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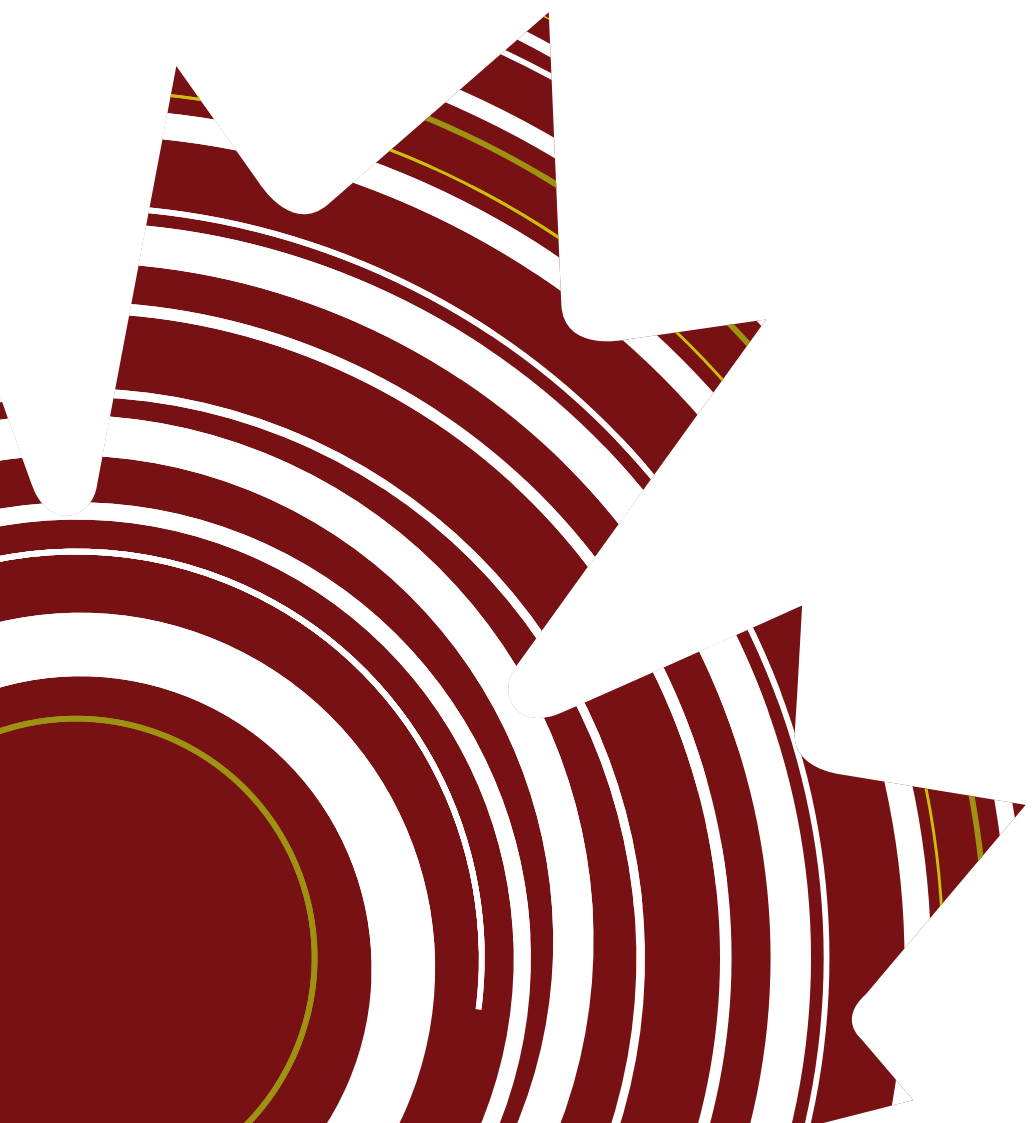
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Toronto

le 14 juin 2018 / June 14, 2018

Séance de l'après midi/Afternoon Session

Partie 1/Part 1

Scott Streiner: 00:00:23 Okay. We're getting underway. We will get the show started, folks. We've got a number of other participants who are expected to join us who've registered over the course of the event but we'd like to get started now to make sure everybody has a chance to provide us with their views. So good afternoon everybody. I'm Scott Streiner, chair and CEO of the Canadian Transportation Agency. I'm accompanied today by Liz Barker, the CTA's Vice Chair. We're glad that you have joined us today to discuss the important question of what should be in the new air passenger protection regulations. We do have translation services available today and you're welcome to make your intervention, for those who are presenting, in the official language of your choice and we would ask that when speaking, folks use microphones in order to facilitate the translation services. Air travel is integral to modern life. Canadians get on planes to see friends and family, to visit new places, to seek medical treatment and to do business. Most of the time, our flights go smoothly but when they don't, we all know that the experience can be very frustrating. Partly, that can be because we feel that we have little control over events. And partly, it can be because we may receive little information on what's happening, not be sure of what our rights are or not know whom we can turn to for explanations and recourse. The new air passenger protection regulations will help to address these issues. These regulations will require that airlines communicate in a straightforward, concise way with passengers on their rights and the recourse available to them. The regulations will establish minimum standards of treatment for flight delays and cancellations, denied boarding, lost or damaged bags, tarmac delays of more than three hours, and the seating of children traveling with parents and guardians. The regulations will also prescribe minimum levels of compensation where a flight delay or cancellation or denied boarding are within the control of the airline and the for lost and damaged bags. Finally, the regulations will require that airlines set out terms and conditions for the transportation of musical instruments.

This will be the first time that Canada will have a single set of standard minimum obligations that every airline flying to, from, or within Canada must follow. Parliament has given the CTA the job of making these regulations. We're Canada's longest standing independent expert, regulator and tribunal. We've been around since 1904 and we take this

new responsibility very seriously. We know the Canadians rely on air travel. We know they want to play a role in shaping these new regulations and we know they want to see the new rules in place without unnecessary delay.

We're seeking Canadians' input on these regulations from coast to coast to coast. That's why we're here today and why we're going to be holding similar public consultation sessions in seven other cities from Vancouver to Yellowknife to Halifax. We're also going to hold a call-in session for people who want to offer verbal comments and aren't able to attend one of the in-person sessions. We're going to conduct airport surveys in airports across the country and meet with key stakeholders and we've set up a consultation website, airpassengerprotection.ca, which contains a discussion paper, a plane language questionnaire and the link for submitting written comments.

We had a strong start to these consultations. Almost 10,000 people have already visited our website, airpassengerprotection.ca and almost 2,000 have already completed the questionnaire. We're encouraged by this high level of engagement and look forward to hearing from those who've come to speak with us directly today and in other cities across the country. Once the consultations conclude in late August, we'll consider all the feedback we've received, draft the regulations, and then move the regulations through the required two set of approvals, one by the CTA itself and one by cabinet.

Now finally, just before we get underway, a couple of comments on process. The Vice Chair and I are here mainly to listen to your views and advice and each presenter has up to 10 to 15 minutes to make their presentation, after which Liz and I may pose a few questions. Now, you're free of course to offer any information and suggestions that you wish with respect to air passenger protect but we would like to make two requests. First of all, we'd ask that you keep in mind that we're regulating within the parameters the Parliament has established. The authority Parliament has given us covers certain areas. It covers a lot of subjects, but there may be issues that you'd like to see dealt with by the regulations where we simply haven't been given that power by Parliament.

The second request is to maintain decorum. We don't want these consultation sessions to be unnecessarily formal, but we do want them to be appropriately respectful so that everybody feels comfortable here in Toronto and in other cities bringing forward their ideas and engaging in a meaningful conversation. Finally, I'd like to remind our colleagues from the media and others in the room that while they are welcome to stay for the duration of this consultation session, recording the session is allowed only until I complete my opening comments which would be right about now. So I would ask that the cameras and recording be turned off and I

will turn to Cynthia Jolly, one of the CTA officials who's here with us today to invite the first presenter to come forward. Cynthia.

Cynthia J.: 00:07:31 Thank you, Scott. Today's first participant, we would ask that Joseph please come to the podium.

Joe : 00:07:41 Bonjour. My name is Joe . I'm here in my capacity as a private individual in view of the interesting nature of the subject matter. It's a pleasure to be here today and to provide comments. I have initially some general comments that I'd like to get into a couple of specific areas that would include flight safety, wait times at check-in, compensation for various matters, tarmac delays, forcible confinement of passengers, the nature of airline communications with it's passengers and business ethics, advocacy and the role of the government.

Canada is an economically advanced Western democracy with a very modern airline industry. Therefore, it don't even make sense that the standards applicable for the treatment of airline passengers should be equal to those that are the highest in other modern Western democracies. Yet, it appears that Canada may be falling behind certain other countries in the rights afforded to it's passengers. This situation needs to be remedied. Unfortunately, in my personal opinion, bill C-49 does not accomplish this. So, will the results of the current consultations really help the traveler? With respect to public input, I would suggest that the federal government has already received a lot of comments and suggestions from the public about the rights of passengers. These were communicated to the members of the House of Commons during it's study, of the initial study of bill C-49.

This process was then repeated during the Senate deliberations of the standing committee on transportation and communications earlier this year. One senator remarked that he had never received as much public input on a bill as he had on C-49. The Canadian Transportation Agency could perhaps take some guidance from the comments received during that period. The senate position reflected a lot of input, yet at the end of the day, the government chose to reject certain very important amendments that the senate put forward. So I would ask who's interests are really being represented in the final version of the legislation that was given royal ascent?

The result, I think, that we're now in a somewhat awkward situation. Coming up with a bill of rights for passengers based on the legislation that's already in place. So what will the CTA do if some of the suggestions given are not consistent with the legislation that's already in place? I mean, I've got a number of suggestions which perhaps are not consistent with the legislation that I think are important.

If we go back a little bit in history. In the year 2004 to 2006, there was a bill under the former conservative government that amended the Transportation Act under Minister Lawrence Cannon and it was this thing called "Flight Rights," which included a maximum 90-minute tarmac delay, period. I understand that the 90 minutes was not perhaps in the actual text of the legislation but it was in some of the boiler plate. Since that time, a number of the airlines included the 90-minute maximum tarmac delay in their tariffs. However, since the introduction of bill C-49, certain airlines and one in particular has sought to rollback this 90-minute standard. So one might argue that as a result, things are getting worse for travelers, not better, despite all the deliberations.

In my personal opinion, this situation needs to change, the pendulum needs to swing back in favor of the consumers, the passengers. And most passengers accept that in order to get a cheap ticket, an economical flight, to a destination, they may have to make certain compromises. For example, if I can obtain a budget price to a destination I want to travel to, I may be quite accepting of being crammed into a small seat. I don't mind. At the same time, I would suggest that the treatment of passenger needs to be reasonable. The current situation, it frequently is not and it doesn't appear that this may change under the new law, at least not in it's current form.

