

Don't be fooled by Overbooking practices¹

Marguerite Grivet

ABSTRACT

Around 42,000 aircrafts² take off and land every day around the world and with 2,5 million daily passengers, airlines represent a huge market that appear really volatile since it's deregulation in 1978. This paper aims to identify the obligations that airlines still have. It will especially document the overbooking practice with the purpose of demonstrating how airlines policies may influence the passengers' choices. By using the Multi Attribute Decision Making method with a compensatory model we'll be able to rank some airlines accordingly. It should help people to understand their rights over airlines practices and show how some airlines can meet better expectations considering the overbooking.

Key words: Overbooking, Contractual Rights, Obligations, Deregulation, Liquidated damages, Breach of Contract

INTRODUCTION

Would you buy a flight ticket if you were not 100% sure you will have a seat on the plane?

Probably not! But that's what actually people agree on when booking a flight.

If they happened to be unluckily denied boarding they would be facing one of the most used but legal commercial practices among airlines, which is the Overbooking.

Overbooking happens when airlines sell more tickets than the actual number of people they can accommodate³.

With this practice airlines are responding to the problem of "no-shows" (people who reserved seat but didn't board), they started facing in the 1940's with the expansion of their service. By 1950 the practice had become widely spread as well as the complaints about it, leading to the Federal Aviation Act of regulation in 1958, which allowed the US Federal Government to

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² According to the Federal Aviation Administration

³ <http://www.news.com.au/travel/travel-advice/flights/what-are-your-rights-when-airlines-overbook-your-flight/news-story/febe6cf6d7eea21795febe53343c02cb>

“oversee and regulate the safety in the airline industry”⁴. But later in 1978, the deregulation of the airline industry was enacted in order to make it enter a free market enabling a “great increase in the number of flights and a decrease in fares”.⁵

If we now look at the first semester of 2017, considering 12 US airlines, the number of passengers that were removed involuntarily from flights was 17,330. We may think it represents only 0.52 per 10 000 passengers⁶ but it still exists.

Booking a flight departing from City A to go to City B equals to planning a travel between two specific airports on a certain day and on a defined period of time. According to these characteristics, this is a project. In order to do that you purchase a flight ticket from an airline offering you a transportation service at a certain price. Accepting this offer passengers and airlines agree on a contract. Here we'll talk about a contract of Carriage.

But sticking to the definition of a contract, overbooking appears as a breach of contract from the airline side if we consider it failed to perform your transportation.

That's why I decided to focus my researches on the existing airlines booking policies and some published articles about Overbooking that question this practice. Through my paper I'll compare the contractual rights from both sides, airlines and passengers, with the facts.

To summarize, this paper will analyze official documents and articles to answer the following questions:

How can passengers legally respond to this practice?

What are the airlines obligations over it?

Are there better options when choosing your airline?

METHODOLOGY

First, we have to keep in mind that every country has its own legislation for airlines policies. For example, “Unlike Europe, Australians are not entitled to set levels of compensation if their flight is overbooked and they are delayed.” There is no requirement for the airline to compensate you for your loss”.⁷ In order to conduct my analysis, I decided to rely on the US legislation with the help of the Legal Information Institute from the Cornell Law School (LII). It is a not-for-profit group whose purposes are to, *publish law online for free, to create materials that help people understand law and to explore new technologies that make easier for people to find the law*⁸.

⁴ https://en.wikipedia.org/wiki/Federal_Aviation_Act_of_1958

⁵ https://en.wikipedia.org/wiki/Airline_Deregulation_Act

⁶ 332 million passengers in total for the 12 airlines on this period

⁷ Retrieved from an article from news.com.au

⁸ From Legal Information Institute official website

This information comes from official and public documents that make them valid enough to rely on as a solid reference for this paper.

According to the section 250.9⁹ of the LII's documents, there are two options for passengers that have been denied boarding. They can use their contractual rights by either accepting the compensation offered by the airlines or decline it and seek redress in the courts.

Let's look at the first option about financial compensation. The overbooking practice in the US is legal but airlines have obligations over it. In fact, according to the Department of Transportation's laws, airlines have the right to do this, as long as they pay the displaced customer for their troubles.¹⁰

Compensations depend on the characteristics of the denied boarding and its consequences. The first step in an overbooking situation is for the aircraft personal to ask for volunteers to give up their seat. These volunteers are entitled to receive a compensation fixed by the airline. There is no limit to this. *"The airline can pretty much offer whatever they want. They can offer you a hotel room, a seat in first class on their next flight, a lounge pass, a free ticket, two free tickets, or just a nonstop flight instead of your current connecting itinerary."*¹¹

The second step for the airline, if there are still not enough volunteers, is to proceed to involuntary denied boarding. In this situation, the amount of the liquidated damages is limited and depends on the domestic or international nature of the transportation plus the delay of your arrival.

- From 0 to 1 hour arrival delay you won't receive any compensation for either domestic or international flight.
- For a domestic transportation, if your arrival is delayed from 1 to 2 hours you have the right to receive 200% of your one-way fare (but not more than \$675 US). And if it's over 2 hours you'll receive 400% of your one-way fare (not exceeding \$1,350 US).
- Eventually for an international transportation, you'll have 200% of your one-way ticket price payed if you're late from 1 to 4 hours and 400% of it over 4 hours of delay.

