



European Consumer Centre DUBLIN

# Report on Airline Complaints in Ireland 2003-'04



**European Consumer Centre DUBLIN**  
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## Executive Summary

- Since 2003, the European Consumer Centre (ECC) in Dublin has seen airline complaints increase by 35%. It is likely that these complaints will continue to rise as more consumers travel by air and new air passenger regulations come into force in 2005. This report charts the main problems faced by airline passengers, as reported to ECC Dublin, and names the offending airlines between 2003 and 2004.
- Broadly speaking, the report finds that airlines are not always at fault when their passengers complain. Sometimes the complaints are as a result of consumers failing to familiarise themselves with the terms and conditions of the contract before purchasing their tickets. Other times complaints are due to situations outside of the airline's control such as bad weather or industrial action.
- But when airlines are at fault they don't always make it easy for their passengers to claim the compensation which is due to them. This is especially true for their passengers living in other EU Member States. 9 out of 12 of ECC Dublin's unresolved cases related to passengers of Irish airlines who live in other EU countries. This represents 75% of all unresolved cases.
- The report shows that, in particular, overseas passengers have problems resolving disputes with Irish airlines. All consumers in the EU have the same air passenger rights but it is difficult to enforce these rights across borders. The small claims procedure is an option for Irish complainants but is unsuitable for overseas consumers' disputes. When Irish airlines ignore their overseas passengers' complaints it is impossible for these consumers to seek compensation under air passenger regulations.
- In conclusion, the report recommends that Irish airlines take their overseas passengers more seriously and offer an alternative means of resolving consumer disputes without going to court. The report provides examples of alternative dispute resolution (ADR) schemes which could be implemented by the Irish airline industry.

# 1

## Introduction

ECC Dublin is a member of the European Consumer Centre Network. The network consists of 21 centres in 17 countries: 15 EU Member States and 2 EEA countries (Norway and Iceland). The role of the network is to provide information on European consumer rights and assist consumers with cross-border complaints. For example, if a consumer in Ireland has a problem with a camera purchased from a shop in Germany, ECC Dublin will contact the German retailer and try to reach an amicable solution to the problem.

The ECC network has no enforcement powers. This means that if a retailer or service provider refuses to co-operate with the network, it cannot progress the case on behalf of the consumer. The consumer may then consider taking a legal action against the retailer/service provider which is not easy in a cross-border consumer dispute.

In January 2005, the ECC network merged with the European Extra-Judicial Network (EEJ-Net). The EEJ-Network consisted of 17 Clearing Houses in 15 EU Member States and 2 EEA countries (Norway and Iceland). The EEJ-Net was established to co-ordinate out-of-court procedures throughout Europe in order to resolve cross-border consumer disputes. Alternative dispute resolution (ADR) schemes are examples of out-of-court settlement procedures. Examples of ADR schemes are the Chartered Institute of Arbitrators Tour Operator Scheme in Ireland and the Financial Ombudsman in the UK.

The merger of the ECC and EEJ networks facilitates the provision of a more rounded service to EU consumers. The combined activities of the new ECC network offer consumers information on European consumer rights and a means of resolving cross-border disputes without going to court. Funding for the merged networks, comes from the European Commission (DG Sanco) and the participating Member States.

The ECC Network is in an ideal position to report on the issues facing consumers in the EU. In 2004, the network received in excess of 100,000 queries. ECC Dublin recorded a total of 4,582 queries for the same year. ECC Dublin's top area of complaint was travel (25% of total query figure). For clarification purposes we split travel into package travel and airline travel as different legislation applies. This report focuses on air travel only and it is appropriate because new air passenger rights can be relied upon under new EU legislation that is due to come into effect this year.<sup>1</sup>

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<sup>1</sup>European regulation on denied boarding, cancellation or long delay, (EC 261/2004). Implementation date: 17th February 2005.

## Methodology

This report examines the airline complaints received by ECC Dublin from 1st January 2003 to 31st December 2004<sup>2</sup>. The complaints are categorised either as ‘information requests’ or cases requiring ‘assistance’. An ‘information request’ can be answered in one telephone call or email. For example the caller may want to know what rights he/she has when his/her flight is delayed or luggage is damaged.

An ‘information request’ becomes ‘assistance’ when the consumer’s rights are ignored by an airline. ECC Dublin will then intervene on behalf of the consumer with the airline. ECC intervention involves contacting the airline and keeping the consumer informed of any progress made. The centre only assists consumers in circumstances where there are clear legal grounds for redress.

