

# Current Issues with Unruly Passengers

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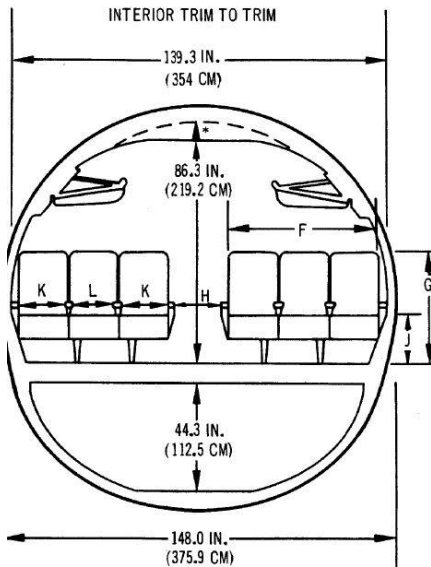
IFFAAD

International Foundation for Aviation and  
Development

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# Fake News #1

Airplane seats are getting smaller!



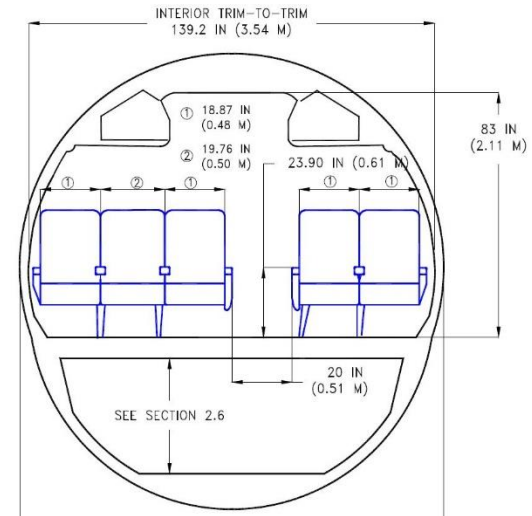
707 Cross-section

## REALITY #1

1957 to present  
Boeing single aisle  
cabin width = 354 cm.

## Reality #2

Type II diabetes.  
People are getting  
wider!



737 Cross-section

# Fake News #2

Airlines are extorting extra fees from passengers

## REALITY

Fares are cheaper than ever

JFK-LHR rt = \$510 (1960)

JFK-LHR rt = \$178 (2019 Norwegian)

\$27.20 in 1960 dollars



Source: Paul Fitzgerald “It is not a shrinking airline seat; it’s a new class of service – economy minus” *Airline Transport World*, December 2018/January 2019 pages 32-33

# Fake News #3

There is no room for my carry-on luggage!

## REALITY #1

Airline bins are bigger than ever.

## Reality #2

People bring checked luggage aboard!



# Fake News #4

COVID isn't real, masks and vaccines are unnecessary!

## REALITY

Many people oppose masks, vaccines and vaccine passports.

They see it a “big brother” trying to control them.

They fly!!!



# The Situation

Previous 4 slides drive rampant increase in the number of unruly passengers;

During a 3-month period there were over 500 cases of unruly passengers in U.S.

FAA had 6,0000 unruly passenger reports in 2021, - 4,300 involved masks.

Context of dramatically reduced airline activity.

Reduced flying combined with increased incidents of “air rage”.

# The Situation 2

## Disruptive Acts include

- assault on crew members or passengers;
- fights among intoxicated passengers;
- child molestation;
- sexual harassment and assault;
- disorderly conduct as a result of alcohol intoxication;
- illegal consumption of drugs on board;
- refusal to follow a crew member's lawful instruction;
- ransacking and sometimes vandalizing of aircraft seats and cabin interior;
- unauthorized use of portable electronic devices;
- destruction of safety equipment on board.

# The Law 1

Tokyo Convention of 1963 as modified by  
Montreal Protocol of 2014

“unruly passengers”, “disruptive passengers” and “unruly and disruptive passengers” = passengers who fail to respect the rules of conduct on board aircraft or to follow the instructions of crew members and thereby create a threat to flight safety and/or disturb the good order and discipline on board aircraft.” Art 15 *bis*, para 2.