Now my specific points. Flight safety. I guess the technical details of flight safety are perhaps more germane to Transport Canada. I would at the same time suggest that it also crosses over into the rights of passengers. I think that Canadian passengers flying on flights should have the right to level up airline safety that's at the highest level of any country, of any Western democracy. I'd like to make this reference to certain specific standards for pilots, one being maximum duty times. On July 7th 2017, Air Canada Flight 759 narrowly missed four planes on the runway as it came in to land in San Francisco. The airplane lined up to land not on the runway, but on a parallel taxi way. This near miss was described by one aviation expert as potentially the greatest disaster in modern aviation history. The question is why do a pilot and copilot with more than 30,000 hours of combined flying time make such a mistake? Could this possibly have to do with fatigue?

In an article published by an experienced Canadian pilot and author referred to duty restrictions imposed on Canadian operators as being some of the most liberal in the world. As regards to number of hours of consecutive duty, with pilots being required to make difficult approaches and landings after being awake for as much as 18 hours. In 2016, new European regulations limited duty times to between nine and 13 hours. So my recommendation would be new standards for duty times were supposed to introduced in 2018 as we understand it. The Canadians stand it should be brought up to the European level. Okay?

Next point, the use of foreign pilots. Vacationers in Canada taking off to sun destinations in the winter months with one of the lower priced domestic airlines may be interested to know that the pilot at the controls may not actually be a Canadian citizen who was trained, examined, and licensed in Canada. He or she may not even be an employee of the airline. He may actually be a temporary foreign worker working on contracts. Canada's become one of the few industrialized nations in the world that allows foreign licensed pilots, some of whom may have obtained their license abroad. In the past, foreign license validation certificates, a certificate issued by Transport Canada to a pilot with a foreign license, allowing him or her to temporarily operate a Canadian registered aircraft could only be issued for specific and limited reasons.

Now more recently, this ability has been expanded to certain domestic commercial carriers, especially ones that fly discount flights to sun destinations in the winter months. A request under the Access to Information Act revealed that between December 1st 2016 and November 30th 2017, 472 foreign license validation certificates were issued by Transport Canada. Now December of 2016, a foreign pilot with a foreign license validation certificate arrived at work to fly a flight out of Calgary to a sun destination and collapsed drunk in the cockpit. He was then taken into custody before he was able to begin the flight. The question now: Is it possible? Is it just possible that if he had been a Canadian pilot subject to domestic regulations throughout his career and at that time that his alcoholism might've been detected and treated at an early stage?

My recommendation, the practice of using such foreign pilots in Canada should stop. Personally, given the choice, if I'm taking off in a flight, I want the pilot flying the flight I'm on to be very well paid, well rested, free of any vices that might interfere with his or her performance and preferably a Canadian.

Next issue, wait times at airport check-in. Certain airlines, especially the one largest domestic airline that we have in this country, deliberately understaffs its check-in counters at peak times of the year, such as peak times of the holiday season. This can create very long wait times, up to four hours at times. In my opinion, this is unreasonable. Having a distressful experience of being caught in one of these Air Canada lineups, I wrote to the minister to explain and I later received a written reply which was, in my opinion, somewhat disingenuous.

My argument that this airline is operating inside Pearson Terminal One for example, a terminal of which was constructed and operates to a certain degree at public expense. The terminal itself doesn't operate efficiently if certain airlines are allowed to deliberately create bottlenecks inside the terminal, particularly in the check-in process. After having to stand in line for over two hours, you get a lot of very frustrated and angry passengers.

This can potentially contribute to air rage because the passengers may already be quite agitated before they get on their flights. My suggestion recommendation is that the airlines need to be able to anticipate the number of passenger arrivals in the queues at the check-in counter and insurance that enough check-in personal staff are on duty at the check-in counters to cope at peak times so is not to create an unreasonable lineup. I think academics refer to this as operations research, queuing theory. It's not rocket science. Okay.

Next point, compensation for the delay is caused by mechanical issues. In my opinion, this one is very important. The issue's been brought up repeatedly. In an interview with the minister that was broadcast on CBC marketplace, the minister is quoted as saying that compensation for various traveler issues with be at "The highest level in the world," however he deliberately waffled around the topic of delays caused by mechanical issues. This video can be seen on the internet if you look around. Compensation for delays caused by mechanical issues, as I understand it, is not in bill C-49. The CBC marketplace show documented one traveler who had experienced a delay due to an airplane mechanical issue of 24 hours and received a total of \$82.25 in compensation, even though the airline technically owed her nothing under Canadian law. This is in contrast to the situation in the UK and Europe, where she would've been awarded the equivalent of \$900. European law, as I understand, is based on a court case where the court ruled that the airlines have a responsibility for mechanical issues because these issues are foreseeable. It seems to be that the same issues are foreseeable in Canada as well. Should the law here be any different? Whoops. Thank you.

Scott Streiner: 00:07:41 That's not the answer. Come again.

Joe : 00:18:01 Okay, thank you. Thank you. We're good.

In my opinion, we need compensation for mechanical issues in Canada at the same level as they have in the UK and Europe. It just makes sense. It makes good sense because it provides an incentive for the airlines to keep their planes in good mechanical condition. And having their planes in good mechanical condition also helps the flights stay on time. One aspect helps the other. Yet, the governor of Canada apparently has fought off providing this compensation in the new bill C-49. In bill C-49, apparently that's the airline's off the hook and I believe it's section 86.111B. This situation needs to be changed. We need compensation for delays caused by mechanical issues. I think the legislation should be amended if necessary. Looks like it would have to be. Okay.

Next point. I'm trying to move this along here. Tarmac delays. Earlier this year, the Senate standing committee on transport and communications proposed amending the government's bill in order to insure that passengers are not kept stranded on the tarmac for any more than 90

minutes. The government later refused to pass this amendment, striking it down. The bill C-49 legislation contemplates a maximum allowable tarmac delay of up to three hours if I'm correct. In my opinion, this is just way too long. Previously, airlines had a maximum 90-minute tarmac delay. I think it was in the Flight Rights. It wasn't actually in the text of the legislation. Some of the airplanes put 90 minutes in their tariffs. Now, one airline in particular have moved this back to four hours. The effect of this recent legislative change is to open the door for airlines to attempt to confine passengers for extended periods. This is a reduction in passengers rates, not an improvement. A four hour confinement in a stationary aircraft, in my opinion, is ridiculous. The maximum allowable tarmac delay should be 90 minutes, as contemplated in the 2006 legislature or the 2004 legislation which was eventually passed in 2006 and as just recently recommended by the Senate of Canada.

This leads me to my next item, forcible confinement of passengers. I refer to the situation, which we all know about, involving the two transit flights that were diverted from Ottawa to Montreal last summer. These two flights sat on the tarmac and [inaudible 00:20:13] for almost five and six hours, respectively if I'm correct, with passengers not allowed to disembark. The airline was later ordered to pay \$295,000 in compensation to 590 passengers. If you work it out, that's about \$500 per passenger, or slightly more than \$100 per passenger per hour of confinement. That's a little bit of money perhaps, but in my opinion it's not a sufficient levy to really provide a disincentive from that airline repeating a similar situation. And as we've seen, a similar situation happened in Toronto in the month of May in the freak snowstorm when two Sunwing flights were ... Passengers on those flights were confined for six hours in temperatures that were occasionally as high as 84 degrees, in some reports 90 degrees. In my opinion, the airline should not have the ability to confine passengers for such a length of time, especially under such conditions. It's maybe worth noting that forcible confinement is an offense under the criminal code of Canada. Section 2792, airlines that confine passengers for excessive periods of time should be charged under criminal code. An airline should not attempt to contract a way around the criminal code liability by putting three or four, however many hours they want, in their tariffs. Next point, airline communications with passengers and business ethics. How are we doing for time?

Cynthia J.: 00:21:38 Closing remarks.

Joe : 00:21:40 Okay. Well, I mean I can cut it off here. In order to further their objectives, airlines frequently withhold valuable information from passengers or deliberately lie and mislead them. One example of a lie is a flight being advertised as direct, which is not in fact direct. Another is failing to inform passengers about a flight delay until the last minute despite the fact that the airline already knows about it. Another example of lying to passengers is reflected in various examples, one of which I was involved in personally

where the airline claimed force measure, act of God, natural disaster, in order to get out of having to rebook passengers on another airline when the original airline in question had simply made a business decision not to fly. In my opinion, a recommendation, airlines should be required to provide passengers with timely accurate information about their flights, including any delays or cancellations and the reasons for those delays or cancellations. Otherwise, face significant fines.

I had more, but I think ... Is my time up?

Scott Streiner: 00:22:40 Yeah.

Joe : 00:22:40 Okay. Thank you very much for the opportunity to provide these comments.

Scott Streiner: 00:22:43 Thank you, Joseph. Do you actually mind staying there? I'd like-

Joe : 00:22:43 Yeah.

Scott Streiner: 00:22:48 I mean, you've raised a lot of issues. I'm gonna comment on a couple and then I think Liz and I may have a couple of questions for you. So first of all, I mean you acknowledged in your comments, some of these are not actually matters where Parliament has given us the ability to regulate. So-

Joe : 00:23:03 I think there's a problem there. I mean, I respect your position, but we in turn have been asked to come out and provide- [crosstalk 00:23:07]

Scott Streiner: 00:23:07 Absolutely, and that's why we didn't stop you.

Joe : 00:23:10 I might even argue this consultation process which can be quite constructive perhaps should've been before the legislation was even written. It might've been better. Now, you're in a situation of having to sort of fit stuff and just- [crosstalk 00:23:21]

Scott Streiner: 00:23:20 We have to work within the parameters Parliament has given us but we allowed you of course to make the statement because we do have colleagues from Transport Canada here, so matters that relate to airline safety, to foreign pilots etc, some of your comments there will be conveyed back to Transport Canada but what I'd like to do is zero in on those comments that you've made where we're actually able to do something in the context of the regulations. So just a couple of comments and then some questions for you.

First of all, you did ... I mean, you raised right at the outset, you said a lot of consultations have taken place and you asked would we be taking into account the input provided to the Senate to the House and of course, the answer is yes. So we are carefully studying and reviewing the input

provided to the House of Commons, to the Senate, and in other consultation processes but what I would underscore is this is in fact the first consultation on the details of air passenger protection. Most of the submissions made in consultations to date, including before parliamentarians, were about broader principles, what topics should be covered, whether there should even be regulations. Sometimes they got into the details but these are the first consultations that really zero in on some of the specifics. So we will definitely be taking into account the submissions that were made but we're also trying to open the floor for people to delve into some of those specifics in a way that hasn't happened to date.

The only other comment that I wanted to make are one or two more and then a couple of questions. For of all, and I want to ask you a question about this as well, you went to the issue of mechanical delays. So I'm just gonna ... You clearly are very well versed in the legislation, but for the benefit of the room, a quick explanation. The legislation passed by Parliament says that flight delays and cancellations and denied boarding situations should be categorized into one of three categories, situations within the control of the airline, situation within the control of the airline but necessary for safety reasons including the bill says mechanical malfunctions, and situations beyond the control of the airline, including natural disasters, things like that.

