

Future of Britain after the EU Referendum

Summary of Topic 3 Consumer Regulation



Economic
and Social
Research Council

What UK
Thinks 

NatCen
Social Research

Background to Topic 3

Consumer Regulation

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Flight rights

Question 3.1

People currently have certain travel protections under EU law for situations where their flights are cancelled, delayed or if they are denied boarding. These will no longer exist for the same types of flight after Brexit unless the UK makes new provisions. Should the UK retain these protections or not?

Introduction

People currently have certain travel protections under EU law for situations where their flight is cancelled or delayed, or if they are denied boarding. These protections, known as the Denied Boarding Regulation, apply to flights departing from the EU and those run by an EU airline arriving into the EU. The protections include the possibility of a refund or re-routing, the provision of care, and, in some cases, compensation.

The EU legislation covers all passengers regardless of whether they are an EU citizen or not. This means that after Brexit people from the UK who use an EU airline arriving into the EU or are on any flight departing from an EU destination, will be covered by the protections regardless of whether the UK makes any changes to its laws.

But unless the UK maintains the same or similar protections, there will be some instances where people will no longer be covered. This includes when flying from the UK to a non-EU destination, or to an EU airport on a UK airline (e.g. Thomas Cook).

The current EU protections

The Denied Boarding Regulation applies if:

- A passenger has a confirmed booking
- They checked in on time, or if no check-in time was given, then at least 45 minutes before their flight was scheduled to depart
- They are departing from an EU airport or are flying into an EU airport from a non-EU airport on a 'community carrier' (an airline with its headquarters and main place of business within the EU)

A passenger also has **rights under the Denied Boarding Regulations if their flight is cancelled**. A delay of more than five hours is treated in the same way as a cancellation.

Their entitlement depends on the length of the delay and the length of the flight.

Flight delay of more than two hours

If a flight is delayed for at least two hours then depending on the length of the flight, an airline has to give:

- Two free phone calls, faxes or emails
- Free meals and refreshments appropriate to the delay
- Free hotel accommodation and hotel transfers if an overnight stay is required.

Each affected passenger can also claim flight compensation for the delay if it is not due to **'extraordinary circumstances'**. Examples of such circumstances include an unusual extreme snowstorm, a strike by air traffic controllers, or a disruption caused by drones.

Flight delay of more than five hours

If a flight is delayed for more than five hours a passenger is entitled to choose between being rerouted on a different flight or receiving a refund, just as if the flight had been cancelled. They may also be entitled to compensation for the delay.

The government has so far stated that it intends to carry over the requirements of this EU Regulation when the UK leaves the EU.

Arguments for retaining the protections in UK law

Consumer groups have praised these "flight rights" as providing valuable protections for consumers, who might otherwise incur potentially substantial costs through no fault of their own.

Unless the provisions are retained in UK law, people would lose these rights when travelling on flights from the UK to the EU if they are not using an EU airline and to non-EU destinations; and when on a UK airline flying into the UK and the EU.

If the UK does not carry over these protections into UK legislation, there could be situations where travellers on an EU airline will have the right to food, drink and hotel accommodation (depending on the nature of the delay), but passengers on UK airlines would not under similar circumstances. For example, people travelling to the EU from the UK on an EU airline would be covered when those travelling the same route on a UK one would not.

Some groups, such as Which? have also suggested that the government should try, as part of new trade deals, to negotiate similar rights for those travelling to non-EU destinations such as the United States and Australia.

Arguments against retaining the protections in UK law

Airlines have been critical of the EU legislation because they say that it is too burdensome and costly, and makes them liable for events, such as pilot strikes, that cause delays but are outside their control.

The Regulation applies to delayed as well as cancelled flights and requires airlines to compensate passengers who are delayed for more than three hours, unless the delay is caused by "extraordinary circumstances". The onus is on the airline to show that the delay was caused by extraordinary circumstances and that it could not have been avoided even if all reasonable measures had been taken.

Airlines argue that the levels of compensation are high relative both to the ticket price and to the compensation payable for delays on other forms of transport – and that the costs they incur as a result, including associated administration costs, ultimately get passed on to customers through the prices they charge.

They also criticise the way that the legislation has seen the growth of claims management companies and law firms who profit from speculative claims.



Arguments For

- When travelling from the EU (including the UK) and when on EU airlines arriving into the EU, people can obtain compensation for any inconvenience caused by a delay or cancellation and are not put at risk of incurring significant costs.
- It avoids the possibility that passengers on UK airlines do not have the right to food, drink and hotel accommodation in the event of a delay/cancellation when passengers on an EU airline flying the same route do.



