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*COELUM is Latin for air space or sky. The Romans began questioning the rights they had in the space above the land they owned and to how high above did that right extended to. Ad coelum et ad inferos, they discussed, meaning that their right of property would extend as high up to the heavens and down to hell.*

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## FEDERAL LAW FOR THE PROTECTION OF AIR TRANSPORT PASSENGERS RIGHTS

Andrea Valencia

On September the 5<sup>th</sup>, 2006 the Mexican Congress concluded the approval of the Federal Law for the Protection of Air Transport Passengers Rights, (hereinafter "THE PASSENGERS LAW"). As a result of this approval, the Passengers Law is now a valid and enforceable Law within the Territory of Mexico.

According to the Ministry of Communications (SCT), one of the reasons that led to the issuance of this Law, was that in the year 2005, forty six million passengers where transported by airplane and fifty one million flights were either delayed or cancelled. There was no Law that could properly protect the rights of the passengers, because the Civil Aviation Law only protects the passengers in the course of an accident or for damage caused to their luggage. There was no regulation that protected them against the "torts"<sup>1</sup> caused by cancellations, delays or last minute modifications.

The purpose of the Passengers Law is promote and protect the rights of the passengers from the moment they consult tariffs and schedules and make their reservations, until the moment they receive their luggage safely in baggage claim and once they have received satisfactory service provided by the Air Carrier and/or the Service Provider<sup>2</sup>.

The Passengers Law will protect passengers that depart from a Mexican airport or those that depart from an airport located in another country that

<sup>1</sup> "Tort" – wrongful act, not including a breach of contract or trust, which results in injury to another's person, property, reputation or the like and for which the injured person is entitled to compensation.

<sup>2</sup> Scheduled, Non-Scheduled and Private Commercial air carriers together with agencies or other entities that are involved with providing the air transportation service.



have Mexico as a final destination. Some of the rights included in the Passengers Law are as follows:

To receive the following from the Air Carrier and/or the Service Provider, from the moment they make their reservation:

- a) Information that is objective and neutral and that includes accessible tariffs, schedules and destinations options, among others.
- b) To be treated with dignity and respect.
- c) To be informed in an adequate way of any modifications related to the service.
- d) To be treated in an adequate way in regard to any modifications related to the service.
- e) To obtain a refund under any situation that can cause them torts.
- f) To receive basic medical attention, when needed.
- g) To be informed by the Air Carrier and/or Service Provider about travel insurance that protects the passenger, third parties and luggage.

This Law establishes among other rights the following obligations for the Air Carrier and/or the Service Provider:

- a) To respect the tariffs, schedules, characteristics and reservations offered to, or agreed with the passenger.
- b) They shall take the administrative responsibility for those acts that violate the passenger's rights and were specifically caused by them, their employees, attendants, guards or any type of personnel, in addition to the personal responsibility of the violator.
- c) If the number of passengers exceeds the number of available seats the Air Carrier is responsible to find any volunteers that are willing to offer to give up their seats in exchange for compensation, accommodations or alternate transportation to their final destination. If there are no volunteers, the Air Carrier must provide the



affected passengers compensation, accommodations and alternative transport to their final destination or offer reimbursement of the total monies paid for the service.

- d) If the Service is suspended, the Air Carrier must provide sufficient means to obtain meals, accommodations, and the reimbursement of the amount the passenger paid for their reservation, and must also provide alternative transportation to their final destination.
- e) In either of the two cases above, the Passenger may be entitled to demand from the Air Carrier or the Service Provider an additional payment of 25% of the cost of the Service due to the actions of the Carrier/Service provider.

The amount of the fines that the SCT may impose on the Air Carrier for the violations mentioned above are from \$450.00 Mexican pesos to \$1,760,000.00 Mexican Pesos.

This may only be done after the authority has analyzed the specifics of the case.

It would appear that the Mexican Congress and the Aviation Authorities that studied the proposal of this Passenger Law, only thought of the passengers and the importance of guaranteeing their rights, however, in my opinion there were few other matters that were overlooked.

Since the purpose is to protect the passenger's rights and sanction those responsible for any violation of these rights, it would be fair to assign a percentage of responsibility to the Airport Authorities. Surely some relevant percentage of delays may at times be attributable to the Airport Authority, not just to the Airline.