With respect to situations within the control of the airline, we can set both minimum standards of treatment and minimum compensation but if it's within the control of the airline but due to safety reasons, there's no compensation. The law only allows for minimum standards of treatment. So I don't want to put words in your mouth, Joseph, but I think what you're suggesting is that where there's a safety related issue or mechanical issue that then makes an event noncompensatory where there's no compensation offered, that raises concerns for you. That's the way the law was passed by Parliament but we are asking in the consultations, and that's my first question for you. We are asking these consultations whether some criteria should be established to determine what should be considered a mechanical malfunction that would lead to categorizing an event, a delay or a cancellation. In category number two, within the control of the airline but necessary for safety reasons, as opposed to category one, fully within the control of the airline. So I don't know if you want to speak to that question.

Joe : 00:26:25 Foreseeability. I think that's Tort law if I'm correct.

Scott Streiner: 00:26:30 Mm-hmm (affirmative).

Joe : 00:26:31 Risk is by putting that in there for safety reasons, that the airlines may be seeking a device to let themselves off the hook for offering compensation for delays due to mechanical issues and it may be worth, I suggest,

defining that in a little more specific detail. Seems to me, and I'm not an aircraft mechanical, but a lot of issues may be foreseeable in respect of maintenance that happens at a certain level. Maybe on the odd, once in a blue moon, you might get a "Mechanical issue" would be considered catastrophic that would be outside the context of something that would be foreseeable in the normal course of aircraft repair and part maintenance and so on. But the point is that the airline should not be let off the hook for issues that would awry of the normal course of maintenance. For example, if an engine has to be replaced after a certain number of hours. Most of the issues, I think, would fall to the category of being foreseeable.

Scott Streiner: 00:27:26 Okay. So-

Joe : 00:27:26 Another comment I would just make- [crosstalk 00:27:27]

Scott Streiner: 00:27:27 Sure. Go ahead.

Joe : 00:27:28 I brought up some issues, 90-minute tarmac delay ... What else? Things which have been sort of excluded by the legislature and I think as the senator said, they weren't gonna bring the bill back a third time to Parliament because they think that the more appropriate thing to do is for Canadians to take this into consideration and the elections that are gonna happen in 2019. I would think that it would be worthwhile of Canadians to inform themselves very well and if they're not happy with the current situation, phone your current member of Parliament and say look, you need to fix this or you're not gonna get my vote in 2019.

Scott Streiner: 00:27:59 Right. But again, you understand we can only regulate within the boundaries, but I understand what you're saying. I do have one more specific drill-down on one of the points you made and then my colleague may as well. You talked about communication with passengers and the obligations of airlines to communicate with passengers.

Joe : 00:28:13 I'll give you an example-

Scott Streiner: 00:28:14 Yeah. But I just ... So the question though is ... So the bill in fact gives us the power to establish in the regulations specific requirements around airline's communication with passengers on their rights and on the recourse available to them. Do you have any more specific ideas as to what should actually be required of airlines on the regard?

Joe : 00:28:33 Don't outright lie. You'll get a big fine.

Scott Streiner: 00:28:36 Okay.

Joe : 00:28:36 I took a flight. I booked a flight last fall to a destination and I received a phone call from the travel agent on September 26th saying that flight is canceled because the government has shut the airport and the airport's gonna be shut until January 6th. I said that seems a bit odd, didn't think anymore of it. I bought another ticket. Then ... Geez. It seems that there's airplanes are flying into that airport. This is like October and that sure enough is Jets Blue is going there. Then I checked. Turns out that airport was reopened on September 25th. I got a phone call from my travel agent September 26th, a boldfaced lie. I phoned the airline. The airline blamed the travel agent. And I said well, the travel agent's notes are based on a conversation I had with the airline. I said I think I might just sue you. "Oh, here's some money." Thank you. It's that sort of tactic. There seems to be a whole industry out there that's based on [disinforming 00:29:28] passengers, obfuscation and outright lying. And if an airline can be caught ... They're trying to claim force measure, so as not to have to rebook me on another airline and pay the difference. I got the difference back, they paid me but only because I chased it down and only because I had threatened to sue them.

In a situation like that, there needs to be a disincentive in place. You lie, that with specific objective ... It's a commercial object. It's a money objective, then you get a fine which is sufficiently large to act as an effect of deterrent to that form of behavior.

Scott Streiner: 00:30:01 Right. Okay, good. Thank you very much, Joseph.

Joe : 00:30:02 Yeah. Thank you.

Scott Streiner: 00:30:06 Sorry, Liz. Did you have any further follow-up comments? So the next, I believe is ... Is Richard here?

Richard: 00:30:11 Yeah.

Scott Streiner: 00:30:12 Richard. So we are trying to keep this relatively informal, but we do need folks to go to the mic for the purposes of the translators. Thank you.

Richard: 00:30:20 [inaudible 00:30:20]

I'm just an individual who flies. I'm hoping that what you will be able to do is in the confines of the legislations. Try and work your way around it because clearly it was not well written. Anyhow, I hope you guys got here without a delayed flight. My company and companies I've worked for over the years were international companies. Our business is virtually all out of Canada. We're manufacturers and we're importers. Our entire term flies around the world. Most of us, for a very long time, were the so-called super elites with Air Canada, so therefore you got better service that I would suggest the normal fliers and none of us are happy.

I want to say short and to the point that we wanted a passenger bill of rights here and what we've actually got is an airline bill of rights so far. That's what the legislation looks like and I'm not sure what's happened in this case but we were wanting protection from the airlines and it looks like the airlines have got protection from us. And part of the problem is, all along when I've dealt with CTA or sent other people to them, CTA does have the regulations in place where they can fine and do stuff with airlines but they have not done their job. Not going to go into a personal case, but even later on and you may be aware, a few years ago, Swiss Airlines issued some tickets that they thought were too low a price. It went to the CTA with a lot of people had booked the flights and the customer booked the flight, paid for the flight, the airline confirmed their side of the contract with the payment saying "Great."

So after the credit card payments and everything else were done, the airline said oh my God, we've made a mistake and they canceled the people's tickets. So of course it went to a CTA and at that point, there we realize after the fact, Swiss changed the law in it's contract. So they've done this after the fact. The next thing was the CTA decided to allow Swiss to cancel these tickets and say that the airlines from now on, and I'm not sure how this works, but the new rule is when an airline makes a mistake on a ticket, it is 72 hours after it found out it made a mistake on the ticket to cancel the tickets. So I'm saying if the CTA has told the airlines that they're allowed to do this in that hearing or whatever, then the same thing should happen with the consumer.

So today, if I buy my airline ticket and two weeks from now I go "Oh my God. I put the wrong name on the ticket. I'm not good at typing" or I click the little button for automatic fill from Google and clearly it didn't work as well as I had hoped. So in that case there, I would go "Oh my God, I've made a mistake." In this case, the customer is screwed. They have to pay for changes. Their ticket's gotta be canceled. Probably all of us in here have done it at least in our life or had friends that've complained about it. So now I'm saying with the CTA, we've given the airlines a reason to cancel, give us our money back, say "Oops" and we passengers who look at the CTA protect us, you gave the rights to the airline and didn't match the rights to us. If we've given them the right to cancel in 72 hours, we should cancel. We should also have the right to cancel within 72 hours.

Runway delay. You've done a much better job than I did. Currently, the runway delay is 90 minutes. For us to extend this to three hours as Mark has asked for and the Senate objected to, I don't even understand why anyone would want to trap customers on a plane for three hours with no method of getting off. It's stupidity, in my ... I mean, none of us want to be trapped on these things. The airlines have to have strict rules and regulations. Really, it doesn't happen that often in Canada, so maybe we're all making mountains out of molehills, but since it's not happening that often in Canada, why would we extend it to three hours?

The next thing is mechanical issues. Mechanically issues? I have no say in whether an airline is maintaining its plane properly or anything else. So I gave the airline money to fly from one place to another and I expect him to be on time and maintain his equipment properly. If he doesn't maintain his equipment properly or something crazy happens, that airline's have to add in to its fare the ability to compensate customers by putting them on another flight, arranging other things, getting them a hotel or something else. The other reason we've gotta do that is passengers who are on the flight, if we're just gonna say "The airline's not responsible," how about the family who's going ... A family of six going down for a cruise, the airline goes "Yeah, whatever. Plane broke." It's not acceptable. We have to have very very strict rules on this to stop the airline from saying "Well, the pilot didn't turn up." I mean honestly, the pilot didn't turn up. That's a safety issue. We can't fly the plane because none of you guys in the back want to fly it. Well, that gives the airline a reason for safety issues to get out. I don't think anybody wants that.

The other thing is you gotta understand that customers or consumers can't buy insurance for these reasons. You can't just buy insurance to say "The airline didn't go and they're not gonna send me for another week. My whole cruise is gone," let alone their vacations that they booked off and everything else. It's not acceptable. The other thing is if we let the airlines off on this, it only gets worse. If they don't have an economic reason to fly ... If they don't have an economic reason to have a spare plane in some of their main hubs, they're not gonna go ... It's not gonna be there. Air Canada has the worst on-time performance in North America. You know why it's got that terrible? Because it has no penalties. Unless Air Canada has rules to force it to be better, it's not gonna do anything about it. And unfortunately, the bill, the way it's written I think is probably ... Whatever.

The other thing is we as business owners rely on the air transportation to get us to our destinations on time. If I've got a flight from here to Florida and I've got a meeting ... Better yet. You guys are gonna go to Vancouver next week and you want to start your meetings in the morning, you can easily fly out of here on a 5:00 flight and be there on time for your meeting, but if you're going to say the airlines can constantly mechanical reasons not be there, now you'll have to say "We can't do that. We'd better book the flight out early. Let's make the meetings later on in the day." So all of us waste time, waste money in industries and everything else because we're compensating for the poor airline performance. The incompetence is hurting Canada's businesses.

The other thing is, I chuckle away to myself, hopefully people come here and explain from the airlines. Maybe they won't, but airline employee who's stuck in another city trying to get home and has to say to their wife and kids and everything that "Yeah, stuck again. Yeah, my airline's the worst on-time performance in Canada. That's why." Another reason we

need a passenger bill of rights is because Transport Canada has limited airlines in Canada from competition. So I need strong rules for the airlines because the government in Transport Canada has a blind focus on airlines rather than passengers. It means that we have restricted the passengers ability to choose other airlines. We don't give Emirates, Turkish, Qatar or any of these guys daily landing rights in Toronto that stops our ability to use another airline to avoid the airlines that are bad. So unless I have strong legislation forcing our airlines to being good, the Transport Canada people should be letting us fly other airlines.

Currently, a smart Canadian should be buying a ticket to go to Europe on a European airline, partly because a European airline has a better on-time performance and partly because they'll be properly compensated. If we fly from Europe to here, we're compensated and the airline's gotta be on time. If the airline is flying from here to Europe and it's a Canadian airline, we don't get that compensation. So the reality is we should be telling Canadian consumers to fly a European airline to Europe. So number five, we need the same protection as Europeans. Their bill EC-261 forced the airlines to pay money, and guess what, all of a sudden their on-time performance has dramatically improved. What a surprise.

