

## 抗議國泰航空公司拒絕身心障礙者搭機！

今年 11 月 2 日，輪椅使用者林珩如欲搭機至香港，再轉機至德國參加研討會，在搭機後才被港龍與國泰航空公司以沒有陪同者為由而趕下飛機，且不願處理後續轉機及相關事宜，導致林珩如該名乘客預定行程遭延誤，並負擔許多額外的費用。另一名使用呼吸器的鄒小弟家族要搭乘國泰航空公司班機飛香港，也是到機場才以醫療證明文件不符、以及飛行安全為由，強行將一家人拆成兩班班機，延誤所有人的既定行程，還臨時要求補件，並脅以取消登機資格。這兩個案例都顯示國泰航空是一個內部協調通報流程鬆散，漠視消費者權益，歧視身心障礙權益的公司。同時違反香港民航局【身心障礙者應可自行決定是否有陪同者的需要，且不得要求身心障礙者提出醫療證明】的規範；身心障礙團體提出嚴正的抗議，除要求民航局出面解決，依法律途徑訴求賠償，並要向香港平等委員會及聯合國身心障礙者人權委員會提出控訴，發動抵制搭乘國泰航空。

林珩如表示，於事前再三向航空公司清楚說明自己的狀態，也詢問託運輪椅的相關規定，航空公司卻在接受乘客 check in 且已經登機後，告知乘客因為沒有同行者，必須馬上下機，否則飛機不會起飛。鄒小弟的例子也是一樣，對於有特殊需求的醫療旅客，應該要事先於定位時，先予說明所需要的必備文件與證明書，不應該等臨時搭機前最後一刻才審查或拒絕，並要求旅客提出之前並未要求說明的證明書。國泰航空公司都待乘客臨上機前才來拒絕，還以拒飛或取消機位來威脅，置消費者權益於不顧，漠視身心障礙者人權。

國泰航空說明，行動不便的乘客，都須要有人陪同才能搭機，本來就是國際慣例，卻拿不出任何文件；如果要求陪同者並非身障者的照護需求，而是航空公司基於處理旅客緊急事件的考量，則是把航空公司的責任轉嫁到身心障礙者身上。我們要求應該比照美國聯邦法規標題 14 第 382 部：身心障礙者搭機反歧視準則 (Nondiscrimination on the Basis of Disability in Air Travel)，航空業者與乘客若對於是否能自行從飛機上撤離有不同見解時，航空業者可要求乘客須有陪同者，但必須負擔陪同者費用，或者是由航空業者選擇提供一安全協助者。

我們必須提醒國泰航空公司必須遵守香港民航局的規定，它指出註冊航空公司應遵守國際民航公約 International Civil Aviation Convention (“this Convention”), 遵從以下規定

- (i) 必須提供身心障礙者適當的航空服務
- (ii) 針對大眾的需要而設計出的服務，這時也要針對身心障礙者的特殊需求來作設計

同時，國際民航組織 (International Civil Aviation Organization (ICAO)) 做了以下對於規範的建議，其中明白揭示【身心障礙者應可自行決定是否有陪同者的需要，且不得要求身心障礙者提出醫療證明】，國泰航空公司明顯違反香港民航局的規定。且香港是適用「聯合國身心障礙者權利公約」的地區，根據第9條無障礙之條文，締約國應當採取適當措施確保身障者在與他人平等的基礎上無障礙的使用交通工具。

我們要求民航局要基於保護國民權益的立場，積極出面處理；我們亦強烈要求國泰航空應還給身障者與他人一致的公平使用大眾運輸工具的權利，並對此事件的身障者道歉並賠償其所承擔的心理傷害與負擔的費用，否則我們不惜訴諸國際，向香港平等委員會及聯合國身心障礙者人權委員會投訴，以確保身障者的人權與尊嚴。

參與連署單位：中華民國殘障聯盟、千障權益行動聯盟、新活力自立生活協會、行無礙資源推廣協會、台灣歡呼兒協會……（連署中）

※ 參考資料

Office of Aviation Enforcement and Proceedings U.S. Department of Transportation

14 CFR Part 382

Nondiscrimination on the Basis of Disability in Air Travel

§ 382.35 Attendants.