Arguments Against

- It is argued that the protections are too burdensome and costly and makes airlines liable for delays caused by events outside their control.
- The levels of compensation are high relative to the ticket price and the compensation payable for delays in other forms of transport – and the costs airlines incur ultimately get passed on to customers through the prices they charge.

Roaming

Question 3.2

Under an arrangement known as ‘Roam Like at Home’, people can currently use their mobile phone in the EU without incurring any charges additional to their normal tariff. This will no longer be the case after Brexit unless the UK makes new arrangements. Should the UK retain ‘Roam Like At Home’ or not?

Introduction

Communications services are a fundamental part of our lives. According to Ofcom, the UK communications sector regulator, the average UK mobile phone user spent 2 hours 49 minutes per day using their mobile phone in 2017.⁸ In our increasingly connected lives, consumers also enjoy being able to make use of their mobile phones when travelling abroad for business or leisure. This requires the use of mobile roaming.

Using a phone outside of a customer’s UK ‘home’ network is called roaming. When someone travels abroad and uses their mobile phone, a foreign network provides that phone with a service. That foreign network will then charge the UK network for that service, which, the UK network in turn might pass on to the customer.

From 15 June 2017, an EU regulation abolished roaming charges, so a UK consumer travelling to any EU member country can ‘Roam Like at Home’. This means that any voice calls, SMS and data sessions made while travelling in the EU are deducted from a customer’s monthly package of minutes, SMS and data from the UK, but no extra charges are incurred.⁹

As ‘Roam Like At Home’ is an EU regulation, UK mobile network providers have had no choice but to abolish any additional charges that consumers previously incurred when using their mobile phone in the EU. Some mobile providers have also added extra countries (beyond Europe) to their list of countries in which roaming is free, to make their offering more attractive.

Arguments for retaining ‘Roam Like at Home’

Consumer groups welcomed the introduction of ‘Roam Like at Home’. This is because it reduced the previously high costs that consumers incurred when using their mobile phone in the EU, thereby reducing the risk of receiving an unexpectedly high bill. Aside from saving consumers money, ‘Roam Like at Home’ also enables consumers to stay connected when travelling and removes geographical barriers to using a mobile phone.

As a result, some have called for UK legislation to ensure that ‘Roam Like at Home’ is retained after Brexit. Some groups have also suggested that, as part of new trade deals, the government should try to negotiate similar rights with a wider range of non-EU destinations, such as the United States and Australia.

By default, the roaming regulations will cease to apply to the UK when it leaves the EU. If the UK does not carry over these regulations into UK legislation, UK mobile providers will not be obligated to offer free roaming in the EU. This could put consumers at risk of incurring significant roaming charge charges and facing high prices when roaming in the EU, similar to the situation when roaming in countries such as the US.

In the absence of legislation, some UK mobile operators may make and honour commercial arrangements with mobile operators in the EU in order to deliver surcharge-free roaming. However, the pricing of mobile roaming in the EU would be a commercial question for the mobile operators. This could mean that surcharge-free roaming (i.e. Roam Like at Home) in the EU was no longer standard with every package. This could reduce the number of calls and texts that consumers feel able to make and the amount of data they can afford to use. Alternatively, operators might apply limits to the extent that customers can roam. As of February 2019, only one mobile network operator has been able to guarantee that mobile roaming costs will not return post-Brexit.

⁸ https://www.ofcom.org.uk/_data/assets/pdf_file/0022/117256/CMR-2018-narrative-report.pdf

⁹ 9 The EU’s roaming regulation also applies to three non-EU members of the EEA – Iceland, Liechtenstein and Norway.

Arguments against retaining 'Roam Like at Home'

In the past, there has been criticism of the introduction of surcharge-free roaming due to the costs incurred by mobile operators that they are then unable to pass on to consumers.

The EU roaming regulation is relatively new, so it is difficult to ascertain the full impact of the policy as yet. However, there is a risk that if consumer usage patterns change as a result of Roam Like at Home e.g. using more data when on holiday instead of relying on wi-fi, some smaller operators may experience significant increases in costs.

If operators make less money they may invest less in infrastructure, such as better quality 4G networks or the rollout of 5G. Some operators may choose no longer to offer surcharge-free roaming, they may increase retail prices, or change the bundles they offer to consumers to limit their exposure to wholesale roaming charges (e.g. no longer offering contracts with unlimited data).



Arguments For

- UK consumers are not put at risk of incurring significant roaming charges when using their phone in the EU, similar to the charges incurred when using their phone in countries such as the US.
- Consumers might otherwise be constrained in the calls, texts and data they can afford to make/use when roaming in the EU.
- Operators might otherwise place limits on the extent to which people can roam.