The other thing is your probably nemesis, a person named Gábor, on today's website, there's another thing which he's posted and I can read the whole thing because I probably have time. But basically, he's saying that a lot of the fines and stuff that are in the legislation that CTA has now are just not being applied. So since 2003, it's been law in Canada that airlines must compensate passengers traveling international, Toronto, Vegas, Vancouver, Sydney for damages incurred by flight delay or cancellation. It is quite a different matter that this law has not been enforced by the government watchdog, CTA. Even more troubling is the CTA air passenger protection on flight delays and cancellations makes no mention of the 15 year old law and creates the false impression that Canadian travelers have no recourse.

International itineraries, passengers are owed up to \$8,500 Canadian. If the flight is delay or canceled, the law says the airlines must pay for passengers traveling international for reasonable expenses incurred for meals, ground transportation, accommodation, telecommunication. The cost of a flight on another airline or another type of suitable transportable, bus, whatever the heck it's gonna be lost wages. The other thing is another loss passengers may have incurred as a result of the delay in transportation, probably meaning wages. It's in the Montreal convention, the airlines limit is capped at \$8,500 and yet, that's not in the CTA's website and it probably should be and clearly he has sent the information to you and it's not something you want to update, but it also makes me as a consumer feel that CTA is not really looking after the consumer and the new legislation for the ministry has definitely made me feel that the minister has created legislation to protect the airlines.

Scott Streiner: 00:42:42 Thanks for your presentation, Richard.

Richard: 00:42:43 Okay.

Scott Streiner: 00:42:45 Again, I have one or two, because you've raised a couple of issues, one or two comments, responses which you're welcome to reply to and then Liz and I may have a couple of questions for you. I just want ... Just to point to clarification on the last point. Around the Montreal convention, again, partly for the benefit of others in the room. The Montreal convention is an international treaty that applies to international flights. So it doesn't cover domestic flights at all and it allows for remedies for passengers in various situations, but to obtain those remedies, passengers have to for example produce proof, receipts, evidence of actual loss and oftentimes, they have to go to court. The difference in the regulations that we're making is that they're going to establish a floor of compensation, for example, in certain situations which is automatic where passengers aren't going to have to bring forward receipts, where they're not gonna have to go to court, where essentially in certain circumstances, the airline will simply have to pay, much like the European regulations that you referenced.

So I think there's a bit of confusion around what the Montreal convention covers as opposed to what these regulations cover. I think these regulations do fill, potentially, a space which the Montreal convention doesn't cover, both because the Montreal convention doesn't deal with domestic travel at all and because these regulations will actually liberate travelers from having to collect those receipts, go to court and prove their case. If the regulations say that X dollars shall be paid to a traveler whose flight was delayed for a reason within the airlines control, the traveler's gonna get paid. No need to produce receipts, no need to go to court. So that's just a point to clarification.

If I can just ask you ... There's two points you raised where I want to drill-down a little bit and ask questions and the Vice Chair may have questions as well. I'm gonna follow up on one point that I did with Joseph as well and that's the mechanical delays. You've both spoke with some passion about this issue and your concerns about this. Again, I'm gonna emphasize one more time we can only regulate within the boundaries that now the law lays out, but we are asking about what criteria should be applied for defining what is a mechanical delay which moves an event into category two as opposed to an event which is within the control of the airline. So Joseph said well, it's something which is foreseeability. Use foreseeability at least as one of the criteria. Do you have any other suggestions on how we would kind of-

Richard: 00:45:00 I am completely the other way. In my company, if I provide you with a bad product, I replace it or compensate you like any business. Right now, if a plane breaks down, it broke down. Guess what, you should've maintained

it better. You shouldn't be flying such old planes. Admittedly, maybe the new planes break down more at the beginning. But I'm saying there is almost no reason. I don't care if it's a safety issue and the wheel fell off. That's not a safety issue to me. That means you didn't do your maintenance. A flat tire? There's almost nothing that I consider to be a safety issue because you don't fly a plane if it's not safe.

Scott Streiner: 00:45:38 But just zeroing in. So but you're suggesting in a sense that at least one of the considerations we might consider applying would be maintenance, if the airline has actually carried out a proper maintenance program. I don't want to-

Richard: 00:45:47 No. I'm saying there is no maintenance items. The plane should be ready to fly and it should be flying ... As far as I'm concerned, there is no maintenance issue that makes it a safety issue for them to bail out, because otherwise everything's ... And everything is a safety issue. It doesn't matter if you took a taxi today. You take a taxi down the road and the one tire's a ... Whatever. You know what I mean? Everything can be construed, especially in the airline business. As I just said, pilot doesn't turn up. Clearly, by some people's definitely, there's no pilot, it's a safety issue. It's not. It's foreseeable.

Scott Streiner: 00:46:25 Right. My other question and then I'll turn to the Vice Chairs, a comment and a question. So you talked about the EU's regulation. So we are, if you have a chance to look at our discussion paper, we are actually looking to the experience in the EU and the US, both of which have regulations in this area and I guess trying to learn from their best practices, trying to pick up on where things have succeeded and maybe be careful not to repeat in some areas where things haven't succeeded as much. And where it's appropriate, as much as we can align regulatory requirements because in the end, it's probably better for travelers and airlines if there's more consistency.

So are there any particular elements ... I don't know how familiar you are with the full range of EU regulations. But are there particular elements where you think we should be paying close attention to what the EU has said in their regulations and seeking as much as possible to reflect that in our own?

Richard: 00:47:21 The EU's regulations are expensive for an airline, no question. And the other thing is originally when it came out, because I'm a businessman, I went "Oh good God." The other thing is at the end of it all, when ... Believe me, the amount I travel. There is a ... First of all, the airlines have put extra planes in their hub airports to make sure they're ready to go. Even if the airplane's not as big, if you get half the customers to go, you're paying out half the compensation. So the airlines are now making sure there's more pilots and everything else. Guess what. We get snowstorms, weather storms, tornadoes all over the world. Guess what else the other

airlines learned to do, bring in part-time staff that they probably pay a lot of money, but if there's gonna be a snowstorm in Toronto, most of time we know the day before. Therefore, the airlines are going to bring in this temporary staff to help out in these situations. Instead of just saying "Oh my God. My workers never made it to work because there's a snowstorm," other airlines took the hotels from passengers, put their employees up in the hotels to the airport to make sure their employees could get to the airport. I chuckled away because the passengers were mad that the airline took it.

But the EU regulations, I originally thought were too tough, in actual fact ended up being better for every ... It ended up being better for the airlines also. Their on-time performance means they get better utilization of their planes. Everything rolls down, the same way we do in our own lives.

- Scott Streiner: 00:48:59 Okay.
- Richard: 00:48:59 Okay.
- Scott Streiner: 00:48:59 Thank you very much. Liz? Follow up questions? No? Okay. Thanks very much, Richard. [crosstalk 00:49:06]
- Richard: 00:49:06 Thank you very much.
- Scott Streiner: 00:49:07 Much appreciated. And Cynthia's gonna tell me who's next on the speaker list. I don't know what you just pointed to. Was that ...
- Speaker 5: 00:49:15 Shirley.
- Scott Streiner: 00:49:16 Oh.
- Cynthia J.: 00:49:16 Shirley has arrived. [crosstalk 00:49:17]
- Scott Streiner: 00:49:16 Shirley and Emmanuel?
- Speaker 5: 00:49:19 They're just outside, so we're waiting for them.
- Scott Streiner: 00:49:22 Okay, that's fine. So do we have other people who signed up to present or who wish to present in the room? I'm just looking at our list and I'm looking around the room because I know we had a bunch of people that signed up as observers, but given that we have some presenters who are waiting, the observers are welcome to come and make a comment. Anybody else who registered as a presenter? Okay. Do we have ... There we go. Welcome.
- Shirley: 00:49:55 What side of the podium? Right there?

Scott Streiner: 00:49:56 Looks like you're next, Shirley.

Shirley: 00:49:57 Okay.

Scott Streiner: 00:49:58 So first of all, I want to welcome both of you to the consultation session. We're actually asking people to present at the microphone because we have simultaneous translation.

Shirley: 00:50:07 Well, I have such a loud voice. I'm sure you don't have to hear me from the microphone. [crosstalk 00:50:10]

Scott Streiner: 00:50:10 Only for the sake of our translators.

Shirley: 00:50:13 Okay.

Scott Streiner: 00:50:14 Welcome Shirley and Emmanuel. So just so that you know, in my opening statement, I indicated that we're giving each presenter about 10 minutes but we have several observers in the room. We don't have anybody else currently signed up to present. We've got some people signed up and they haven't arrived yet.

Shirley: 00:50:29 Mine's gonna be a little longer, but- [crosstalk 00:50:31]

Scott Streiner: 00:50:30 So you're welcome ... I was gonna say you're welcome to take a little more than 10 minutes and then afterwards the Vice Chair Liz Barker or I may have some questions for you.

Shirley: 00:50:30 Sure.

Scott Streiner: 00:50:38 Okay. The floor is yours.

Shirley: 00:50:39 Due to the mobility restriction directed linked to the age of my husband, we now require the use of wheelchairs. We have experienced and have become aware of a lot of unjustified barriers and obstacles that affect seniors and passengers with disabilities at Pearson International Airport and when traveling by Air Canada. The reason I'm presenting today is because we've gone through multiple airlines and traveled quite a bit because my husband worked for an airline where he worked international flights. His top priority was customer service and it was so much so that when the Queen came to India, he was on the entourage. So customer service was very important. And he also worked for general aviation, which was doing services for passengers that came to Pearson Airport. So we are familiar with that and as I said, we have traveled around the world. The straw that broke the camel's back was this last trip that we came on Air Canada. We go every passover to San Francisco and come back because our daughter lives there and I saw so many infractions and you may wonder why I am coming forward. Well, I wasn't but Mark Gallows'

office convinced me that I should. My claim to fame is that I worked for the central body for the community college system which dealt with negotiations for the community colleges. I dealt with human rights issues, the equity issues, and private equity issues. So I think I'm fairly smart enough to know what infractions are when it comes to seniors and people with disabilities. So anyway, Singapore Airlines has been known to be one of the top airlines for years for being the best for customer services, for the food they sell and stuff like that and I can vouch for it because I travel by them. And this has been going on for years. So anyway, as you know ... You guys must be knowing about the aging population by now and I had dealt a lot with it because I'm trying to get a seniors wellness back. So as I said, I did a lot of research and as I said, this baby boom generation is rapidly increasing and we definitely need to address these issues because there's also cost factors. Economically, if we don't address these issues, there is a problem because seniors do need to travel. People with disabilities do need to travel, but this generation of seniors also have the moolah, right? So this is an important economic factor for the Canada Transportation Agency to look at.

So when people are compromised by age and disabilities and they somehow are more frequently late. Luckily though, I'm 76. I can rock and roll around the floor by the best of you.

Scott Streiner: 00:53:56 That seems fairly evident. That's great.

