



Feel the force of the EU behind you

Consumers are reaping the benefits from rules offering more protection in Europe, writes Mark Channing

WHAT should have been a seven-hour trip from Abu Dhabi to Dublin last November turned into a 16-hour nightmare for Aoife Clarke and the other passengers on her Etihad Airways flight.

Just before take-off the airline said there would be a brief delay because of fog. The "brief delay" lasted for 10 hours, during which time the plane and its passengers sat on the tarmac at Abu Dhabi. Eventually they departed, landing in Dublin nine hours late.

"It was the most horrendous flight I've ever experienced," said Clarke, 29, a communications manager from Dublin. "It was unacceptable to be left on the aircraft for so long. We should have been taken off and given some space to walk around and get fresh air."

Clarke complained to Etihad and asked for compensation, citing EU rules protecting passengers when flights are delayed.

Etihad apologised but said, because it is not a European airline, it is not bound by EU compensation rules. Instead it offered her frequent flyer loyalty points – enough for a leather iPad case or a pair of cashmere gloves. "It was measly compared with what we endured," said Clarke.

Etihad said it was necessary to leave the passengers on the aircraft so it could leave as soon as the fog lifted.

"While on board, passengers were kept informed about the situation and offered refreshments," said Etihad. "We apologised to Ms Clarke for the delay, which was beyond the airline's control, and offered her appropriate compensation, which she accepted."

Clarke's story highlights how your consumer rights can disappear outside the EU.

Had she been travelling inside the EU or on an EU-registered airline, experts say she may have had a case for compensation by claiming the airline did not provide adequate care and assistance by leaving passengers sitting on a plane for almost 10 hours.

Grace Duffy, communications officer with the European Consumer Centre Ireland (ECCI), which assists consumers involved in EU cross-border disputes, said: "If the consumer had flown from Abu Dhabi to Dublin with an EU-registered carrier, she probably would have been



The force of the law is now helping European consumers more. However, it can still be difficult to enforce your rights, particularly outside Europe. Inset, Clarke, who suffered a nightmare flight delay

entitled to extra protection." EUclaim, a Dutch compensation specialist, said: "If this situation were to happen within Europe, the airline would be obliged to offer passengers care in the form of meals, drinks, access to communication facilities and, if necessary, a hotel and transfer."

Air travel is not the only area where the EU has strengthened consumer rights. The cost of using your mobile phone abroad has plummeted because of EU restrictions on roaming charges. Meanwhile, rights for online shoppers buying from websites in other EU countries were also strengthened last year.

Sometimes, however, consumers can face difficulty enforcing their rights.

We look at where the EU's rules protect you and how they can sometimes let you down.

FLIGHT RIGHTS

Passengers whose flights are cancelled, delayed or overbooked are protected by EU rights which may entitle them to compensation.

Many struggle to claim successfully, however, because airlines refuse to pay.

EU flight regulations apply to all flights originating within the EU, even those operated by non-EU airlines.

When flying into Europe, however, only EU airlines come within the rules.

If your flight is cancelled without notice, or arrives more than three hours late, you could be entitled to compensation of €250-€600, depending on the distance travelled.

Airlines have an escape clause, however. They would not have to pay compensation if the delay or cancellation were caused by "extraordinary circumstances" outside of their

control, such as extreme weather or terrorism.

Airlines often claim technical problems are extraordinary, excusing them from liability for compensation.

However, the European Court of Justice has disagreed in several rulings, deciding that technical faults that are "inherent" aren't extraordinary – making airlines liable to pay compensation.

They continue to resist passengers' claims, however, leaving some waiting years for payouts.

Adeline Noorderhaven, the manager of EUclaim, said: "Airlines are just not paying up, and for consumers it can be very difficult to claim. They wear people down, saying the delay was caused by an extraordinary circumstance. It can be difficult for a passenger to prove otherwise, especially when they



AIRLINES WANT A CULTURE WHERE IT IS TOO MUCH TROUBLE TO MAKE A CLAIM

may not have the resources to go to court."

There were more than three incidents a day on average in Ireland in 2014 when passengers should have been eligible for compensation, according to EUclaim, which estimates that only 15% of those entitled actually make claims.

"Airlines want to create a culture where it is too much effort to file a claim. It's a tactic to keep claims down to a minimum," said Noorderhaven.

EUclaim pursues compensation claims against airlines on a "no win, no fee" basis, taking 27% of the amount awarded if the claim is successful, plus an administration fee of €25.

It currently takes claims for Irish consumers only for flights that depart from the UK, the Netherlands and Germany, or when the flight stopped over in one of these countries.

ROAMING

EU regulations have cut the cost of using your mobile phone in other EU countries with the price for calls, texts and data reduced by more than 90% since 2007.

To make a voice call in the EU now costs 19c a minute, while an SMS costs 6c a text.

More recently, the big reductions have been for downloading data which now costs 20c per MB, compared with 70c per MB in 2012. These prices exclude VAT.

Barbara Delaney of the communications regulator ComReg said: "The instance of 'bill shock', when people come back from holiday to a huge mobile phone bill, has largely been eradicated."

The regulations include a download cap protecting consumers against unwittingly incurring huge data charges while abroad.

If you download more than €50 worth of data, your provider must send you an alert and can continue to charge you only if you "opt in".

Roaming charges are capped only for travel within the EU. If you go further afield, you are at the mercy of your provider's charges, which can be punitive.

EU rules offer some protection against data roaming charges, regardless of where you travel, because the download cap still applies.

Roaming charges were supposed to be abolished by the end of this year but the European Council has said the charges would remain in place until at least 2018.