In the past, ECC Dublin has intervened on behalf of Irish consumers with Irish airlines. However from 2005, the centre will only intervene on behalf of Irish consumers if the complaint is against airlines from another EU state or when consumers from another EU state have complaints against Irish airlines.

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<sup>2</sup>All statistics, statements and conclusions in this report are based upon the information gathered from the ECC Dublin’s in-house database.

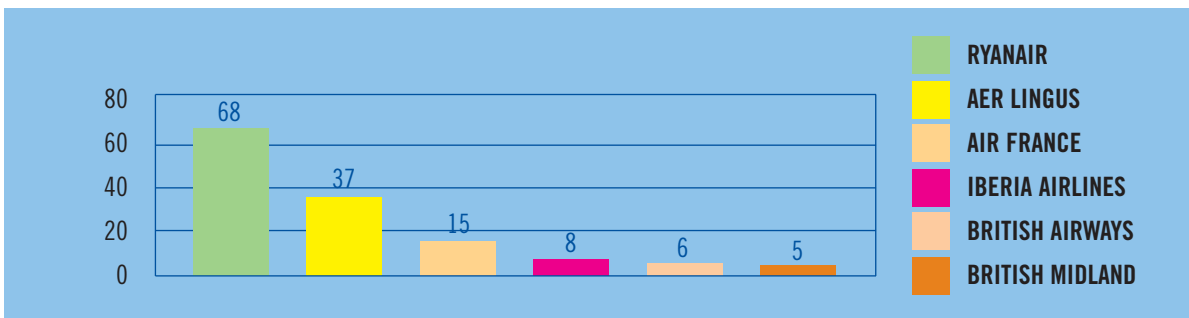
# 3

## Airline Complaints in 2003

In 2003, ECC Dublin received 233 consumer complaints concerning the airline industry. The majority, 205 (88%), of the complaints were 'information requests'. The remaining 28 (12%) complaints required 'assistance' which turned into cases. The centre was successful in resolving 22 of the cases requiring 'assistance' (79%). 1 case could not be dealt with by the ECC Dublin and was referred to the local police. However, 5 of these cases (18%) could not be solved amicably with the airline and the cases had to be closed unresolved. All of the consumers in question resided outside of Ireland and were complaining against Irish airlines.

*Ryanair* and *Aer Lingus* received the largest number of complaints followed by *Air France*, *Iberia*, *British Airways* and *British Midland*. These figures must be considered relative to the number of passengers carried by these airlines.

### Airlines complained about 2003



### Main categories of complaint in 2003

| TYPE OF COMPLAINT                               | QUANTITY |
|---|----------|
| Delayed, damaged and lost luggage               | 51 (22%) |
| Information request on air passengers rights    | 28 (12%) |
| Delayed Flight                                  | 19 (8%)  |
| Denied boarding due to Invalid ID               | 17 (7%)  |
| Cancelled flight due to health (SARS (7)- 2003) | 15 (6%)  |
| Cancel flight due to industrial action          | 13 (6%)  |
| Consumer cancelled flight & wants refund        | 11 (5%)  |
| Incorrect information on ticket                 | 11 (5%)  |
| Refund of Taxes/Airport Charges                 | 10 (4%)  |

The greatest number of complaints in 2003 related to delayed, lost or damaged luggage, which accounted for 22% of the overall complaints received.

The next greatest number of complaints in 2003 related to delayed flights. No assistance could be offered to consumers then, as there was no protection against delayed flights in 2003. This has changed since the enactment of two pieces of legislation: Montreal Convention for the Unification of Certain Rules for International Carriage by Air, 1999 and EC Regulation on Denied Boarding, Cancellation or Long delays of flights EC 261/2004).

Another large area of complaint in 2003 stemmed from *Ryanair's* change in ID policy. 7% of the total query figure complained that they were refused boarding because they had incorrect ID. These complaints could not be upheld because *Ryanair* had made every effort to inform their passengers before flights could be booked online. It is this example that shows consumers must take responsibility when entering into a contract for a service.

It is worth noting that a substantial number of airline complaints in 2003 related to issues outside of the airlines' control. For example, ECC Dublin received 13 complaints about flights cancelled due to industrial action in France. The airlines are not required to offer compensation in this instance because it is out of their control. Another example of where airlines do not have to offer compensation is in a situation where there is a health scare. The spread of SARs in Canada and China in 2003 resulted in consumers cancelling their flights to these destinations. Unless there is specific guidelines issued by national governments advising against travel the airline does not have to offer compensation if the consumer decides not to fly.

In 2003, the centre also received 7 queries concerning online booking problems against different airlines. Some of the cases the centre could resolve but some cases had to be closed unresolved. In each of these cases the consumers experienced very similar problems with the online booking facility which would result in the consumer booking the same flight twice. Below is an example of this type of complaint.