Arguments Against

- 'Roam Like at Home' may result in consumers using data when on holiday instead of relying on wi-fi. As a result, some smaller phone operators may experience significant revenue losses.
- If operators bring in less revenue, they may invest less in infrastructure, such as better quality 4G networks or the rollout of 5G.
- Some operators may choose to no longer offer roaming, increase retail prices, or change the bundles they offer in order to limit their exposure to wholesale roaming charges (e.g. no longer offering contracts with unlimited data).

Regulation of Incandescent Light Bulbs

Question 3.3

Should the UK keep the ban on incandescent light bulbs or not? (these are light bulbs that contain a wire filament and are less energy efficient than other alternatives)

Introduction

Incandescent light bulbs are traditional light bulbs in which light is emitted from a filament suspended within the bulb. Only around 5% of the energy that it uses provides light; the rest gives off heat. Halogen light bulbs are based on the same technology, but the presence of halogen glass makes the bulb somewhat more efficient and long-lasting.

During the last decade, the EU has gradually introduced regulations that have phased out the manufacture and import into the EU of all traditional, incandescent light bulbs. A total ban has been in place since 2012. More recently, it has also gradually imposed a similar ban on the manufacture and import of halogen bulbs. This came fully into force in September 2018.

For most domestic lighting these incandescent and halogen bulbs were initially replaced by compact fluorescent light (CFL) bulbs – as their name implies essentially a compact fluorescent tube. These only use between one-third and one-fifth as much power as a comparable incandescent bulb and last much longer. However, although the price has fallen they are more expensive to buy in the first place (around £3-£4 as compared with around £1) and because they contain mercury they have to be disposed of carefully. They can also take a while to reach full brightness.

More recently, light emitting diode (LED) bulbs have become more popular. They contain a semiconductor which lights up when an electric current is passed through it. These only use around 10% as much power as an incandescent bulb, and thus are even more efficient than CFLs – though are also more expensive to buy (around £3) in the first place. They come onto full power straight away and do not contain mercury.



Arguments For Keeping the Ban on Incandescent Lights

- Reducing the use of electricity is beneficial for the environment and helps address the risk of global warming.
- Having light bulbs that use less electricity helps reduce people's electricity bills.
- Many other countries outside the EU have similar bans – indeed the UK itself started phasing out incandescent bulbs a couple of years before the EU as a whole.
- LED bulbs have overcome many of the disadvantages of the CFL bulbs that originally had to be used instead.



Arguments Against Keeping the Ban on Incandescent Lights

- LED and CFL bulbs are more expensive to buy in the first place, which can be a particular issue for those on a low income.
- CFL bulbs contain mercury that needs to be disposed of carefully.
- Consumers should be free to choose what kind of light bulb they buy.

Regulating Vacuum Cleaners

Question 3.4

Should the UK maintain limitations on the electricity use and noise made by vacuum cleaners, or allow the sale of more powerful machines?

Introduction

Following a rise in the number of energy inefficient vacuum cleaners on the market, in recent years the EU has introduced regulations that govern the sale of vacuum cleaners in all member states. There have been two principal changes:

1. In September 2014, the maximum amount of power used by the electric motor was limited to 1,600 watts.
2. In September 2017, the maximum amount of power used by the motor was reduced further to 900 watts. In addition, a limit of 80db was placed on the amount of noise that a cleaner should make.

All vacuum cleaners have also had to carry a label showing their energy consumption, how well they pick up and trap dust, and how robust they are. However, use of the label has been stopped following a successful legal challenge. This challenge was made on the basis of the claim that the energy efficiency of a cleaner should be tested when its dust bag is full or partially full rather than, as at present, only when it is empty. However, the extent to which this makes a difference is disputed.

These regulations do not currently apply to cordless cleaners that are powered by a rechargeable battery.

After Brexit, the UK will have to decide whether to maintain these limitations on the electricity use and noise made by vacuum cleaners or allow the sale of more powerful machines.



Arguments for Keeping the Current Limitations

- Reducing the use of electricity is beneficial for the environment and helps address the risk of global warming.
- Having vacuum cleaners that use less electricity helps reduce people's electricity bills.
- Vacuum cleaners that use less electricity are not necessarily less successful at picking up dirt and dust.
- Without these regulations, cheaper, but less efficient machines might be imported into the UK from countries outside the EU, such as China.
- There is little incentive for manufacturers to manufacture machines that could not be sold in the rest of the EU.



Arguments Against Keeping the Current Limitations

- The impact on most people's electricity bills is small.
- The energy efficiency of a vacuum cleaner can vary according to how full it is, thereby potentially limiting the extent to which the regulations help consumers reduce their energy use.
- Consumers should be free to choose what kind of vacuum cleaner they buy.
- The regulations do not currently apply to cordless vacuum cleaners.

