LEGAL INSIGHTS ON AIRLINE MISCONDUCT AND PASSENGER PROTECTION IN NIGERIA

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Introduction

Air travel is a contract of carriage between the airline and the passenger, governed by both international conventions and domestic aviation laws. In Nigeria, passenger rights and responsibilities are primarily regulated under the Civil Aviation Act 2022, the Nigeria Civil Aviation Authority (NCAA) Consumer Protection Regulations 2023, and ICAO Standards and Recommended Practices (SARPs).

Other key legislation includes the Federal Airport Authority of Nigeria (FAAN) Act 2022, which establishes the FAAN for airport development and maintenance. The NCAA is the principal regulator, responsible for both safety and economic aspects, including aircraft registration, personnel licensing, and airspace standards.

Air travel often raises complex legal questions, particularly when disputes or disruptions occur. To provide clarity, we have compiled a series of frequently asked questions addressing passenger rights, airline responsibilities, and the role of regulatory authorities.

Q1. What constitutes airline misconduct in Nigeria?

Airline misconduct refers to breaches of duty or failures by carriers that infringe on passenger rights. it can also be regarded as the acts or omissions by carriers that undermine passenger rights and contractual obligations. Common examples include; flight delays and cancellations without due notice, overbooking, denial of booking, poor customer service, loss, damage or mishandling of baggage, failure to provide care such as meals, accommodation, or refunds; and refusal to pay compensation in line with regulatory requirements. These acts erode public confidence and often lead to disputes between airlines and travellers. In legal terms, these acts may amount to breach of contract, negligence, or unfair trade practices.

Q2. What laws regulate the rights and responsibilities of airline passengers in Nigeria?

Passenger rights are governed by a mix of international treaties and domestic law:

- Civil Aviation Act 2022 empowers NCAA to make and enforce consumer protection regulations.

- NCAA Consumer Protection Regulations 2023 (Part 19) provides detailed passenger rights on refunds, delays, cancellations, and compensation.
- ICAO Standards and Recommended Practices (SARPs) especially Annex 17 on aviation security and Annex 9 on facilitation.

Together, these instruments form the legal backbone of passenger rights and obligations in Nigeria.

Q3. How does Nigeria's framework compare with international standards?

Nigeria's passenger rights framework, especially under the NCAA Consumer Protection Regulations, mirrors aspects of the European Union's Regulation 261/2004, which is widely regarded as the gold standard in air passenger protection. Both systems recognise rights to compensation, rerouting, and refunds in cases of delay or cancellation. However, enforcement in Nigeria remains inconsistent, unlike in the EU where regulatory agencies are proactive and penalties are more stringent. Nigeria still faces gaps in monitoring compliance, consumer education, and transparency. Bridging these gaps would align the country more closely with global best practices, enhancing investor confidence and passenger trust.

Q4. What are the rights of an airline passenger in Nigeria?

Passengers in Nigeria are not mere customers at the mercy of airlines; they are beneficiaries of a carefully designed legal framework that guarantees fair treatment, safety, and redress in cases of misconduct or service failure. These rights flow from a combination of the Civil Aviation Act 2022, the NCAA Consumer Protection Regulations (Part 19, Nigeria Civil Aviation Regulations), and international treaties such as the Montreal Convention 1999 (to which Nigeria is a signatory).

a. **Right to Safe Carriage**
   The Civil Aviation Act 2022 establishes that passengers have a right to be transported under safe conditions. This duty of safety rests squarely on the airline, its crew, and operators. Beyond the technical aspects of airworthiness, this includes ensuring that passengers are not exposed to undue risk of harm from negligence, poor maintenance, or operational errors.

b. **Right to Timely and Transparent Information**

   Under Part 19.6 of the NCAA Consumer Protection Regulations, passengers must be kept informed about delays, cancellations, and denied boarding situations. Transparency is a legal obligation, not a matter of goodwill. For example, if a flight is delayed due to

operational reasons, the airline must promptly communicate this, rather than leave passengers stranded in uncertainty.

c. **Right to Care and Assistance During Delays**

Nigerian law mirrors international best practices by requiring airlines to provide care when delays extend beyond certain thresholds. Part 19.7 mandates that passengers be given meals, refreshments, hotel accommodation, and transport between the airport and lodging where necessary. This right transforms what could be a harrowing experience into a legally managed inconvenience, ensuring that passengers do not shoulder the full burden of operational disruptions.

d. **Right to Compensation and Refunds**

Where cancellations or denied boarding occur, passengers are entitled to financial redress. Under Part 19.10–19.11 of the NCAA Consumer Protection Regulations, airlines must offer compensation or a full refund, depending on the circumstances. Importantly, this right is enforceable regardless of the airline's internal policies, as the regulations have the force of law. In 2020, the FCT High Court fined Arik Air ₦10 million in *Modibbo v. Arik Air Ltd* for unjustified flight delay. The court held that failure to airlift the passenger as scheduled breached contract and violated his right to movement, entitling him to damages.