### Case Study 1:

A Norwegian consumer visited the *Ryanair* web site and decided to book a flight to the UK. The consumer supplied his personal details and credit card number. However, after he pressed the 'book' button an error message appeared on the screen. The consumer assumed that the transaction had not been successful. He then telephoned *Ryanair* and booked a flight over the telephone. The consumer received a credit card statement some time later and it showed two debits from *Ryanair* on his account. He wrote to *Ryanair* seeking an explanation but the response he received was unsatisfactory and he contacted the Norwegian Clearing House for further assistance.

The Norwegian Clearing House referred the complaint to the ECC Dublin, who wrote to *Ryanair* on a number of occasions. However, all attempts to resolve this matter proved unsuccessful and the case was closed and referred to the Clearing House. Unfortunately there is currently no ADR in Ireland to deal with complaints against the airline industry and therefore the consumer's complaint could not be resolved.

### Case Study 2:

A consumer travelled from France to Ireland with *Air France* and her luggage was delayed by 7 days. Furthermore, when it arrived it was damaged. *Air France* refused to pay compensation to the consumer and the consumer contacted ECC Dublin for further assistance.

The ECC Dublin wrote to *Air France* seeking compensation under the terms of the Warsaw Convention and *Air France* promptly compensated the consumer.

## Airline Complaints in 2004

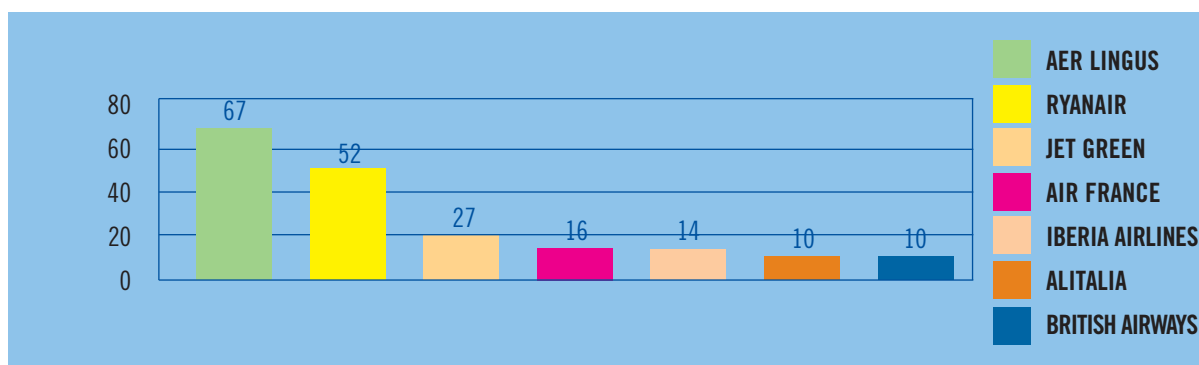
In 2004, ECC Dublin received a total of 314 complaints against the airline industry. This is an increase of 35% on the complaints received in 2003. The Centre received 264 (84%) requests for information from consumers. 50 (16%) cases required 'assistance'. ECC Dublin was successful in resolving 26 of the cases requiring 'assistance' (53%). A further 13 cases requiring 'assistance' (26%) are ongoing as this report goes to print (Feb 2005). The ECC Dublin could not deal with 4 of the complaints received and they were referred to another organisation, such as the local police or the equality authority. 7 (14%) of the complaints could not be resolved and were closed. Four of these cases related to overseas consumers with complaints against Irish airlines and three Irish consumers with complaints against overseas airlines.

Below is a table containing a list of the companies involved in the unresolved cases, and the consumers' nationalities in each case.

| AIRLINES          | UNRESOLVED CASES | CONSUMERS' NATIONALITY |
|-------------------|------------------|------------------------|
| Ryanair           | 2                | French Consumers       |
| Aer Lingus        | 2                | UK Consumers           |
| Air France        | 1                | Irish Consumer         |
| Austrian Airlines | 1                | Irish Consumer         |
| Iberia            | 1                | Irish Consumer         |

As was the case in 2003, in 2004 the largest number of complaints related to Irish airlines. This time *Aer Lingus* (67) received more queries than *Ryanair* (52), followed by *Jet Green*, *Air France*, *Iberia*, *Alitalia* and *British Airways*.