Shirley: 00:53:57 Yes. But it's often devastating for seniors and travelers with disabilities and seniors dealing with challenges due to the unavailability of accessible barrier-free air travel. As a result of this, they may not travel ever again and I've known people in my age group who say "We are not traveling anymore." And we have no option because we both actually live abroad and we have family living in Israel and stuff like that. So we need to travel. And as a result, they may decide on alternate modes of transportation. For example, when we go to Michigan or New Jersey instead of taking a flight, we take the car or get some joint people to drive us there. So why? And we can fly to New Jersey or fly to Michigan. That's another loss of revenue for you guys. And I said, or we may decide to travel by another airline. So when we went to Israel for example, we took El Al and we found the service was fantastic. And my people, my nephew was the airport manager for El Al, at Tel Aviv. He said "El Al?" I said yes, I have the best experience. When I travel by Air Canada, experience wasn't very great, especially when we came to Toronto, Pearson Airport. We couldn't even get a wheelchair. The person said that there's no wheelchair available. He had to struggle up the ramp.

So these are some of the issues. I said I didn't want to go into a lot of examples but that's one of them. So the provision of accessible barrier-free air travel will open it up to millions of people in the segment of the market with disposable income and which need the use of traveling to

local and global destinations. It will also provide a competitive advantage the Canadian tourism industry for attracting this target market niche that is rapidly growing. Having worked for the province of Ontario and dealing with people who are laid off and stuff like that, I did have some interaction with the tourism trade department. So as I said, they're looking for revenue and we are a wonderful country and we have got so much to offer us. As I said, I go to the states a lot and as I said, we are lucky here and why don't we exploit what we have to get the money.

So following this information is ... Right now, I'm focusing just on Pearson Airport Terminal One and the services that are provided by Air Canada. And this is with the intention of helping your committee. So my suggestion, as I said, and I know logistically may not be available or may not be ... But I'm just providing you with options with you all can work on and look at.

Scott Streiner: 00:53:57 Mm-hmm (affirmative).

Shirley: 00:56:53 So every stage of the air process for senior citizens and travelers with disability requires careful attention and creative planning and time to avoid stress and safety and dignity, which I have to do for my husband. So and it will assist seniors and individuals with disabilities to have a stress-free segregated booking procedure that makes it easier to plan their travel, probably a website which provides a complete list of available resources in Canada that addresses the needs and concerns of the safety and comfort of these individuals and as well as their dignity. That is more important I think than a lot of other things, the dignity of these individuals. Also, when we phone Air Canada, it's difficult to get through for one thing. It takes hours, which is fine. So we then go to a travel agent but a designated specialist assistant services staff would be helpful and these individuals here should be able to effectively address communication barriers which is extremely important because some people are not as able to vocally say what they want to say or they just have language barriers or they have innovations, which I don't.

So to provide accurate information about available service offerings about the journey and when traveling with Air Canada. To make them feel totally comfortable that this is the airline that they want to fly by and this is our country and they're so proud of it. So that is right from booking their ticket, arrival to the airport, to embarking and disembarking their flights to give them all of that information so they have that feeling of comfort. Once the flight is booked, the special assistant staff should electronically send passenger requests which I think is done to recording the accommodation needs to the required service areas to insure smooth coordination of services. Well, with respect to wheelchair services on the arrival of the airport, at Pearson Airport, getting to the check-in counter often requires walking long distances. I had a cousin come from Israel. I

told her to fly Air Canada because there was a direct flight. Let me tell you, she had knee operations. We couldn't get wheelchairs.

So accompanied passengers who have somebody accompanying them, they can go and get the wheelchair. There was proper signage. They can go and get the wheelchair and bring the person to the counter. For travelers ... Now this is another twist now. Where travelers are preregistered on the Air Canada website that require curbside wheelchair services to take them to the Air Canada counter, there should be some process set up. When we went to Bali, we had no problem. And that's a country that we should've had a problem, but not in Canada but we do. To get to the counter, it's very very difficult. So have some sort of process available, maybe a check-in, sort of something at the curbside that they can computerize their request in and see the length of time they have to wait and have seating available. So that's just one suggestion. I mean, I'm not an authority on that but I just thought you all should think about that.

Scott Streiner: 01:00:25 Mm-hmm (affirmative).

Shirley: 01:00:26 Then the check-in counter staff should be instructed to provide passengers registered to wheelchair service the following information which is not being done, the location of wheelchair services, that they must register their names at the wheelchair services counter and have their boarding passes ready. Seniors and people with disability putting it all in and then they're gonna pull it all out. Why? Make it easy.

At the wheelchair services counter departures area, a staff member should be at the wheelchair counter at all times to register the people. This is often not managed because they are taking wheelchair passengers and passengers don't know. They have language disabilities and all sorts of issues. So they don't know what they are required to do. At the counter, that staff attendant should be informing passengers about the process that they will be taking that is either in accordance with the sequence of time when they're registered or according to the time of departure. What happened on our last trip? Everybody was congregated together, international flights, US flights. It was passover and Eastern together. This was jampacked. There was no chairs for the people. Senior people cannot sit or stand for long periods of ... Standing, sitting, standing, sitting. I was picking up bags. I was picking up canes. I was picking up lots of ... And people ... There was one woman that was so upset, she was swearing at the attendant who was very very good. And this particular attendant happened to take us, he said that woman was offloaded and was told to come back when she had calmed down because she couldn't get on the plane. She was so upset. Now it's anxiety that causes a lot of this stuff, so I just thought I'd mention that.

Anyway, communication training for wheelchair attendants. Some wheelchair attendants needs training about how to communicate and

deal with passengers with disabilities. Example, hearing loss, vision impaired, language barriers, or seniors who take time to process information. One woman was shouting at a person because she didn't hear. And she said "I called her name a long time ago" and this person said "But I couldn't hear." Now that's not good. So that's why I put that down. Now with respect to the wheelchair services offered by Air Canada at Pearson airport, let me tell you it needs major improvements such as the adequate number of wheelchairs and ground staff to handle the volume of passengers that require wheelchairs. The need for these services are growing.

Additional staff and wheelchairs should be assigned during busy periods, like Easter passover, religious holidays, and some are on winter vacations because that's what happened at this last visit. It was just jampacked and not enough staff, not enough attendants. As a direct result of the volume of passengers waiting for wheelchairs, the seating in the area was unavailable and people were just standing around or trying to find seats to sit. Long delays for wheelchairs and at multiple wheelchair waiting areas causes anxiety. Flight departures have to check-in. It would help to have the same wheelchair attendant take the passenger directly through to the security, customs, and then the departure gate. For flight arrivals, pick up. What happened at the last trip? We didn't get pick up and it took hours. Maybe got pick up but it took hours and it took us from 7:15 in the evening when the flight landed to 11:15 to get home. Why? Because we had to wait for wheelchairs. We had to wait for the golf carts. Golf cart and Air Canada people don't work well together because the golf cart belongs to another company.

So the other issue is the liability of safety and liability in the use of golf carts. I was able to save on two separate incidents from disabled passengers to following off the cart than just sitting at the back on a wheelchair, because the wheelchair stops. We came from Israel. The wheelchair stopped and the attendant had to check-in when we just got in. They didn't know. They thought they had to get off. This last trip? A woman was getting off because the Air Canada staff couldn't get people golf carts. The woman was getting off and I shouted at the fella because they're driving off, her cane fell off. Her bag fell off and she's trying to get off. So that's a seriously dangerous issue.

Then, issues for passengers with disabilities in aircrafts. Seniors, as you know, and wheelchair people need the use of the laboratory and they cannot get seats close enough to the front because ... I don't know if they're being blocked for travel agents, because when we go through a travel agent, we have no problem. But when we do it try to get online, those seats are blocked. So security lanes. Passengers in wheelchairs struggle with security needs and it'd help to make this part of the journey easier if there was a designated separate lane for these and extradited clearance. That would help. It would avoid passengers losing their luggage

and all sorts of other delays for passengers who struggle to remove their shoes and belts etc. because they are disabled.

Okay. The other challenges is for difficulty for seniors to wheel their luggage on top of the floors at Pearson Airport. I understand the time. Passengers with disabilities in wheelchairs also struggle with the Nexus computer's iris scan system because they are in wheelchairs. They have to stand up for the iris scan. So infrastructure issues such as the lack of accessible toilets close to the gate when boarding and disembarking. Now, this is not your issue, I would say, so much so at Air Canada's gate at San Francisco Airport. Maybe you you all should try and see why we can't get in another gate. Because when we go down to the gate where the US flight takes off the Canada, there aren't any toilets there. The passenger has to go on the escalator or the elevator and then the beltway and the toilet is very far away. Maybe you should negotiate something there.

Okay. Lack of proper design at the Pearson Airport. What is the issue? The issue is that you have a very steep ramp. Only one wheelchair at a time can go down with this big huge contraption and it's very hard on the passengers who are waiting there because there's no seating and there were loads of people. One woman lost her husband and I happened to see them at Air Canada. So I go to where I said "Your husband will be waiting on the plane." She said "No. We were walking together." So she goes up. The husband eventually walks out of the plane and he can't walk and he's trying to climb up this ramp. So I said I'll go. I go up the stairs, she's not there and then every man that came up, the Air Canada attendants were trying to give me another husband.

Scott Streiner: 01:07:53 I trust you didn't accept.

Shirley: 01:07:54 No, I didn't. I married him twice, the same man and I'm married for 52 years. Okay. This is an extremely difficult process for people. Anyway, I have one more suggestion.

Scott Streiner: 01:08:03 Sure.

Shirley: 01:08:04 Last suggestion is that when I called in, I was told that is was closed shop, that y'all had already made your decisions for wheelchair passengers and for people with disabilities. My suggestion is that this should never have been said. I happen to work in an area which regulations and all that were never close to the last second. When I phone Mark Gallows' office, she asked me for the name of the individual. I didn't give it to him. He was very good, but I think that doesn't reflect very well in you guys when it happens. Coming here to find the chestnut room was another problem so that's another thing that you all have to think- [crosstalk 01:08:42]

Scott Streiner: 01:08:42 Don't go anywhere, Shirley. We've got a couple of questions for you.

Shirley: 01:08:42 Sure.

Scott Streiner: 01:08:45 First of all, thank you very much. A very detailed, very thoughtful presentation. So for your benefit but for a lot of others in the room as well, a bit of explanation. The CTA has been working for over two years on modernization of its accessible transportation regulations.

Shirley: 01:09:04 Okay.

Scott Streiner: 01:09:05 Those regulations cover many of the issues that you've raised, wheelchair assistance, the accessibility of airports, the division of roles between airports and airlines and we've held public consultations on those regulations and in fact are now in the process of drafting them. Most of the folks who've come today have come to present on the air passenger protection regulations which are generic consumer protection regulations, not specific to people with disabilities, although there may be some overlap between the two.

Shirley: 01:09:33 Of course.

Scott Streiner: 01:09:35 But as you say, the regulations are never final until they're final. We will take back the advice that you've given and think about it as we finalize these regulations on accessible transportation but that's the explanation for why somebody might've said to you "Well, you know, that work has already further advanced."