ONLINE SHOPPING

Online shoppers are protected by the EU's consumer rights directive – provided they buy from an EU website.

Your rights are stronger when buying online than on the high street because you have a 14-day "cooling-off period" which gives you the right to change your mind and send back the goods for any reason for a refund.

Online shoppers' rights were strengthened last year under the EU Consumer Rights Directive. It increased the cooling-off period from seven to 14 days, and cut the time given to retailers to issue refunds from 30 to 14 days. It also extended the right to include purchases of digital content.

As with flight rights, however, online shopping rights can be difficult to enforce if a retailer were to refuse to recognise them.

Last year The Sunday Times was contacted by a reader who had paid €3,800 to a Belgian website for a guitar that never arrived. Only after we intervened, more than a year after the transaction, did our reader manage to get a refund.

The ECCI helps consumers settle complaints with traders in different EU countries but it has no powers of enforcement.

BANKING

The single euro payments area (Sepa) was introduced last year, standardising bank transfers within the eurozone and giving consumers more control over direct debits.

Under Sepa, euro transfers to another EU bank account must be processed by the next day, for the same price as a domestic transfer.

John Rice, head of payments strategy with the Banking and Payments Federation Ireland, said: "Once you go to your bank before its normal cut-off time, funds transferred are guaranteed to land in the beneficiary account, without any deduction of charges, by close of business the following day."

Sepa also gave consumers extra powers in relation to direct debits. You can stop a direct debit while it is in flow, or blacklist a company from ever debiting your account.

You also have the power to recall a direct debit within eight weeks of the debit occurring on your account, and have the money refunded.

Missed the meltdown? There'll be another one along soon

Lightning doesn't strike twice? Don't believe it. Meteorological disturbances are far more frequent in the investment world than most of us realise. Since 1969, global equities have lost more than 20% of their value every two to three years on average, with a meltdown of more than 30% occurring every nine years.

Just because we survived a deluge in 2008 and 2009, don't assume it will be blue skies for the foreseeable future. Having studied past form, Ronan Bradley of Irish Life Investment Managers (ILIM) concludes that stock market downturns have more in common with buses than electrical storms – they come in clusters. "If you've just experienced one there's a greater chance of another one soon," he told ILIM's annual investment conference last week.

The evidence suggests we may be living on borrowed time. Stock markets have risen by 213% since

COMMENT

NIALL BRADY



March 2009, making this the fourth longest and strongest rally since 1932, when stock markets were on the floor following the Wall Street crash. It cannot last, especially when the flood of money into equities owes more to a lack of alternative investments than to any great conviction about the prospects for the stock market.

Being able to spot the gathering clouds is of little help if

you are powerless to react. Luckily there are many strategies that have been shown to work in tricky situations in the past, such as buying stocks that look cheap, that pay above-average dividends, were among the winners over the previous year, or are considered dull and boring. ILIM, the country's biggest fund manager, is trying to harness these strategies, picking companies that appear to offer

value rather than blindly investing in those that make up the main stock market indices.

Will it work? The answer is best viewed through a rear-view mirror, believes Joe Mottley of Clarus Investment Solutions, an independent adviser.

"We won't know until we pass through the next bear market," he said. "It's a systematic way of getting exposure to strategies that have been shown to substantially outperform the market. It certainly reduces the discretion for investment managers to make decisions on the fly."

Driving a hard bargain

They are throwing money about like confetti in Trim. A 47-year-old physiotherapist from the Co Meath town is adding their 19-year-old offspring as a named driver on the car insurance.

Without the learner driver, the cost of comprehensive cover for the family's 2011 Toyota Avensis

would range from €255 with Allianz to €742 with Zurich. These same companies would refuse to quote if there were a teenager behind the wheel, while FBD would charge €1,929 and Aviva quoted €3,178.

This scenario was dreamt up by somebody at the Competition and Consumer Protection Commission (CCPC) as a suitably gender-neutral warning to motorists of the glaring gaps between different quotes for the same insurance risk.

Back in the real world, parents will be asking why anybody would bother insuring teenagers as named drivers, especially when they must take 12 mandatory lessons before taking the driving test? Why not forget the insurance, and safeguard your car's bodywork and gearbox, by letting a driving school bring your child to test-ready standard?

Few novices would reach this level after 12 lessons, requiring additional lessons at

€40-€50 an hour to bring them up to scratch. It is an expensive proposition but less costly than paying €2,000-€3,000 for insurance.

Apart from examples that defy credulity, the CCPC's survey has other shortcomings. It sought quotes only from the eight main underwriters in the motor insurance market, ignoring the many specialist deals these companies package for sale through insurance brokers.

Risky business

The big picture gets overlooked if you are looking in the wrong place. This is the main criticism of the Central Bank's record on consumer protection in a peer review by its Dutch counterpart.

In keeping tabs on the country's 62 banks, 153 insurance companies, 383 credit unions and 2,800 independent advisers, the Irish regulator sometimes loses sight of "market-wide consumer protection risks".

These risks are not identified but Fianna Fail believes the rip-off interest rates charged on variable mortgages must be at the top of the list. They can add €6,000 a year to the cost of repaying a loan of €200,000.

"We want the Central Bank to step up to the plate and take a much more hands-on role in consumer protection," said Michael McGrath, the party's finance spokesman, who wants the issue debated in the Dail this week.

Don't get your hopes up. Although sympathetic to the plight of those with variable mortgages, Central Bank governor Patrick Honohan believes the problem is best left to the laws of the market. If banks are profiteering, other lenders will muscle in for a piece of the action, driving variable rates down.

Let's hope he is right, although we could be facing a long wait. niall.brady@sunday-times.ie; @Niall_Brady on Twitter