regulation (EC) No 868/2004, COM(2017) 289 final, 2017/0116 (COD). The objective of the Regulation is to ensure fair competition between EU air carriers and third country air carriers, with a view to maintain conditions conducive to a high level of connectivity. If approved by the European Parliament and Council, the new rules will allow EU member States, airlines and the European Commission to file a complaint for unfair competition, triggering an investigation;

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- the purpose of the interpretative guidelines on third country ownership and control of EU airlines is to give some clarity and certainty for third country investors, making EU airline acquisitions and joint ventures smoother, simpler and more transparent(Commission Notice of 8.6.2017 C(2017) 3711 final, Interpretative guidelines on Regulation (EC) 1008/2008 - Rules on ownership and control of EU air carriers). However, the existing 49% cap on foreign ownership and control [provided by Article 4(f) of Regulation (EU) 1008/2008 on the Operation of Air Services in the Community ("Air Services Regulation")] will remain in place;

- even if ATC strike best practices are non-binding, they aim to maintain some connectivity and minimize disruption in the event of industrial action, encouraging all stakeholders (including airlines, trade unions, regulatory authorities and member State governments) to adopt better guidelines for these purposes. Indeed, the Commission enlightened that despite improvements through the Single European Sky, traffic disruptions still continue, severely hindering air travel in Europe, negatively impacting on EU's connectivity , economy and passengers' interests;

- the Commission is adopting a set of PSO guidelines to bring transparency, consistency and clarity to EU airlines and member States' authorities as to how the Commission interprets the current rules, in order to facilitate national authorities.

As underlined by the Commission, *"these initiatives will support the competitiveness of European airlines, including in the global market. They will be able to enhance their viability, in particular through better access to foreign investment. They will also be given a more effective complaint mechanism should they be subject to practices affecting competition when operating outside of Europe. Finally, in the event of air traffic management strikes, the effects on airlines should be reduced, and they should be able to schedule their flights with more visibility"*.

Although the unfair competition initiative is the only legally-binding proposal, guidelines in each of these four areas represent useful tools to reinforce EU's influence at a global level.

Bird strike: an extraordinary circumstance? Room for debate.

Pietro Presotto *

The Court of Justice of the EU, in Case C-315/15, clarifies that such occurrence constitutes an extraordinary circumstance under Article 5 of Regulation (EC) No 261/2004, allowing the air carrier not to pay compensation to passengers.

On 4 May 2017, the Court of Justice of the European Union was asked to rule, in essence, on whether a birdstrike, which has the effect of causing for that aircraft a late arrival of more than three hours, constitutes 'an extraordinary circumstance' according to Regulation (EC) No 261/2004, thus exempting the air carrier from its obligation to compensate passengers for that delay.

Having regards to the legal context, Article 5 of Regulation No 261/2004 provides:

"1. *In case of cancellation of a flight, the passengers concerned shall: […]*

(c) have the right to compensation by the operating air carrier in accordance with Article 7 […]

3. An operating air carrier shall not be obliged to pay compensation in accordance with Article 7, if it can prove that the cancellation is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken […]".

Article 7 of Regulation No 261/2004, headed 'Right to compensation', provides at paragraph 1:"Where reference is made to this article, passengers shall receive compensation amounting to:

(a) EUR 250 for all flights of 1 500 kilometres or less;

…"

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The applicants in the main proceedings booked a flight from Burgas (Bulgaria) to Ostrava (Czech Republic). That flight was part of the following scheduled circuit: Prague — Burgas — Brno (Czech Republic) — Burgas — Ostrava. The flight from Burgas to Ostrava was carried out on 10 August 2013 with a delay in arrival of 5 hours and 20 minutes, due to both a technical failure in a valve that occurred in the scheduled flight from Prague to Burgas (whose repair took 1 hour and 45 minutes) and a birdstrike during the landing to Brno (the aircraft was subject to checks, although no damage was found).

The Court holds that a collision between an aircraft and a bird is an extraordinary circumstance within the meaning of the regulation, therefore the air carrier is to be released from its obligation to pay passengers compensation - as long as any damage caused by the collision are not intrinsically linked to the operating system of the aircraft -.

Interestingly enough, on 28 July 2016 the Advocate General delivered a dissenting opinion in which he disputes the Court's conclusion, stating that *"a collision between a bird and an aircraft is in no way an event which is 'out of the ordinary', in fact, it is quite the opposite"*. According to the Advocate General, the frequency of such collisions and the fact that they are taken into consideration in the design of the aircraft, in the management of airports and at the different phases of a flight, sufficiently demonstrate that such an event is inherent in the normal exercise of the activity of an air carrier.

Full text of the judgement available at:
http://curia.europa.eu/juris/document/document_print.jsf?doclang=EN&text=&pageIndex=0&part=1&mode=lst&docid=190327&occ=first&dir=&cid=676551

Dissenting opinion of the Advocate General available at:
http://curia.europa.eu/juris/document/document_print.jsf?doclang=EN&text=&pageIndex=0&part=1&mode=lst&docid=182302&occ=first&dir=&cid=676541

Air carrier's liability for flight cancellation

(Judgment in Case C-302/16 Bas Jacob Adriaan Krijgsman v Surinaamse Luchtvaart Maatschappij N.V.)