Shirley: 01:09:50 Yeah. No, no, I understand. I worked for the government 32 years, so I understand- [crosstalk 01:09:53]

Scott Streiner: 01:09:54 At some point, you sort of want to move forward with the regulations, but I will tell you that just on Monday, the Vice Chair and I held a consultation session with something called our accessibility advisory committee. We have a committee with community groups represented there, the Council of Canadian with Disabilities, Barrier-Free Canada, and others together with industry and we talked about many of these issues and the regulations we're working on our goal is to create the most accessible transportation system in the world. That's the vision that the CTA is working towards, and so input from you and other travelers like you is very important. I have one specific question on your presentation and then Liz may as well and it goes to the division of roles. Because you talked about some of your experiences at Pearson, but it's a general problem. Have you, in your experience going through Pearson or other airports, found that you're clear and the service providers are clear on who actually is responsible for getting you from curbside to check-in, from check-in to gate? Or to turn it around, have any of the issues you've confronted, do you think been related to some confusion as to who's responsible for what?

Shirley: 01:11:06 Well, I don't know. When we arrive from the golf cart ... We eventually got a golf cart. First and foremost, that individual with the golf cart had difficulty getting the golf cart so I said to her "Look, I work for the government, lady. If you ask for one, you'll get nothing. If you ask for five, you'll get one." So everybody started trapping in. So eventually when we got to the place where we had again, we wait for wheelchairs to take us to the wheelchair to the customs and all that, that woman didn't have a clue of what was going on. And I've spoken to Air Canada about it because I was an HR person, so it is very important to me interpersonal skills, knowledge, and all this.

So anyway, she eventually decided to take name ... After being on the phone for some that takes name of people who needed wheelchairs. My husband and a couple of other people are sitting in wheelchairs because there was ... After waiting for so long for a golf cart, they sat there. So let me tell you, this individual refused to take the names of the people who were sitting in the wheelchairs but a few [inaudible 01:12:12]. So I took mine and I ran to her and I said "Take it now." And she did, but I'm saying ... And then we had to wait for a 45 minute delay for a wheelchair. So she didn't tell these passengers at all that'd been waiting for half an hour, so some people started walking. My husband and I had to walk because we had people waiting for us and they were paying for the parking.

So I told Air Canada that you can't have staff ... First and foremost, she was unpleasant. She was belligerent, she was unpleasant. She couldn't handle the job. So that was the issue. So she did not know her job.

Scott Streiner: 01:12:51 So certainly, one of our observation has been, and then I'm gonna steer is back to the air passenger protection stuff. One of our observations has been around accessible trans portion is that part of the solution lies in training. It's in staff understanding the needs of persons with disabilities, appropriate ways of interacting, as you said some of the needs that may be very invisible but still very real. So these regulations that we're working on are not only going to deal with facilities, things like ramps or wheelchair services, but also with training and trying to foster greater awareness and greater-

Shirley: 01:13:22 And let me tell you. For cost-wise, training is one of the first things that's cut off. I mean, I've worked in the government long enough to know that's where they cut the cost. They don't want to spend on the training and that is so important.

Scott Streiner: 01:13:32 And that may be one of the reasons why we actually have to include those requirements in the regulations. Liz, any follow up questions?

Liz Barker: 01:13:38 I just have a question particularly about ... Have you seen a deterioration in service in the accessibility at the GTA and at Air Canada? Has there been a deterioration over time? [crosstalk 01:13:50]

Shirley: 01:13:50 I would say so. I mean, mind you, the airline staff ... I didn't take the name of the woman. There's a woman who's an older woman and usually in the days have gone by when my husband traveled, they wanted them young, beautiful, and sexy looking and all this kind of thing. This woman was absolutely fantastic. She has been on a couple of our flights, but as I said, the deterioration of service is ... Of course, we don't have the luxury of what it is to be like in the days where they served food and champagne and all that, so that I know. But it's sometimes ... At an event one time, the flight was so cold, I had to put on ... I mean, I was freezing. I had to put on his jacket and things like that. And then they didn't know are the movies not working or something or the other is happening and as I said, that creates a very bad image, I think. I think image of Air Canada has to be, to me, top-notch for people to want to fly, because my cousins from Israel said they'd fly on El Al.

Scott Streiner: 01:13:50 Mm-hmm (affirmative).

Shirley: 01:14:53 Okay.

Scott Streiner: 01:14:55 Shirley, thank you for coming today.

Shirley: 01:14:56 You're very welcome.

Scott Streiner: 01:14:56 Appreciate you coming.

Liz Barker: 01:14:56 Mr. Chair, we have [inaudible 01:14:57] and Manuel who've just arrived as speakers.

Scott Streiner: 01:15:01 Okay. So what I'm wondering ... It's been about an hour and a half now. I wondered just if we should take a five minute break for those that want to stretch their legs and then I would encourage those who have presented or who have come as observers to stay, because it would be good to hear from one another. In time permitting a little later in this session, we would welcome any commentary from the observers as well, even if you didn't sign up to present. Again, time permitting. So it's 25 after. Just five minutes to stretch legs. Get a cup of water if you'd like and we'll reconvene at half past. Thank you. So thank you, Shirley.

Shirley: 01:15:35 Thank you.

Scott Streiner: 01:15:35 We're ...

Partie 2/Part 2

Scott Streiner: [00:01](#) Okay folks, we will recommence. I was asked just as we were breaking whether there would be a kind of a general session at the end, Q&A session, or opportunity for people to make comments or pose questions

from the floor, and the answer is, if time permits. So, we're going to go through the remaining three presentations, and if time permits, then we will certainly open it up for observers who didn't sign up to do a presentation to offer us their advice, or pose any questions. So, our next presenter is Allister Elliot. Welcome, Allister.

Allister Elliot: [00:32](#) Thank you, Mr. Chairman and chair. My name's Allister Elliot, I'm with the Canadian Federation of Musicians, the American Federation of Musicians of the United States and Canada. We represent 17,000 professional musicians across Canada, 80,000 professional musicians across North American, and countless more under federal status of the artist that are not our members. Musicians travel for business with odd-shaped briefcases. A musician traveling with their instrument, one of my colleagues compared it to a parent traveling with a newborn infant. Their instruments are very fragile, very precious, and irreplaceable. There's orchestral musicians with cellos, violins, violas, double basses, smaller instruments. There's folk and jazz musicians with guitars, keyboards electronic modules, and right now we're in Canada in festival season, where there are hundreds of musicians traveling across this country. Ottawa Blues Festival starting today. Calgary Jazz Festival was last month. Edmonton Jazz Festival last week, Montreal Jazz Festival, and so on, and so on.

Allister Elliot: [01:37](#) And, Canada has done a great job of organizing these festivals in sync so that artists can come from abroad and from all across Canada and travel across from festival to festival. Of course, orchestras perform and travel as well, and so traveling with musical instruments is a big deal for us, and for musicians. Legislation is important because, and I'll share two brief stories from experiences from two orchestral musicians with two completely different experiences. One, traveling from the west coast, interestingly enough, both traveling to Quebec City, one traveling from the west coast, and one traveling from Miami.

Allister Elliot: [02:23](#) And, the gentleman from the west coast did not have a good experience when he showed up to get on his aircraft, and was refused to bring his upright bass not on the plane, but under the plane. The airline refused him and suggested that he ship it cargo. And, he had traveled countless times previously with the same airline with no issue. And, that turned into not a very positive experience. Actually, about the same time, funny enough, I got a phone call from a musician in Miami who was traveling up to Quebec City, and he had booked a ticket, had checked with the airline, everything was fine, he called back and double checked, and he got the ... no problem to get to Montreal, but the plane from Montreal to Quebec was a small plane, and wasn't able to take his bass.

Allister Elliot: [03:23](#) We were able to make some phone calls and check into that, and we got a specialist baggage person who were able to get exact measurements of this case, exact measurements, and it wasn't getting it into the cargo hold,

it was getting it through the door of the cargo hold. It actually turned out that it did fit, and everything worked out fine. So, those are a couple of different stories, and I bring them to your attention as to why it's important to have legislation all across the board, so that folks that are traveling from A to B can travel consistently.

Allister Elliot: [04:04](#)

You are aware, I know, that this legislation, similar legislation passed in the US, and US airlines have been operating under legislation for the past several years, and that's been very favorable, and very few incidences and problems with that. We understand that planes are the size they are, they're not going to be able to change, so we're not expecting that there will be miracles, and we also understand that safety and security are paramount in this. We've already worked with CATSA, and we've got, in fact, I will give you documentation before I leave. We've already got documentation in sync with CATSA regarding traveling through security and airports, and have circulated that to our members.

Allister Elliot: [04:52](#)

It's important that we have all airlines under the same legislation, and we look forward to meeting with CTA tomorrow to have more in-depth discussions about the nuts and bolts of the issue and the problems. The big thing that I recommend is that we go by weight and size rather than instrumentation. Some of the airlines have policies right now, specific to instruments. And, of course, musicians are smart, they try to protect their instruments. So, they may have a violin, but they may have a case, that their violin case fits inside, to protect it with traveling, or a viola. Violas and violin cases are the same size, but some airlines have a policy that they can have a violin on, but not a viola on. It's quite confusing.

Allister Elliot: [05:44](#)

So, we look forward to, next year when the Ottawa Blues Festival is on, not having phone calls and emails from some of my musicians, and I am a musician, too, I travel about 65,000 miles a year on planes, and I take an instrument with me, it's never an issue, because it's a bit smaller. But, I'm very familiar with the trials and tribulations that our members have. I know northern airlines is a challenge. I have a very good friend that works with the National Art Center, going up into northern Alberta and northern Canada, working with an aboriginal gentleman doing really important work in the schools up there, and they have had fantastic experience with the northern airlines. So, the northern airlines are small, but they seem to have a little bit more flexibility and understanding, and I applaud them in their work with our musicians. That's the end of my presentation, I'm happy to take questions for you.

Scott Streiner: [06:44](#)

Thank you, Allister. So, as I assume you know, the legislation that came into effect on May the 23rd, says that the regulations that we're going to make on air passenger protection should include an obligation for airlines to set out terms and conditions in respect to the carriage of musical instruments. The way the legislation is written doesn't obviously give us much scope, if any, to sort of say what exactly each of those airlines terms

and conditions should be, but simply that they should have them. There's a legal question here. We're thinking about whether we can say a little more than that, but it's a legal question as to how far our authority extends. If we could, if the regulation could say, "Each airline shall set out terms and conditions in respect of the carriage of musical instruments that ..." What would you have us add by way of detail?

- Allister Elliot: [07:39](#) I'm not a lawyer.
- Scott Streiner: [07:41](#) Non-legal language.
- Allister Elliot: [07:43](#) But, what has worked well, and again I have the documentation to bring tomorrow, and I can provide it for you here today as well, but what I would suggest, and what, if we go back to the recommendations of the committee with regard to Canadian transport from a few years ago, the recommendation was harmonizing with the US and Europe. And, I think the US regulations work very well. In a nutshell, they speak to size and weight as opposed to particulars, and in a nutshell, they have a, I think it's about 160 pound weight, and a simple statement that if it fits in the overhead bin, it can be carried on. And, what airlines are doing is they're allowing ... And, one of the Canadian airlines has done this over the last year and a half or so, they changed their policy partway through these lobbying efforts, to allow musicians to pre-board with instruments, so that they can be put up in the bin and get a space.
- Scott Streiner: [08:48](#) Right. One more from me, and I think it's just to ask you to build on, a little bit, something you said. So, your experiences with the US regulations, I don't want to put words in your mouth, but basically, worked?
- Allister Elliot: [09:01](#) Certainly been a big improvement over not having regulations, yes.
- Scott Streiner: [09:04](#) Right, so less complaints from musicians, more consistency of service, et cetera.
- Allister Elliot: [09:09](#) Absolutely, yes.
- Scott Streiner: [09:09](#) Good, it's always just good to think about the experiences in other jurisdictions that we draw upon as we craft our own regulations. Good, thank you, Liz, any questions?
- Liz Barker: [09:19](#) No questions, thank you.
- Scott Streiner: [09:19](#) Thank you very much, Allister.
- Allister Elliot: [09:20](#) Thank you.