The Use of Single Use and Micro Plastics

Question 3.5

Should the UK continue to adopt measures that will reduce/ban single use and micro plastics or not?

Introduction

Plastic is, a highly durable, strong, and relatively cheap, synthetic material usually made from oil. This has made it very attractive for use in a wide range of manufactured products, including in the transportation of goods.

However, plastic takes between 500 and 1,000 years to break down and decompose. Consequently, if it gets into the environment, it takes a very long time to disappear. Particular concern has been expressed about the amount of plastic that has ended up in the sea and on beaches, not least because animals that eat plastic can die. Meanwhile, it is thought that very small bits of plastic (micro-plastics) can enter the food chain and the air.

Some plastics have bacteria added to them to make them biodegradable in the presence of light and oxygen. These break down within 6 months in a commercial facility. However, they may still leave a residue that is toxic and thus are not suitable for composting, while there is some uncertainty about how long such plastic takes to break down in the natural environment.

Some compostable plastics made from corn starch rather than oil are now being manufactured, though they are not necessarily suitable for composting at home rather than in a commercial facility.

Some plastic can be recycled, though its low value means that it is not always profitable to do so, and the resulting product may only be suitable for low grade purposes. Waste plastic can be incinerated, though this has its own effects on the environment – but the same may also be true of greater use of alternatives to plastic, such as paper.

In the wake of concern about impact of plastic on the environment, the European Union has recently taken two steps to reduce the use of plastics.

1. In May 2019 the European Parliament and the Council of the European Union passed new regulations that are designed to limit the usage of single-use plastics. Individual member states have two years in which to implement these regulations locally. This initiative was supported by the UK government.
2. The European Chemicals Agency, which is part of the EU, has put forward a proposal that would restrict the use of micro-plastics in a variety of products. A final decision is expected in 2022.

These initiatives follow-on from regulations passed by the EU in 2015 that obliged member states to take steps to curb the use of plastic (shopping) bags.

The UK has taken some action in advance of these EU initiatives. A charge for the use of plastic bags was first introduced in Wales in 2011 and became UK-wide by 2015. As a result of legislation implemented in 2018, the UK has already banned the use of micro-beads from some cosmetic and personal care products. Meanwhile, after a year's consultation, in May 2019 the UK government announced that from April 2020 shops will no longer be able to display or give out plastic straws, drink stirrers or cotton buds, though they may be made available on request (for example, to those with a disability who need to use a straw to drink). Draft legislation to give effect to this policy was published in March 2020 but has yet to be implemented.

The EU proposals for single use and micro-plastics go further than the actions already announced by the UK. Further details are as follows:

Single Use Plastics

1. Ban the sale/use of single-use plastic cutlery, plates, cotton buds, straws and stirrers, and drink cups that do not have their lid attached.
2. Require member states to take steps to reduce the use of plastic food containers and cups for hot drinks.
3. Require member states to take steps such that, by 2025, 90% of plastic drinks bottles are recycled.
4. Require that certain products such as sanitary towels and wet wipes that contain plastic should be labelled as such.

Micro Plastics

If this proposal were to be passed, it would ban the use of small bits of plastic that do not degrade easily in a wide range of products including not only cosmetics but also detergents, paints, polish and coatings as well as various products used in construction, agriculture and the fossil fuels industry.

What should the UK do about the use of plastic post-Brexit. Should it take further steps to reduce single-use and micro-plastics along the lines proposed by the EU? Or are the steps it has taken sufficient – or perhaps do they even go too far?



Arguments in Favour of the UK Adopting These Measures Post-Brexit

- Plastic has become a major pollutant of the seas and beaches. Animals that eat pieces of plastic can die. It is thought that plastic does not degrade in the sea for hundreds of years.
- There is a risk that micro-plastics end up in the food eaten by humans.
- Plastic in personal care products such as wet wipes and sanitary towels can block sewers.
- Although it can often be recycled, plastic is made originally from oil, a non-renewable fossil fuel.
- Countries outside the EU have taken similar measures.



Arguments Against the UK Adopting These Measures Post-Brexit

- The cost of eating out may go up if cafes and restaurants have to provide cups and cutlery that have to be washed.
- The UK is responsible for a very small proportion of the world's plastic pollution.
- If plastic cups and plates are replaced with paper ones this could result in more trees being cut down, which would also be bad for the environment.
- Plastic packaging may be the best way of keeping food fresh.
- Some people with a disability may need to use a plastic straw.
- Consumers should be able to decide for themselves whether to use plastics or not.