

AVIATION HEALTH CONFERENCE 2019

PUBLIC HEALTH LAW IN AVIATION: CHALLENGES OF HARMONISATION

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PUBLIC HEALTH LAW FOR AVIATION

- Legal Framework for international aviation health law
 - Treaties
 - Regulatory Bodies
 - Key legal instruments
 - Liability
- Some public health risks in aviation
- Why is harmonisation of laws important and why is it so difficult?
- Some suggestions

LEGAL FRAMEWORK

Legal Framework: a broad system of rules that governs and regulates decision making, agreements, laws etc.

Hard law

- Results from a legislative or judicial act or custom
- Rarely goes beyond national sovereignty
- Publicly available
- Binding and enforceable

Soft law

- Examples: guidelines, policies, recommended procedures
- May be internal to an industry and not publicly available
- Non-enforceable although can have influential weight: “normative”



A BRIEF HISTORY OF AVIATION LAW

Need for international cooperation/laws recognised from earliest days of aviation

Evolution through international conferences and treaties:

- Warsaw Convention 1929
- Chicago Convention 1944
- Montreal Convention 1999

Achieved very high safety standards, considered a model of harmonisation

SOME GOVERNANCE BODIES FOR AVIATION HEALTH

- International Civil Aviation Organisation (ICAO)
- International Air Transport Association (IATA)
- Airports Council International (ACI)
- International Flight Services Association (IFSA)
- World Health Organization (WHO)

European: European Civil Aviation Conference (ECAC)
 European Organization for the Safety of Air
 Navigation (EUROCONTROL)
 European Aviation Safety Agency (EASA)

National: Civil Aviation Organisations (NCAOs)
 Public Health Authorities

LAWS, RULES AND POLICY FOR AVIATION

- ICAO: 19 Annexes with over 12,000 Standards and Recommended Procedures (SARPs)
- WHO: International Health Regulations (2005)
- IATA, IFSA, ACI: Guidelines, policies, recommendations
- National legislation

OVERVIEW: THE USE OF LAW TO MANAGE PUBLIC HEALTH THREATS IN AVIATION

Aircraft as unique public spaces

Context:

- more flights
- extended flight networks
- more densely packed planes
- changing passenger demographics

Duties of care:

- to passengers (Warsaw Convention/Montreal Convention)
- to aircrew
- to populations in destination countries



PUBLIC HEALTH THREATS

For example:

- The airport/cabin environment
- Food contamination
- Transport of disease-carrying vectors
- Transport of infected passengers
- Environmental pollution (emissions/noise/waste)



WHY IS HARMONISATION OF LAWS FOR INTERNATIONAL AVIATION IMPORTANT?

International industry with cross-border public health threats

- Consistency of laws, regulations, standards and practices so the same rules will apply across jurisdictions
- Avoids conflict of laws
- Less complexity
- Allows for greater collaboration between states and industry stakeholders
- Ability to set a high standard for evidence-based, ethical laws

CHALLENGES TO ACHIEVING EFFECTIVE, HARMONISED LAWS

- Lack of data, which contributes to...
...lack of scientific consensus on best measures
- Economic pressures
- Unclear responsibilities

AND SOME CAUSE FOR OPTIMISM:

- Strong collaborative ethos and structures
- Industry expertise
- Evidence of harmonisation in some areas



SUGGESTIONS – MORE DATA, RISK ANALYSIS, LAW

- More data!
 - Monitoring of the airport and cabin environment
 - Measurement of passenger demographics
 - Accurate quantification of risks
 - Prioritisation of risks
- Better management of some risks should be achievable
- Role for international law-making bodies?



Thank you!

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