Scott Streiner: [09:23](#) Okay, our next presenter is, I have to make sure I read this correctly, [Omar Demarcan 00:09:29], have I pronounced that correctly, Omar?

Omar Demarcan:[09:32](#) [inaudible 00:09:32].

Scott Streiner: [09:31](#) Okay, or at least close enough not to elicit an immediate objection.

Liz Barker: [09:37](#) Thank you.

Scott Streiner: [09:37](#) Thank you, Allister. Welcome, gentlemen.

Omar Demarcan:[09:39](#) Thank you. Hello, we are a Toronto based company, and we are helping the passengers to get their rights according to Europe legislation. And, if you are a citizen of Canada or United States, it is not easy for you to enforce your rights in EU, European Union. And, with a lawyer network in Europe, we are helping mostly the North American passengers, and we are closely working with the travel businesses. For the regulation, I just want to give a figure, only 1.5% of passengers that are eligible to get this compensation gets this compensation according to European Union legislation. And, for this meeting, we just find out some controversial topics that we are dealing daily with the European airlines.

Omar Demarcan:[10:40](#) And, these topics are covered, but not regulation, but the court decisions. For example, the first one is, the flight distance for connected flights. As you know, the regulation says that, the European Union regulation, the compensation amount depends on the distance, and if you are flying from Paris to New York, and your connection is through London, and your flight from Paris to London is late one hour, and you miss your connection to New York. And, most of the airlines in EU insisting that they have to compensate you depending on the distance between London and Paris, because the delayed flight is this.

Omar Demarcan:[11:27](#) But, according to some court decisions, they have to compensate you depending on the first point of departure and your final destination. And, they say that you are eligible to get 250 euro, or 400 euro, instead of 600 euro. And, as a passenger, you don't have enough time to dig in the details of the regulation, and when you see the money as an inconvenience, of this is compensation for your inconvenience, and you accept it. But, they owe you 200 more, but they don't pay this, and you don't know this court decision, and you cannot enforce it.

Omar Demarcan:[12:14](#) The second one is a pretty [inaudible 00:12:18] decision, it is wildcat. As you may all know, if there's an extraordinary circumstances, the airlines do not have to pay you compensation. It means that if it's weather condition, if it's labor strike, if there's terrorism or sabotage, they don't have to compensate you because it is beyond their control. But, lately, an airline staff took off nearly 80% of their pilots, and 60% of their cabin

crew, and it was spontaneous, it was not an official labor strike. And, the German court says that, if it is a wildcat strike, they have to compensate you, because it is not an official strike, and I don't want to give the name of the airline, but they compensated their passengers even if it is a strike.

Omar Demarcán: [13:13](#)

And, the third one is the delayed time calculation. According to European Union regulation, if your flight is delayed more than three hours, they have to compensate you, but what if it is two hours and 58 minutes, or 59 minutes, or 57 minutes. As a passenger, you don't look your time, and you don't know the actual arrival time. And, the court also says that it is not the time that the flight is landed, it is the time the flight doors are opened. And, even if it is landed two hours and 57 minutes late, it takes some time to go to door and open the doors, and obviously it takes more than five minutes, and sometimes passengers are turned down by the airlines saying this.

Omar Demarcán: [14:06](#)

And, the third one is, this is another topic that we regularly face, there's a, let's say, radar malfunction in the airport, and it's an extraordinary circumstances, because airline cannot provide this service, it's airport needs to provide this service. And, even if it is one hour problem, they delay you 24 hours, because there's a flight, there's aircraft, and it has to follow its schedule, and it goes elsewhere, and they are rebooking you for the next flight. And, they say that it's because of extraordinary circumstances, we don't have to pay you compensation.

Omar Demarcán: [14:49](#)

But, there's another court decision says that as soon as the extraordinary circumstances is over, you have to provide the service, and there's no excuse for 24 hours or 48 hours delay for just one hour or two hour extraordinary circumstances, such as radar malfunction, or power outage. And, the topic five is, very important, and I will leave the word to Chris. Chris is a European lawyer, German lawyer, and we are following the cases together, and he will give details about technical failures, and also his idea and thoughts about the regulation. Thank you [inaudible 00:15:41].

Chris: [15:42](#)

Thank you. Yeah, so the thing I'm going to talk about, and I'm just going to briefly wrap it up, because I just want to get to the boiling point, is the question of technical failure. And, technical failure, I notice, with the Canadian legislation, you do have a bit of a distinction there when it comes to safety issues, and I think 80%, he's better with the statistics, of the late causes are mostly down to technical failures or maintenance issues/questions. So, coming up with a bit of a cynical view, you can always argue that it's a safety issue as well, maybe a puncture in a valve, like a tire or valve, or whatever, you can always say it's a safety issue, so they can always come up with that argument, so it's quite important.

Chris: [16:29](#)

So, there was a court case happening in the UK, and basically the first court said ... So, what has happened is, there was a wear and tear case,

and so I don't recall if it's been a tire, or whatever. So, they notice just briefly before the plane was about to takeoff, so they had to change something, do maintenance on the plane. So, people were claiming compensation because they mention all the other criteria, and the airline said, "No, look, this is something that has not been inherent, because it was not something we could have discovered during our regular maintenance schedule and maintenance operations."

Chris: [17:11](#) The passenger argued that it basically didn't matter because it's wear and tear, wear and tear happens wherever you operate anything that is also mechanical. You gotta be prepared for it, that's part of your general operations, that's part of your general operational risk, end of story. The first court said, "No way. This was not inherent, you couldn't foresee." They went to the magistrate, and they said, "No, it doesn't matter if it could've been foreseen or not, as soon as you notice it, it is inherent, and even if it was not something you could've discovered previously, you should be prepared to act on it in time to get the plane going." So, at least then, it would've been inherent.

Chris: [17:56](#) They launched an appeal, the airline, and the court of appeal just said, "No, the magistrate's court has it right, they covered all bases, and it basically doesn't matter." So, just to sum the different points up, that was point five now. Our basic message is, from, as he said, like, I have experience, I've had exposure to those cases in Europe already, now here too. And, also to other cases with regards or connection to consumer rights and consumer protections. I was doing mostly corporate law, but even CEOs are consumers when it comes down to those things. So, there will always be arguments, and what has been said from the first two speakers, what you always have to keep in mind is, the difference in economic weight. The airlines are simply those ones who, and I'm not pointing a finger, but they are the ones who have a legal team, they have external lawyers, they have lobbying groups, as do the passengers, too, but they will normally always try to play ... It's okay. The long game, or try to play the long game. I'm calling it a game right now.

Chris: [19:17](#) And, they will try to weigh in their economic ... their war chest. I've had other cases, too, where it came to the possibility to withdraw from loans from banks, and that was even more so the case, because there we were talking about five or even six digits in euro. So, I had to sue the banks just in order to actually acknowledge what was written in the law, and I just said then, I said, "They gotta be kidding me." So, what we're trying to say is, because you have, from what we can tell, a fairly big amount of gaps to fill with your regulations from what the law leaves you with, I'm putting it that way intentionally.

Chris: [19:57](#) So, what we're trying to say is, keep it simple and easy. I mean, I can go into details now, but I'm going to try to sum it up. Simple, in terms of, try to not, from our recommendation, over diversify causes or benchmarks,

or measures, in terms of time, reasons for delay, and should you be more lenient or not. You are already more lenient, the law is, than European legislation is, because there they don't have that safety question. They simply say, "If it's a general risk of operation, that's your problem." Easy, meaning, make it accessible for people, and that means, like the first two speakers said so too, make the knowledge accessible to as many people as possible, and also make it easy for them to actually pull that compensation, to get to it.

Chris: [20:52](#) Paper still works, maybe oblige the airlines to come up with a general information upon booking confirmation, as a first step, so everybody can print it out, with their ticket. Also, I think the app they have in Europe is very good. What they don't have, at least at this state is, I used the app with was, they didn't have a database, or you couldn't enter your flight, for example, and check if that flight is eligible for a compensation, or you would be. So, maybe add that to the app. But, also maybe come up with a general database that's easily accessible online that people can just check.

Chris: [21:28](#) You will not always have the time to think about it at the airport, because people have kids, and partner, or somebody else picking you up, gotta rearrange hotel, bookings, whatever. You're not going to think immediately about compensation. But, if you have a chance to do this two or three days later when you notice you've lost a day or two of your vacation, or even business trips, you might do it, or you might have a secretary to do it, or your partner. Go there. And, also oblige the airlines to notify the passengers themselves. Let them hand out a sheet of paper saying, "I'm sorry, your flight with schedule X has been delayed for four and a half hours, or you're going to arrive four and a half hours late, and the reason for this is technical issue, or we had a maintenance issue, or radar, whatever." Just, because the passenger does not have insight. It is the airlines who know it, and it is you who know it. How do I get to that piece of information? And, that is the easy thing, but we've already also raised the question of condition and everything, but that's probably a bit detailed for this forum now, also the time is over, so ... Thank you.

Scott Streiner: [22:39](#) Thank you very much. Couple of questions. The first one is actually going to be very general. Given your experience, and without getting into too much detail, but just kind of at a broad level, what do you think has worked best, and what has worked least effectively in terms of the European regulation?

Chris: [22:58](#) I think it's gotta be a bit of a mixture. You've gotta have an enforcement, a regulatory body who makes sure that there is maybe even a fine, an administrative fine, whatever you want to call it, but also what does work well is if you have lawyers, let me call it civil legal system that helps people enforce it, too, meaning that they have easy access to it. And, obviously that's a climate of the market. You've gotta see if there are actually people who are willing to do it, and whatever. But, I mean, to

address you, I think you're the one who has probably biggest pressure point on airlines. So, in terms of saying, "Okay, you gotta do this, and we gotta follow it up," and you probably need personnel to follow it up, and that's something, I know that's above your personal scope or influence. So, I think it's a mixture of both, but we notice that they mostly only [inaudible 00:23:56] if there's a lawyer involved. As soon as I read an email, or I sign a letter and I send it off, they notice my status, they're quite happy to pay.

Omar Demarcán: [24:05](#)

And ...

Scott Streiner: [24:05](#)

Go ahead.

Omar Demarcán: [24:08](#)

I just wanted something. We have one flight, three different passengers, three different PNR numbers, booking reference numbers, and two are paid, one is rejected because of extraordinary circumstances, from the same airline. And, when they say no, even if you provide some evidences and proof, they only way is to go to court. And, according to European Union regulation, you have to sue them in the defendants side, or the flight is from Paris to London, either in France or UK. And, as a Canadian citizen or a US citizen, or thinking about the Latin American and other Asia people, it's not easy for you to sue an airline for just 600 euro, and I think it's the most difficult part for them to chase their rights.

