

DOMESTIC AIR TRAVEL: LOOKING BEYOND SAFETY TO THE RIGHTS OF PASSENGERS

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Most commentaries on air travel border on the safety of airlines, while the rights of passengers are ignored. This write-up seeks to bring to the fore some passenger rights.

According to the Nigerian Civil Aviation Authority (NCAA) Executive Summary on International and Domestic Flights Reports, 59, 818 flights operated in Nigeria in 2018. Of the said 59,818 flights, 36, 350 were delayed and 544 were cancelled. By these statistics, 60% of flights that operated in 2018 were said to have been delayed. In 2019, the NCAA recorded the operation of 65,401 flights, of which 37, 510 (approximately 57%) were delayed and 356 were cancelled.

Despite the foregoing statistics, the conduct of airlines has not been satisfactorily questioned/criticised. This may be attributed to poor consumer education. Consequently, the enlightenment of passengers on their rights becomes necessary.

The rights of passengers may be derived from the contract with the airline or existing laws. In terms of laws/regulations/conventions, the following are relevant:

- i. Civil Aviation Act 2006 (CAA)
- ii. Nigerian Civil Aviation Authority Regulations (NCAA Regulations)
- iii. Federal Competition and Consumer Protection Act (FCCPA)
- iv. The Montreal Convention of 1999 (ratified by the CAA)
- v. The Warsaw Convention 1929

While the CAA provides generally for the control and supervision of the aviation sector and the FCCPA generally for the rights of consumers, the NCAA Regulations and the Montreal Convention provide for, with more specificity, the rights of passengers. Further to this, some of these rights are highlighted below.

- ❖ Every passenger has a right to be informed of the reason for a delay within 30 minutes after departure time. Where the delay lasts for 2 hours, the passenger is entitled to refreshment and where delay lasts for 3 hours, the passenger is entitled to a reimbursement. A passenger is also entitled to transport and hotel accommodation where delay falls between 10:00 pm and 4:00 am. (See Regulation 19.6 of the NCAA Regulations)
- ❖ A passenger is entitled to compensation by an airline where there is a cancelled flight, unless the said passenger is informed of the cancellation at least 24 hours before the scheduled departure time. (See Regulation 19.7 of the NCAA Regulations)
- ❖ Where an airline places a passenger in a class lower than that for which the ticket was purchased, the said passenger is entitled to a reimbursement within 30 days from the date of travel. The airline is also required to make an additional payment of 30% and 50% of the price of the ticket for domestic and international flights respectively. (See Regulation 19.11 of the NCAA Regulations)
- ❖ A passenger is entitled to immediate monetary compensation by the airline in the event of a baggage delay, as well as the carriage of the said delayed baggage in the next available flight. (See Regulation 19.17 of the NCAA Regulations)

While the foregoing rights exist, airlines are mandated to place a notice stating clearly: “If you are denied boarding or if your flight is cancelled or delayed for at least one hour, ask the airline officials for a written statement of your rights, particularly with regard to compensation and assistance” at check-in points. Also, in instances where a passenger is entitled to compensation under the NCAA Regulations, the passenger is entitled to at least 25% and 30% of the price of the ticket in the case of domestic and international flights respectively. (See Regulations 19.16 and 19.8 of the NCAA Regulations)

Where there is a right, there is a remedy. Thus, rights that exist under the NCAA Regulations, the FCCPA and the relevant conventions are enforceable and could give room for compensatory/restorative orders or punitive orders. A passenger’s right may be enforced by either submitting a complaint to the Customer Affairs Unit of the NCAA or filing an action in court. However, it is important to note that under the CAA, an action for breach has to be instituted within 2 years of its occurrence.

While the safety of air travel remains crucial and should never be undermined, it is imperative to note that every developed society creates and recognises rights which go beyond issues of life, health and safety. Consequently, it is vital that the Federal Competition and Consumer Protection Commission (FCCPC) and the NCAA take a more encompassing approach in ensuring consumer protection and awareness in the aviation sector, such that more attention is paid to other rights including those discussed above.

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