If you decline this first option the other legal possibility is to sue the airline. Here, to quantify this alternative you'll have to consider the time the judiciary procedure will take and how much it will cost.

So now, with this reference and information, you can quantify your options through a Multi Attribute Decision Making (MADM) analysis and choose the best one. Options will be evaluated using a set of three criteria defined as follow: the total compensation in a situation of voluntary

⁹ Written explanation of denied boarding compensation and boarding priorities, and verbal notification of denied boarding compensation.

¹⁰ <http://time.com/4733837/united-airlines-passenger-volunteer-overbooking/>

¹¹ <http://onemileatatime.boardingarea.com/2017/04/17/volunteer-compensation/>

denied boarding, the total compensation in a situation of involuntary denied boarding and finally the judiciary procedure cost and time if the passenger chooses to sue the airline.

I decided to compare the top 5 airlines¹² in the world against these criteria, using MADM and I chose to rely on a compensatory model to get a true ratio scale that will let appear the best option in terms of airlines in case of facing a denied boarding situation.

FINDINGS-

I'm first presenting the alternatives for each airline without any rank order, as presented in their contract of carriage. But in addition, I'm giving color marks that define their acceptance criteria from excellent (green) to poor (red).

| Evaluation criteria | Qatar Airways | Singapore Airlines | All Nippon Airways | Emirates | Cathay Pacific Airways |
|--|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-------------------------------------|
| Total Compensation for voluntary denied boarding | At the discretion of the airline* | At the discretion of the airline* | At the discretion of the airline* | At the discretion of the airline* | Up to USD \$400 (around 340€)** |
| Total compensation for involuntary denied boarding | Up to 600€** | At the discretion of the airline* | At the discretion of the airline* | Up to 600€** | Up to USD \$1,300 (around 1 100€)** |
| Judiciary procedure cost and time if trial | Costly and time consuming | Costly and time consuming | Costly and time consuming | Costly and time consuming | Costly and time consuming |

*Available at all airport ticket counters and boarding locations

**Depending on your destination and time arrival delay, plus if the airline manages to arrange you an "alternative transportation" or not

After this first round of analysis, two poor options appear with no green marks and a red one for each. So, according to the acceptance criteria I set I can eliminate two options presented as too poor: Singapore Airlines and All Nippon Airways.

Now, the next steps of the analysis will focus on the 3 remaining alternatives.

To get a more precise selection I decided to use the relative weight method and rate every criterion out of 2 for each airline, according to the information available in the previous tab.

| Rate | Total Compensation for voluntary denied boarding | Total Compensation for involuntary denied boarding | Judiciary procedure cost and time if trial |
|------|--|--|--|
| 2 | Existent and clearly specified | Existent, up to 1,100€ | Both non-costly nor time consuming |
| 1 | Existent but not specified | Existent, up to 600€ | Either costly or time consuming |
| 0 | Inexistent | Inexistent | Both costly and time consuming |

¹² According to business insider

| Evaluation criteria | Qatar Airways | Emirates | Cathay Pacific Airways |
|--|---------------|----------|------------------------|
| Total Compensation for voluntary denied boarding | 1 | 1 | 2 |
| Total compensation for involuntary denied boarding | 1 | 1 | 2 |
| Judiciary procedure cost and time if trial | 0 | 0 | 0 |
| Total | 2 | 2 | 4 |

Here is appearing a true ratio scale that shows us that according to the criteria we chose to analyze these top 5 worldwide airlines, the best option is Cathay Pacific Airways. From our analysis, this alternative is two times better than Qatar Airways and Emirates.

Every airline presented through this analysis has compensatory measures put in place for these denied boarding cases but evaluating all of them on the same basis Cathay Pacific Airways is offering best compensation to its passengers.

Its obligations over the passengers are more valuable for them than any of the fourth other airlines.

The legal response of suing the airline is not convincing for any airline but compensations are more reliable and valuable for passengers in both voluntary and involuntary denied boarding situations.

So, if the selection criterion for passengers for booking their flight, is the airline's compensatory policy in case of over booking and denied boarding situation, then they should choose Cathay Pacific Airways.

This analysis has demonstrated that Cathay Pacific Airways is the best choice but we can also rank these 5 alternatives as below:

- 1- Cathay Airways
- 2- Qatar Airways and Emirates
- 3- Singapore Airlines and All Nippon Airways

CONCLUSIONS

Through this paper we've answered to the three questions that have been asked at the start of our reflection. We've demonstrated they are three legal existing responses to an overbooking situation: accepting the compensation for voluntary denied boarding, accepting compensation for involuntary denied boarding, or suing the airline. For each of these we've seen the

obligations that airlines have towards the passengers and we've measured it. It enables us to make appear differences among the offered liquidated damages and the accessibility of the information. We could eventually get to a ranking of the 5 top airlines in the world in terms of their overbooking policies.

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About the Author



Marguerite Grivet

SKEMA Business School
Paris, France



Marguerite Grivet is a MSc student at Skema Business School. In 2016, as part of her Master's degree program, she studied one semester at the Faculty of commerce of Queen's University, Kingston, Ontario, Canada. Back in France she worked for Dassault Systèmes in their Corporate Events Department. Currently following the specialization of Project and Programme Management and Business Development at Skema Paris Campus, she'll graduate in 2018 after an exchange semester at La Catolica of Lisbon to study Economics and Management. She can be contacted at marguerite.grivet@skema.edu.