e. **Right to Baggage Protection and Claims**

The Montreal Convention 1999, incorporated into Nigerian law, guarantees passenger rights to compensation for lost, delayed, or damaged baggage. Articles 17–22 of the Convention cap liability limits, but they establish that airlines cannot escape responsibility altogether. This provides passengers with an international legal standard of protection, harmonized with local regulation. In *British Airways v. Atoyebi* (2014), the Supreme Court affirmed that airlines owe passengers a duty of care, and failure to meet this duty entitles passengers to compensation. The case arose after British Airways misplaced Mr. Atoyebi's checked-in bag, compelling him to travel back to London to retrieve it.

Nigerian aviation law underscores that passengers are not powerless in their dealings with airlines. Their rights to safety, information, care, compensation, and baggage protection are legally enforceable, binding airlines to treat them with fairness and dignity. For legal practitioners, these provisions offer clear grounds for consumer protection actions; for passengers, they serve as a reminder that their journey is safeguarded by law.

Q5. How can a passenger enforce consumer protection rights?

Enforcing passenger rights in Nigeria is not a one-track process; the law provides multiple avenues, both administrative and judicial, to ensure consumers are not left at the mercy of airlines. Enforcement typically follows a tiered framework:

a. Direct Complaint to the Airline

The first point of recourse is always the airline itself. Under the NCAA Consumer Protection Regulations (Part 19.20.1), passengers are required to lodge their complaints directly with the carrier, whether the issue concerns delays, cancellations, overbooking, baggage loss, or poor service. Airlines are under a statutory duty to provide prompt acknowledgment and resolution. Failure to respond within the stipulated timeframe is itself a breach of the regulations.

b. Escalation to the NCAA

Where an airline fails to resolve a complaint within 7 days, passengers may escalate the matter to the NCAA through its Consumer Protection Directorate (CPD) provided in Regulation 19.20.2. The NCAA acts as the primary regulator, empowered under the Civil Aviation Act 2022 to investigate, mediate, and sanction airlines for violations of consumer rights. The NCAA can impose fines, compel refunds or compensation, and even suspend an airline's operations for persistent breaches.

c. Civil Litigation

Beyond regulatory remedies, passengers may pursue judicial enforcement in Nigerian courts. A passenger may file a claim for:

- Breach of contract of carriage (where the airline fails to fulfill contractual obligations such as safe and timely carriage), or
- Negligence (particularly where physical injury or property damage arises). Courts may rely on the Civil Aviation Act 2022 to determine liability for injury, death, or baggage loss/damage.

Q6. What challenges hinder effective passenger protection?

Despite robust laws, several challenges persist. First, many passengers are oblivious and unaware of their rights and often accept misconduct without seeking redress. Second, the NCAA sometimes struggles with enforcement due to bureaucratic bottlenecks or lack of resources. Third, compensation claims can be cumbersome, discouraging passengers from pursuing them. Fourth, airlines often rely on the "extraordinary circumstances" defence to

escape liability. Finally, the judicial process can be slow, costly, and inaccessible to many passengers, which weakens deterrence against airline misconduct.

Q7. What can regulatory authorities do in situations of unruly passenger conduct?

The Nigerian aviation legal framework recognizes that unruly passengers pose significant risks to the safety, security, and comfort of air travel. To address this, regulators and operators are equipped with a layered set of powers and sanctions:

a. **Airport Security and Enforcement (AVSEC and FAAN)**

On landing, disruptive passengers may be detained by the Aviation Security Service (AVSEC), under the FAAN. AVSEC is empowered to investigate, question, and where necessary, hand over such individuals to the Nigeria Police Force or other competent security agencies.

b. **NCAA Sanctions**

The NCAA, acting under its consumer protection and safety oversight mandate, may impose administrative sanctions against unruly passengers. These include suspension from flying with Nigerian carriers, financial penalties, or blacklisting, ensuring that repeated offenders face escalating consequences.

c. **Criminal Prosecution**

Unruly behaviour that crosses into assault, endangerment, or interference with flight operations is not only an aviation violation but also a **criminal offence**. Depending on the conduct, offenders may be prosecuted under the Civil Aviation Act, Criminal or Penal code.

What might seem like "mere disruption" or refusing to follow crew instructions, being physically aggressive, or tampering with safety equipment, is, in law, a serious offence that can attract imprisonment, fines, and even long-term flight bans.

Q8. What security agencies are involved at the airport when incidents occur?