### Airlines complained about 2004



## Main categories of complaint in 2004

| TYPE OF COMPLAINT                                       | QUANTITY |
|---|----------|
| Delayed, damaged and lost luggage                       | 78 (25%) |
| Cancelled flight by Airline                             | 28 (9%)  |
| Airline went out of business                            | 27 (9%)  |
| Information request on air passengers rights            | 25 (8%)  |
| Delayed Flight  | 23 (7%)  |
| Denied boarding due to overbooking                      | 20 (6%)  |
| Consumer cancelled flight & wants refund                | 17 (5%)  |
| Price complaint (overcharged/weight allowance or other) | 16 (5%)  |

The top area of query in 2004 was delayed, damaged and lost luggage which was the same as 2003.

The second highest category of query related to an airline, *Jet Green*, which went out of business leaving a number of passengers stranded in both Ireland and Spain. ECC Dublin was unable to assist consumers with this complaint, as it does not come under the remit of EU consumer legislation. However, the airline had been registered and bonded as a tour operator in Ireland and therefore any consumer who purchased their flight from Ireland could make a claim to the Commission for Aviation Regulation. The ECC passed this information to concerned consumers.

## On-going 2004 cases

The 13 active cases from 2004, which have yet to be resolved, are against:

- *Aer Lingus* (4)
- *Ryanair* (4)
- *Air France* (1)
- *Air Luxor* (1)
- *BMI Baby* (1)
- *Easy Jet* (1)
- *Volare* (1).

ECC Dublin cannot force airlines to respond, or to honour their legal obligations. If an airline fails to respond to mediation, the consumers need to consider taking legal action. This is simply not viable for many consumers who live outside of Ireland.

The following are 2 case examples relating to 2004:

### Case Study 3:

A consumer was to travel from Munich to Dublin with his wife, on an *Aer Lingus* flight. When they arrived at Munich airport they were informed that the flight had been overbooked and just one seat remained on the flight. The consumer's wife took the seat and the consumer was denied boarding due to overbooking and was directed to the information desk where he was informed that there were no flights available until the following day. The consumer was asked to pay €50.00 for this flight and he had to pay the cost of the hotel accommodation himself for the over night stay.

Upon his return to Ireland the consumer wrote to *Aer Lingus* requesting a refund for the hotel accommodation, the €50.00 for the flight and also his compensation of €150.00, to which he was legally entitled under EC regulation 295/91. However, *Aer Lingus* implied that this was not a case of denied boarding and that the consumer simply was a "no-show" for the flight.

The Consumer wrote to the ECC Dublin for further assistance. However, *Aer Lingus* failed to respond to the ECC's correspondence. Unfortunately there is currently no ADR in Ireland to deal with complaints against the airline industry and therefore the consumer's complaint has not been resolved.

### Case Study 4:

A couple's flight from Rome to Dublin with *Alitalia* was overbooked. The consumers were reallocated to an indirect flight and suffered a substantial delay. As they were travelling with an infant, they requested a direct flight for the following day, but the airline would not cover the expenses for an overnight stay and denied their request.

Upon their return home, the consumers wrote to *Alitalia* requesting compensation but the airline failed to send this. The consumers contacted the ECC Dublin requesting further assistance. The ECC wrote to *Alitalia* and compensation was eventually paid to the consumers.

# 5

## Observations

Below is a chart containing a year on year comparison of 2003 and 2004 figures:

|                            | 2003 | 2004 | % INCREASE |
|----------------------------|------|------|------------|
| Total query figure         | 233  | 314  | 35%        |
| Information requests       | 205  | 264  | 29%        |
| Cases requiring assistance | 28   | 50   | 79%        |

The overall number of airline complaints increased by 35%. The nature of these complaints have remained constant over the past two years but with some notable differences:

- Many of the complaints in 2003 related to events that were outside of the control of the airlines e.g. the spread of SARs and industrial action.
- There was the issue around the non-refund of airport charges in 2003 which did not surface as much in 2004.
- The closure of *Jet Green* had an impact on the 2004 complaint figures.

ECC Dublin helped resolve 62% of all its cases against the relevant airlines which was a good result. But 15% could not be resolved where there was a clear case that the consumer was entitled to compensation. Of the 12 unresolved cases, 9 were from consumers living in other EU countries. This seems to indicate that Irish airlines are less willing to resolve disputes with their overseas passengers.

All consumers in the EU have the same air passenger rights. Whether they fly with a low cost airline or a full service airline the same protection applies. But enforcing these rights across borders is difficult. Under the Rome Convention, a consumer has a right to take a court action in the Member State where he/she resides against a retailer or service provider in another Member State. However, the reality of the situation is that the consumer would encounter long delays and enforcement problems. To add to these problems it may not be worth taking legal action as the financial value of the transaction is so small as to render such action unviable.