Of course it is very important to protect passenger's rights. Without them, there wouldn't even be an aviation business. It is necessary however to make a serious study of aviation operations and determine the actual causes of the delays, the changes, and the cancellation of

flights. It is evident that few if any of the "torts" inflicted on the passengers are actually caused by the carrier on purpose or with intention to cause a problem for the passenger. In most cases, changes in schedule or equipment are only made to protect and to better serve the passenger.

*"The amount of the fines that the SCT may impose on the Air Carrier for the violations mentioned above are from \$450.00 Mexican pesos to \$1,760,000.00 Mexican Pesos."*

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## SURVEY: WHAT WILL AVIATION BE LIKE IN NEXT TEN YEARS

In this last delivery as in the prior three issues of Coelum, we will take a look at the future of aviation from the point of view of diverse participants in this vibrant industry. The intention of this exercise has been for various experts in the field from different backgrounds and perspectives to respond to the same questions as seen from the particular side of the industry from which each of them has developed his or her own personal experience.

In this issue we will cover the international commercial perspective which is kindly provided by Mr. Jacobo Van der Plas, who has been local director in Mexico for TWA, Cathay Pacific, Saeta Gulf Air and other major airlines.



*Mr. Jacobo Van der Plas*

### 1. What do you think is the future of aviation, globalization or regionalism?

Most likely a combination of both of these and I would add a third one and divide them into Long Haul, Regional and Low cost aviation, in each of this fields. Long haul carriers this niche will be much larger, further divided either into Premium or low cost carriers, the demand for quality, frequency and flexibility to city center airports as well as business travel will increase, on the other side, specially on the mass markets such as Asia low cost carriers will strengthen their presence as well as other key players in transportation will have an impact as governments keep subsidizing train transport.



**2. Do you think that the current bilateral system still has a future?**

As governments around the world keep easing restrictions even in the most traditional countries, India as an example has recently to opened up and so did China earlier, as the markets keep growing and aviation gets privatized worldwide, it will be a survival issue and thus work towards keeping and expanding market share of the growing markets both regional and long haul, thus the scheme should change to multilateral, perhaps divided into Long haul and regional markets and each of them into premium or budget air travel.

**3. What would you say is the effect of international alliances of airlines in the context of competition?**

As mentioned before international alliances as well as mergers is a mere market demand as aviation gets more and more specialized in either Long haul and regional and in premium or budget carriers, Traditional International carriers will have to take a very close look as to which niches of the market they can keep or develop and international alliances are certainly playing an important part in keeping and developing a part of all of these areas.

**4. Is national control an issue in your country? Is this about to change?**

National control is still an issue in many countries specially in Africa some parts of Europe and Latin America and it will certainly have to change, whoever does not change this will not survive in today's market circumstances and tendencies.




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**Mr. Jacobo Van der Plas has been local director in Mexico for TWA, Cathay Pacific, Saeta Gulf Air and other major airlines.**

**Founded the Rotary International Club Lago de Guadalupe Sec. 317, Professor at the Tourism Administration School at the Intercontinental University in Mexico City.**

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## THIS MONTH'S EXTRACT OF MEXICAN AVIATION NEWS

### o GAP increases its revenues and profit

The Pacific Airport Group (GAP) reported a profit of 202 million pesos on sales of 732 million pesos for the third quarter of 2006, besides additional investments of over 860 million pesos for the period 2005-2009. Profits grew by 10.5 per cent compared to the third quarter of 2005, while income increased 7.6 per cent.

Info Transportes. 01/ Nov / 2006

<http://info-transportes.com/nota.php?id=4387>

### o Mexicana and ASPA reached an agreement without a wage increase

Mexicana de Aviación came to an agreement with the *Asociación Sindical de Pilotos Aviadores* (Airline Pilots Association) to reduce labour costs by 50 million dollars a year. The pilots also agreed not to receive a raise in wages this year, as well as reductions in their bonds.

Info Transportes. 06 / Nov / 2006

<http://info-transportes.com/nota.php?id=4409>

### o Airlines war over Toluca's Air Terminal

Interjet requested an *amparo* to stop new airline entrants from operating at Toluca Airport. The SCT (Secretary of Communications and Transport) reported that this legal process could not go forward because the special interest of one party should not prevail over the general interest.