(a) Except as provided in this section, a carrier shall not require that a qualified individual with a disability travel with an attendant as a condition of being provided air transportation. A concern on the part of carrier personnel that a individual with a disability may need to use inaccessible lavatory facilities or may otherwise need extensive special assistance for personal needs which carrier personnel are not obligated to provide is not a basis on which the carrier may require an attendant.

(b) A carrier may require that a qualified individual with a disability meeting any of the following criteria travel with an attendant as a condition of being provided air transportation, if the carrier determines that an attendant is essential for safety:

(1) A person traveling in a stretcher or incubator. The attendant for such a person must be capable of attending to the passenger's in-flight medical needs;

(2) A person who, because of a mental disability, is unable to comprehend or respond appropriately to safety instructions from carrier personnel, including the safety briefing required by 14 CFR 121.571 (a) (3) and (a)(4) or 14 CFR 135.117(b);

(3) A person with a mobility impairment so severe that the person is unable to assist in his or her own evacuation of the aircraft;

(4) A person who has both severe hearing and severe vision impairments, if the person cannot establish some means of communication with carrier personnel, adequate to permit transmission of the safety briefing required by 14 CFR 121.571(a)(3) and (a)(4) or 14 CFR 135.117(b).

(c) If the carrier determines that a person meeting the criteria of paragraph (b)(2), (b)(3) or (b)(4) of this section must travel with an attendant, contrary to the individual's self-assessment that he or she is capable of traveling independently, the carrier shall not charge for the transportation of the attendant.

(d) If, because there is not a seat available on a flight for an attendant whom the carrier has determined to be necessary, a person with a disability who has a confirmed reservation is unable to travel on the flight, the person with a disability shall be eligible(合法) for denied boarding compensation under 14 CFR part 250.

(e) For purposes of determining whether a seat is available for an attendant, the attendant shall be deemed to

have checked in at the same time as the person with a disability.

UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION OFFICE OF AVIATION  
ENFORCEMENT AND PROCEEDINGS WASHINGTON, DC

May 13, 2009

Answers to Frequently Asked Questions Concerning Air Travel of People with Disabilities Under the  
Amended Air Carrier Access Act Regulation

Section 382.29 (b) & (c) – Safety Assistant

12. When is a carrier permitted to require a passenger it believes cannot physically assist in his or her own  
evacuation to travel with a safety assistant and to pay for the assistant?

Answer: An airline is permitted to require a passenger to travel with a safety assistant after it has asked the  
passenger whether he/she can physically assist in his/her own evacuation and the airline reasonably concludes  
that the passenger cannot do so. The Aviation Enforcement Office interprets this provision as allowing the  
carrier to require the passenger to pay for the transportation of a safety assistant if the passenger cannot state  
how he/she is able to *physically assist* or concedes that he/she is unable to do so. If the passenger explains  
how he/she can physically assist in his/her evacuation and maintains that he/she can do so, but the carrier  
disagrees, the carrier may require the passenger to find a safety assistant but the carrier may not charge for  
the transportation of the safety assistant. Alternatively, the carrier may choose to provide a safety assistant

美國聯辦法規標題 14 第 382 部:身心障礙者搭機反歧視準則(Nondiscrimination on the Basis  
of Disability in Air Travel)第 382.35 條-陪同者之內容,其中一款說明乘客為嚴重的行動不便者,  
使得他無法幫助自己從飛機上疏散時,航空業者可要求要有陪同者才提供運輸服務。但於常  
見問答中也說明,航空業者與乘客若對於是否能自行從飛機上撤離有不同見解時,航空業者  
可要求乘客須有陪同者,但必須負擔陪同者費用,或者是由航空業者選擇提供一安全協助者。