# The Law 2

The Tokyo Convention does not criminalize specific conduct, but gives jurisdiction to States with respect to “offenses and acts” as defined by national parties.

Problem: drunkenly fondling a flight attendant might draw different consequences depending on whether the perpetrator of the act was prosecuted in Saudi Arabia or Russia.

# The Law 3

There is Tension with respect to the jurisdiction of onboard offences between the State of Registry of the Aircraft and the landing state.

This was partially addressed in the Montreal Protocol of 2014.

The Montreal protocol also “encouraged” states to define specific offenses – assault or threat to crew member, refusal to follow crew instructions wrt safety of aircraft and pax.

# The Law 4

ICAO Assembly 2019, resolution A40-28 urges contracting states to deal effectively with the problem of unruly and disruptive passengers and ideal based their legislation on model legislation that ICAO published in circular 288 of 2002.

Absent uniformity;

UA 801 EWR-DEL, where might it divert?

# The Request

Delta Air Lines wants the Biden administration to create a federal "no-fly" list that would bar all airline passengers convicted of unruly behavior from flying commercially.

Delta argued “Any individual that's disruptive aboard an airplane, that gets in the way of customer and employee safety needs to be addressed at the highest possible level”.

# The Existing Remedies

My exhibits

- 1) Lifetime Ban
- 2) Lifetime Consequences
- 3) Heavy fines
- 4) Gender Stop

# Lifetime Ban

Over a decade ago, the Canadian Transportation Agency held that Air Canada's lifetime ban on unruly passengers was legal.

(<https://otc-cta.gc.ca/eng/ruling/444-c-a-2012>)

Guillaume Boutin v. Air Canada 2012 FCA 82

Guillaume Boutin v. Air Canada 2013 SCC #  
35371 (Aug 22, 2013)

# Lifetime Consequences 1

Over a decade ago, the Canadian Transportation Agency ruled that the name of complainants were public domain.

Frank Fowlie v Air Canada (<https://otc-cta.gc.ca/eng/ruling/488-c-a-2010>).

## ICANN Ombudsman Sticks it to “The Little Guy”

BY ANDREW ALLEMANN — FEBRUARY 28, 2010  POLICY & LAW  15 COMMENTS

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**ICANN Ombudsman upset about service from “the little guy” at Air Canada.**

ICANN Ombudsman Frank Fowlie is giving a whole new meaning to “sticking it to the man”. The “little man”, that is. At the same time, he has learned what it’s like to be on the losing end of a complaint.

(<https://domainnamewire.com/2010/02/28/icann-ombudsman-sticks-it-to-the-little-guy/>)

# Lifetime Consequences 2

The CTA decision mentioned the name of his witness, his travelling companion Mary Ann Mulhern and the fact that they were travelling between Paris and Montreal in business class on AC 871 on March 22, 2009.

At the time of his complaint he was a super-elite flyer logging over 240,000 km a year in his job at Ombudsman of ICANN, Internet Corporation for Assigned Names and Numbers.

As a result of the decision naming his travel companion on a vacation to Paris, Dr. Fowlie's wife divorced him.

As a result of the decision naming him as an unruly passenger, Dr. Fowlie lost his job. (<https://www.icann.org/resources/pages/about-2012-02-25-en>)



# Heavy Fines

Anti masker fined \$27,000 after assaulting DL flight attendant.

FAA max is \$35,000 and jail time.

# Gander Stop

Gander used to be fuel stop on Trans-Atlantic flights. It became famous on Sept 11, 2001.



It is far away from any major airport. Virgin Atlantic, US Airways, and Jet Airways are among the airlines have handed unruly passenger over to the RCMP.

Fines + Cost of diversion + find own way home.

# Conclusion

Airlines, especially in the developed world, are based in country where air rage has consequences.

Airlines must balance imposing consequences with the need to keep loyal high-revenue frequent flyers.

A national unruly passenger no-fly list might not go much further than if major airline shared their own lists with other IATA members.

# Thank You



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