The Nigerian aviation sector adopts a multi-agency security framework, recognising that airport incidents may involve both regulatory breaches and criminal conduct. Each agency has distinct responsibilities but works in collaboration to maintain safety and protect passenger rights:

- **Federal Airports Authority of Nigeria (FAAN):** As the statutory body responsible for managing airports across the country, FAAN oversees the coordination of security

operations. It ensures that facilities are secure and that all security agencies at the airport function in alignment with national aviation policies.

- **Aviation Security**: Operating under FAAN, AVSEC officers are typically the *first responders* when incidents occur. They handle passenger screening, crowd control, and the immediate containment of unruly conduct within airport premises. AVSEC's role is preventative as well as responsive, ensuring that threats to aviation security are neutralised swiftly.
- **Nigerian Police Force**: Once an incident escalates into a criminal matter, such as assault, destruction of property, or threats to aviation safety, the Police steps in. The Police typically handle arrests and investigations.
- **Nigerian Civil Aviation Authority**: Beyond criminal law, aviation remains a regulated sector. The NCAA, through its Enforcement Unit, has the power to investigate breaches of aviation regulations, sanction airlines, and penalize passengers whose conduct violates aviation safety rules. Its focus is regulatory compliance rather than criminal prosecution.

Taken together, these agencies form an integrated security mechanism that balances airport safety, passenger welfare, and regulatory oversight. The framework is deliberately layered, AVSEC addresses immediate threats, FAAN coordinates, the Police handle criminality, and NCAA enforces compliance, ensuring that airport incidents are managed comprehensively rather than in isolation.

Q9. Can passengers take legal action directly against an airline?

Yes. Nigerian law and international aviation frameworks give passengers the right to sue airlines directly when their rights are infringed. Such legal actions typically arise under two main grounds:

- **Breach of Contract of Carriage:** Every issued ticket creates a binding contract between the passenger and the airline. If the airline fails to fulfill its obligations, such as timely carriage, proper handling of baggage, or honoring confirmed reservations, the passenger may sue for breach of contract.
- **Negligence or Tortious Liability:** Beyond contractual duties, airlines also owe passengers a duty of care. Failure to provide reasonable assistance, wrongful denial of boarding, or neglect in ensuring passenger safety may give rise to liability under the law of tort.

Thus, passengers may confidently approach the courts to enforce their rights, whether under contract, tort, or international convention, without needing prior regulatory approval. The

law ensures that airlines remain accountable not only to regulators but also directly to the passengers they serve.

Q10. What challenges hinder effective passenger protection?

While the law is clear, enforcement remains uneven. Many passengers are unaware of their rights or lack the financial capacity to pursue claims. Regulatory oversight is sometimes weakened by delays in sanctioning errant airlines, while compensation processes can be burdensome. Additionally, some airlines exploit "exceptional circumstances" clauses to evade liability.

Q11. What are the dos and don'ts of being an airline passenger?

Dos (Passenger Responsibilities):

- Obey crew instructions at all times.
- Arrive at the airport within recommended check-in time.
- Declare restricted/dangerous goods.
- Travel with valid documents.
- Respect security checks.

Don'ts (Prohibited Conduct):

- Do not tamper with smoke detectors, safety belts, or aircraft equipment.
- Do not use abusive, threatening, or violent behaviour toward crew or fellow passengers.
- Do not attempt to carry weapons, explosives, or other prohibited articles.
- Do not consume excessive alcohol or drugs before/during flight.

These obligations reflect ICAO Annex 17 and NCAA rules.

Q12. How does Nigeria's framework compare with international standards?

Nigeria's consumer protection rules draw inspiration from the EU Regulation 261/2004, which is regarded as a benchmark for passenger rights. However, enforcement in Nigeria lags behind the EU due to weaker institutional frameworks and limited consumer awareness.

Aligning more closely with international best practice would not only protect passengers but also enhance Nigeria's reputation as a reliable aviation hub.

Q13: What policy steps are needed to strengthen protection?

Greater public education on passenger rights, stricter enforcement of existing regulations, and simplified claims processes are crucial. The NCAA should adopt proactive monitoring of airlines, while dispute resolution mechanisms such as mediation or arbitration could be promoted to ease passenger access to remedies. Encouraging class actions in aviation disputes may also deter systemic misconduct.

Conclusion

Air passengers in Nigeria enjoy robust legal protections under both international and domestic law. However, rights go hand-in-hand with responsibilities. While airlines are obligated to provide safe, reliable, and fair services, passengers must also maintain discipline and comply with regulations.

The legal framework, led by the Civil Aviation Act 2022, NCAA Regulations 2023, and ICAO standards, strikes a balance between consumer protection and aviation safety. Ultimately, passengers and airlines share a mutual duty of cooperation, without which the safety and efficiency of air transport cannot be guaranteed.