In a previous Report<sup>3</sup> the ECC Dublin explored the possibility of the Small Claims Court handling cross-border complaints. The Report looked at the current obstacles faced by European consumers taking actions in the Small Claims Court in Ireland. The Report concluded that the Small Claims Court was not practical for the settlement of cross-border disputes and called for the development of an Alternative Dispute Resolution Body to be developed to handle cross-border consumer disputes.

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<sup>3</sup>For further information on this refers to the ECC Dublin's 2004 publication: "The Small Claims Court and its uses in Cross-border Resolution of Consumer Disputes".

## Recommendations

There are two main recommendations that can be made:

Consumers must take more responsibility for their actions. It is vitally important for consumers to be aware of the terms and conditions of the contract they are entering into when they buy airline tickets. Many of the airline complaints that ECC Dublin recorded in the past two years stemmed from consumers not knowing what they had agreed to when they bought the tickets.

Secondly, the Irish airline industry needs to take their overseas passengers more seriously by offering an alternative means of resolving disputes without going to court.

In 2004, the EEJ-Net Clearing House of ECC Dublin produced a report titled “*The Need to Develop ADR in Ireland*”. One of the most startling findings in this report was the fact that of all the disputes received from overseas consumers against Irish companies, not one could be referred to an ADR Body. In total, 67% of these complaints related to the airline industry.

In the report, the Clearing House of ECC Dublin put forward two recommendations on how to improve this situation. One was the creation of a statutory consumer complaints board, similar to the complaints board set up in the Nordic countries, which could deal with all consumer complaints. The second recommendation was to create an umbrella ADR body, similar to the Dutch scheme “The Foundation for Consumer Complaints Boards”. This ADR body operates by developing ADR schemes with different business sectors such as banking, dry cleaning, public transport, postal services, and travel.

In Ireland, the Chartered Institute of Arbitrators operates in a very similar way to this Foundation in the sense that it has developed ADR schemes with two major business sectors: the scheme for Tour Operators and consumers and the Society of Irish Motor Industry scheme.

There are many large industries in Ireland who offer ADR schemes to their customers, for example, the Insurance Industries Ombudsman’s scheme or the *Electrical Supply Boards* (ESB) arbitration scheme. If the Irish airline industry is serious about its customer service, then participation in an ADR scheme is a natural progression towards enhanced customer relations.

# 7

## Conclusion

As more people travel by air and greater protection is offered to air passengers, it is inevitable that there will be more complaints. Airlines can decide to take a cavalier approach to their customers and fight tooth and nail through the courts. This is time consuming and expensive. The alternative is participating in an ADR scheme.

In a highly competitive industry where more low cost airlines are competing against each other than ever before, it is crucial to promote enhanced customer relations. Participation in an ADR scheme would give an airline the edge.

On average, the ECC Dublin takes 3 months to resolve a complaint, even when a consumer has a clear case for compensation. The time it takes to resolve these complaints is costly in terms of both human and financial resources for all parties to a dispute. If the airline industry participated in an ADR scheme it could save time and money.

The Irish airline industry is a role model to other airlines with its approach to low cost travel. It can also be a role model in how it treats its passengers and by setting a benchmark for others to aspire to.

## Annex

The complete list of airlines against which ECC Dublin received complaints between 2003 and 2004:

|                          |                       |
|--------------------------|-----------------------|
| Adria Airways Slovenia   | Germanwings           |
| Aer Arann                | Hungarian Airlines    |
| Aer Lingus               | Iberia airlines       |
| Air France               | Jet Green             |
| Air Gabon                | Kuwait Air            |
| Air Luxor                | KLM                   |
| Air Polonia              | Lufthansa             |
| Air Liberte              | LOT                   |
| American Airlines        | Moldavia Airlines     |
| Air Wales                | Malaysia Airlines     |
| Air2000/Van Ameyde       | Monarch airlines      |
| Aitalia                  | Malev Airlines        |
| Atlas Travel Service     | Qantas                |
| Austrian Airlines        | Romanian airlines     |
| Baltic Airline           | Ryanair               |
| BMI Baby/British Midland | Scandinavian Airlines |
| British Airways          | Skynet                |
| Buzz airline             | Singapore Airlines    |
| Croatian airlines        | SmartWings Airlines   |
| Cityjet                  | South African Airways |
| Czech Airlines           | Spanair               |
| Delta Airlines           | Sri-Lankan airlines   |
| Emirates                 | United Airlines       |
| Easy Jet                 | Virgin                |
| Futura                   | Volare                |
| Go fly                   |                       |

notes





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