Isabella Colucci *

On 11th May 2017 the Court of Justice of the European Union issued a judgement on a preliminary ruling from the Dutch District Court of the Northern Region (Netherlands), concerning the interpretation of EU Regulation n. 261/2004 that deals with the rights of passengers in cases of cancellation, delay and denied boarding.

The dispute, in the main proceedings, concerns the air carrier's refusal to compensate a passenger for the cancellation of the flight booked.

Through an online travel agency, Mr Krijgsman booked a flight from Amsterdam Schiphol to Paramaribo for the 14th November 2014, operated by the air carrier Surinaamse Luchtvaart Maatschappij N.V. ('SLM'). On 9th October 2014, the air carrier informed the online travel agency that flight had been cancelled, but only the 4th November 2014 - ten days before the scheduled departure -, the letter communicated to Mr Krijgsman the cancellation of the flight.

In the event of flight cancellation the EU Regulation n. 261/2004 provides that passengers have a right to receive compensation from the air carrier unless they were informed of the cancellation of the flight at least two weeks before the scheduled time of departure. According with said provision, as he had not been informed within the terms established by the EU Regulation, Mr Krijgsman sought payment from SLM of the flat-rate sum of € 600.

The air carrier refused to pay the compensation to Mr Krijgsman on the ground that the information regarding the change of the departure date had been communicated to the online travel agency on 9th October 2014. However, the online travel agent declined any liability arguing it was not responsible for flight schedule changes.

The applied Dutch District Court of the Northern Region took the view that EU Regulation n. 261/2004 failed to specify the circumstances under which passengers need to be informed by the air carrier of a cancellation when such a flight had been booked through website or travel agency. Therefore, the national Court decided to request a preliminary ruling to the CJEU in order to ascertain which requirements must be imposed on the performance of the obligation to inform referred to in Article 5(1)(c) of EU Regulation n. 261/2004 in the case where the contract for carriage has been entered into by a travel agent or a website.

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In its decision the EU Court points out that, under the EU Regulation, it falls to the air carrier to prove that it has informed passengers of the cancellation of the flight and to prove the period within which it did so. Therefore, if the air carrier is unable to prove that the passenger was informed of the cancellation of the flight more than two weeks before the scheduled time of departure, it is responsible for paying out compensation to passengers.

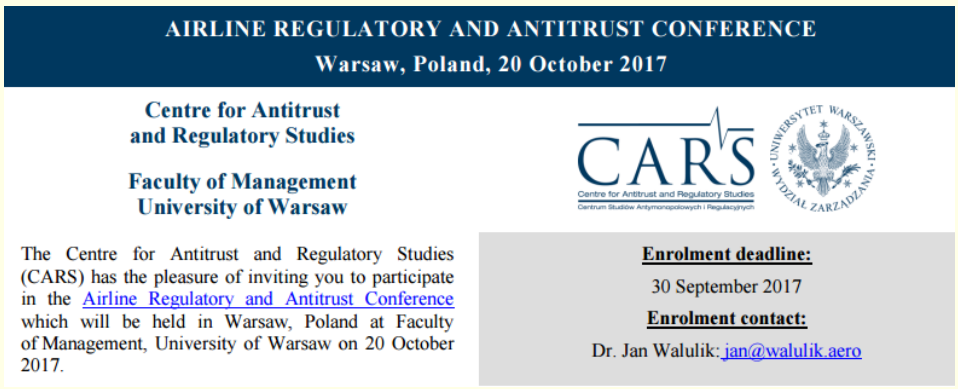
The EU Court highlights that such interpretation applies not only when the contract for carriage has been entered into directly by the passenger but also when that contract has been entered into through a third party such as an online travel agency.

However, the Court points out that the discharge of obligations by the airline pursuant to the EU Regulation is without prejudice to its right to claim compensation, under the applicable national law, from any subject who caused the air carrier to fail to fulfil its obligations, including third parties such as an online travel agency or a tour operator.

FORTHCOMING EVENT

Airline Regulatory and Antitrust Conference

20 OCTOBER 2017 WARSAW—POLAND



Subject matter

The goal of the conference is to discuss current problems and legal trends related to economic regulation and antitrust policy in international air transport. The debate is meant to reveal and reconcile distinct perspectives characteristic for different regions of the world. CARS has thus invited renowned academic experts from most important aviation markets.

Participants

The conference is aimed at aviation managers, consultants, attorneys, economic analysts, academic scholars, PhD candidates, students and professionals who are interested in the relations between different legal determinants shaping the international airline business.

Conference fee

The standard conference fee is 150 EUR. The fee for students, PhD candidates and trainee solicitors is reduced to 80 EUR. The fee must be paid by wire transfer in EUR in line with the following bank details at the time of enrolment. Please include your full name as given in the application for enrolment along with the phrase 'CARS ARAC' in the description of the bank transfer.

Beneficiary: Fundacja na rzecz Wydzialu Zarzadzania UW Bank: Bank Pekao S.A.
IBAN: PL07 1240 2887 1111 0000 3388 7461 BIC/SWIFT: PKOPPLPW

Enrolment

You are invited to enrol for the conference by e-mail (jan@walulik.aero) by 30 September 2017. The enrolment application must include your: full name, e-mail address, type of conference fee (standard or reduced), professional or academic affiliation.

Contacts

http://www.arac2017.wz.uw.edu.pl/

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