Milenio. 13 / Nov / 2006

<http://www.milenio.com/mexico/milenio/nota.asp?id=454317&sec=5>

### o Insufficient airport demand in the North of Mexico

The restart of operations by Aerocalifornia and the revenue of the low-cost airlines could not satisfy the demand for passenger traffic on three of the six routes which were operated exclusively by Aerocalifornia. These routes have not been reinstated by Aerocalifornia, because that carrier has only five aircraft in its fleet.

El Financiero. 13 / Nov / 2006

<http://www.elfinanciero.com.mx/ElFinanciero/Portal/cfpages/contentmgr.cfm?docId=29064&docTipo=1&orderby=docid&sortby=ASC>

### o Aeroméxico starts direct flights to Japan

Aeroméxico started its direct flights, Mexico-Japan, which makes it the first Latin American airline to offer that service. This starts a new era in Mexico's commercial aviation. With this direct flight, Aeroméxico takes one more step to strengthen relations with Japan.

Radio Fórmula. 15 / Nov / 2006

<http://www.radioformula.com.mx/rf2001.asp?ID2=52623>

### o Increases in Mexico's aircraft fleet

Aeroméxico announced the acquisition of 12 Boeing aircraft as a part of its fleet renovation. The aircraft are two B787s and ten B737-700s. Aeroméxico will receive the B787 aircraft in 2011 and the B737-700 aircraft in 2010. The purchase of such aircraft required an investment of 600 million dollars, which is part of Aeroméxico's strategy to add value to the company for its next sale offer.

Diario de Yucatán. 15 / Nov / 2006

[http://www.yucatan.com.mx/noticia.asp?cx=3\\$0000000000\\$3422782&f=20061115](http://www.yucatan.com.mx/noticia.asp?cx=3$0000000000$3422782&f=20061115)



#### o Blow to the tourism

Delta Airlines will drop its Yucatán flights in January 2007, because it was unable to generate sufficient passengers traffic for its Wednesday and Sunday operations on the Mérida-Atlanta route.

Por Esto. 22 / Nov / 2006

[http://www.poresto.net/v06/index.php?option=com\\_content&task=view&id=10554&Itemid=40](http://www.poresto.net/v06/index.php?option=com_content&task=view&id=10554&Itemid=40)

#### o Aeromar to start a new route between Central America and Mexico

Aeromar Airlines will start 2007 with the inauguration of a new service which will join Central America with the South-East of Mexico in order to promote "*La Ruta del Mundo Maya*" (The Route of the Mayan World).

Caribe Preferente. 24 / Nov / 2006

[http://www.caribepreferente.com/index.php?option=com\\_content&task=view&id=5598&Itemid=41](http://www.caribepreferente.com/index.php?option=com_content&task=view&id=5598&Itemid=41)

#### o Viva Aerobus offers flights for 300 pesos

Viva Aerobus, a low-cost airline, starts direct flights between Ciudad Juárez and Monterrey. To promote the start of this service, Ciudad Juárez-Monterrey is offered at 229.40 pesos and the flight Monterrey-Ciudad Juárez is offered at 230.24 pesos, including taxes. These special prices were announced by the company on its web site.

El Diario de Chihuahua. 29 / Nov / 2006

<http://www.diario.com.mx/semanales/economia/nota.asp?notaid=b29591eed86ec392c4603d45009b436b>

#### o Aladia is already flying

On December 1 the new airline, Aladia, started operations. Based in Monterey, Nuevo León, Aladia is a charter airline offering tourism packages, and has its own Boeing 757 aircraft. Aladia made an initial investment of 50 million dollars. Alberto Morales, President of the Board and General Manager of Aladia, expects to sell 8 thousand tourist packages in December. The packages include air transportation, transfers, meals, a tour to Xel-há, and other services. The package prices start at 3000 pesos.

El Universal. 30 / Nov / 2006

<http://www.eluniversal.com.mx/finanzas/55112.html>

#### o Now Slim finances aircrafts

Carlos Slim Helú across the *Sincas Inbursa* (Societies of Capital Investment), penetrates into the business of financing aircraft. The first step gave it in Volaris, airline in which the businessman is an associate and to the one that hired two aircrafts for a value of 70 million dollars. According with Jose Heredia, General Manager of the *Sinca Inbursa*, the intention is to finance also to other airlines.

El Universal. 11 / Dec / 2006

<http://www.eluniversal.com.mx/finanzas/55281.html>

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NEWSLETTER



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