Chris: [25:02](#)

Just briefly a remark, so maybe if you had a general database, or I could just enter in my flight number, and I can print out whatever you say has happened in terms of the duration of the delay and the cause of the delay. This would, I could imagine, be a way in, when helping my case, no matter if I'm using a lawyer, if I'm doing it myself, saying, "Look, this is your authority, this is your regulatory body, and they say it's that duration, they say it's that cost. That cost falls clearly under this and that regulation." So, yeah.

Scott Streiner: [25:33](#)

Takes sort of the key information. Just one other question from me. The wear and tear case, technical failures, so as you noted, the law as passed by parliament here, lays out with respect to flight delays and cancellations and denied boarding three categories, right? First category is an event which is fully in control of the airline, and there we'll be setting minimum standards of treatment, food, water, et cetera, and minimum compensation. Second category is safety related, including a mechanical malfunction, and there it's just minimum standards of treatment, no compensation. And then, the third is, out of the control of the airline, and there the airline's obligation is help the passenger complete the itinerary. So, you're correct to say that distinguishing, triaging between the first category and the second category's going to be important. Passengers are presumably going to look to have events identified more often as being in the first category, because it's compensatory, airlines maybe less so, and

we're going to probably get into some debates about what falls into which category. Does compensation exist or not exist.

Scott Streiner: [26:38](#)

So, do you have any suggestions around the criteria that we might apply in the regulations to do that training, to distinguish between a genuine safety related event and mechanical malfunction that justifies making an incident non-compensatory, versus other events which should, in fact, be triaged into the first category and be deemed to be fully within the control of the airline, and not safety related?

Omar Demarcan: [27:07](#)

As Chris mention, the technical side of delays is 80%. 80% of the delays are because of the technical disruptions. And, with the European Union airlines, I'm pretty sure that when you apply for a claim, they will probably say that it's because of the technical issue, or security issue. And, the court decision is very clear. If it's a technical problem, it's the airline's problem rather than a passenger problem. And, the inconveniences to the passenger, they have directly affected with the inconvenience, and I think that they have to be compensated because of this. And, if you're running a bus, if you're running your car, it is your responsible to make it running, and for the airline, you have to foresee that there will be some problem, and we say it as predictive maintenance kind of thing. And, if you say that technical disruption will not be compensated, it will be an easy way for airlines to play dirty.

Scott Streiner: [28:24](#)

Well, now, to be clear, the legislation already says, if it's a safety related event, including mechanical malfunction, it's non-compensatory. So, we make the regulations between the framework established by parliament, but we can think about whether there are criteria to allow for the most consistent possible categorization, so we don't get into a lot of disputes that we have to adjudicate about whether an event falls in the category one or two. But, the existence of those categories is written into the law.

Chris: [28:50](#)

Yeah, and I see the trouble you're running into with that one, actually. That was the thing that just jumped right at me when I saw that legislation. To be frank, personally, we know the court decisions in Europe, I don't think you can come up with a certain, overall, general set of criteria. That will not be possible. Because, you're aware of it. I mean, the major issue is always safety, because ... My example is always the cargo company, like running a truck, or a bus company, too. But, I mean, for them it's always easier to pull it to the side of the road than just land a plane. And so, this is why you have different and more diversified set of safety measures, and people who can decide if it's safe to start the plane, or if it's safe to keep it in the air, if it's safer to land it, or keep it grounded in the first place.

Chris: [29:46](#)

So, you got the air control, you got the airline, but, the last instance, you got the pilot. So, the problem is, I see from your side, is that on the one hand, these people make decisions, and they make decisionS on life or

death, if it boils down to that one. And, they're trying to make these decisions, and you don't want to weigh in on their decisions, because they should not make them in any kind of way with regards to any kind of personal inconveniences, and/or economical thoughts. However, you don't want to get airlines to, being cynical again, to cut short on the maintenance, or come up with that argument all the time.

Chris: [30:25](#) So, I think, for example, if it's saying air control, or it's the airline pulling it themselves because they say, you might more be inclined to come up with something that is sort of not safety related, necessarily, at least with the airline. With the air control, you might always argue the case, you can argue the case. If it's the pilot, it's probably the most difficult case, because he's the closest one to the airplane, and he can see it. I would say that what you might want to do is take the timely pressure out of that case, meaning that particular flight and say, "Okay, we'll look into it." If it's an issue like a tire that, say that just as an example now, the plane has been maintained two weeks ago. And now, they notice that the tire is ran out, and they know that the next scheduled maintenance is just in another two weeks, or another 30,000 air miles down the track.

Chris: [31:25](#) And, it was foreseeable for the airline that that tire, break, whatever, would not be able to cover that distance to the next maintenance. However, they were trying to go the distance, and knowing that the tire would have to be changed in between, or the plane would have to fly insecurely. That is obviously something that needs investigation, and that is obviously something where the airline will try to sort of, whatever, argue the other case. But, if you take it out there, and you make a decision whether it's a safety issue or not, even if it's two, or three, or four weeks down the track, because then you have all the documentation from the maintenance, and you can check it, and you can talk to the ... maybe if it's a major kind of thing, whatever, even talk to the mechanics, and say, "Okay, you should've changed the wheel, because it was foreseeable that that wheel would not go the distance to the next scheduled thing."

Chris: [32:13](#) So, that is a more clear case for me. Or, even that their maintenance schedule, their airline maintenance schedule should've been broader, or more thorough, in order to cover that. So, this might be something that's a bit of an in between kind of thing where you would weigh in with your professional judgment, and you would take away the burden of argument and/or proof from the passenger. But, everything in between, as I said, it's going to be hard. But you, as a regulatory body, might be somebody who could be in between to sort of, at least, define the cause, or put it under one of the categories.

Scott Streiner: [32:53](#) Okay, good, thank you. Liz, any questions?

Liz Barker: [32:54](#) Thank you, no.

- Scott Streiner: [32:54](#) Thank you very much, gentlemen. Our next, and final presenter for the day, is, gotta make sure I read it correctly, is it Elser?
- Elser Lee A.: [33:04](#) Elser Lee.
- Scott Streiner: [33:04](#) Elser Lee. Elser Lee Archer. Welcome, Elser, or Elser Lee.
- Elser Lee A.: [33:15](#) I want to thank the chair and vice chair for giving us this opportunity. As was said, my name is Elser Lee Archer, and I am a member of the Alternative Dispute Resolution Institute of Canada, and I come here as a representative of the government relations committee. We look to assist the public, business, and non-profit communities, and government, at all levels to understand and value the incorporation of ADR processes into dispute resolution mechanisms. Over the past few weeks you've had the opportunity across Canada to hear from our affiliates in different provinces or regions within this country.
- Elser Lee A.: [34:05](#) And, they've tried to give examples and principles as it relates to the effective consumer based conflict resolution. We have incorporated many of their submissions into this document, and will submit a formal document at the end of August. My training, I'm a chartered mediator in Canada, but I'm a social worker and policy analyst with specialties around diversity and inclusiveness. And, we're optimistic that you have really made an effort to engage various stakeholders. Our last presenters talked a lot in response to your question around triaging, and as someone that works in a variety of fields, I would say that, in many instances where there is dispute resolution, what you want to do is assess a situation thoroughly.
- Elser Lee A.: [34:58](#) If it was insurance, you would have reports from doctors, and so on, bearing witness to the status of that situation, that therefore informs the people in adjudication processes. Of course, with ADR, what we are looking at, I think, is three things that we want to stress. One is, ODR, and the use of technology in mediation, whether that's online through artificial intelligence, telephone mediation, or in person if need be, or video conferencing. We want to be mindful across Canada that yes, we have many large urban centers, but we certainly have a lot of small, rural communities, northern communities, where people simply cannot access a service in a city center. So, it becomes an economic hardship for them just to get compensation or fairness.
- Elser Lee A.: [35:58](#) And so, that's one of the things we want to highlight. Another thing we would like to highlight is that education and training needs to be age friendly. We've met with individuals here who are from more vulnerable communities, whether that's because they have a disability, sometimes it's individuals who have language barriers, and so you want to make sure that once you've created the content, that you actually have stakeholder reviews of that content so that it's culturally appropriate. Things can be

determined or understood in different ways. And so, ensuring that it's culturally appropriate is useful. We've talked about minors traveling. We've talked about some of these bump it stickers. How does a minor know that there is an infraction of their rights?

Elser Lee A.: [36:53](#) And so, if it isn't age friendly and simple, then it's going to be very, very difficult for people to communicate, or for their caregivers in advance to communicate. This gentleman spoke also about, when do you get education and training? If I give you another example, or context, you go to a pharmacy, you buy a product, generic or otherwise, and they print out this bit that goes in your bag. That's when you get to talk about it. You could be younger, you could be older, and it is at that point, that entry point, that you then speak to another individual who provides you with support, whether that's because of your disability, your age, or otherwise. And so, at that point, the individual receiving service becomes aware of their rights. It's a simple user friendly plain language format.

Elser Lee A.: [37:47](#) People talked about technology, things like Siri on your cellphones, that kind of thing, where you can get voiceovers. So, it's at the initial point of contact where you're not flustered and freaked out by an experience that you had in transportation, but you're a little bit calmer, and you have that opportunity. One of the things that I wanted to speak to on behalf of ADRC, is examples of collaboration. We have collaborated with various partners, including Health Canada, around calls or rosters for chartered mediators, with CTA itself provider arbitrator assessments, the National Energy Board, helping them to develop a roster of mediators.

Elser Lee A.: [38:35](#) When we talk about access, we want to make sure that the people assisting you that are outside of the court system have credentials. The individual who's receiving transportation wants to know that they're trustworthy. And, one of the things that ADRC does is credential mediators, arbitrators, or meta-processes. So, I think that is also very important, because then what you have is universal access to a fair service that has been approved. So, that's key for people in transport to rely on a service they can trust. And, we know that CTA brings a lot of expertise. When we talk about ODR, and we look at places like Ontario, AODA legislation, one of the things that happens with those pieces of legislation, again, is that they're universal in terms of web content, in terms of customer service standards. Those are critical, and certainly across Canada, it's not just Ontario that has AODA.

Elser Lee A.: [39:45](#) But, if I think of a workplace, very often somebody starts a job, depending on the job, they have to do WHMIS, they have to do AODA, they have to do health and safety. Well, in this industry, certainly, somebody starts a job, this gentleman and his wife spoke about compulsory training. There should be some kind of a checklist where you go to that job, these are the training formats that are available, you need to do it so that you understand how to deliver a standard of customer service that benefits

the community at large. So, that is very important, as well. It is good to hear that some of the work that started 20 years ago, Liz, with yourself and others in the community are being racked up as our chair has advised. The other thing that I wanted to speak to here is that mediation mechanisms actually be built into the regulation, and that there is an opportunity to opt out so that individuals can say, "Okay, I don't want to go this route, I want to go another route," but at the very least that the regulation spells out what kind of access to service they will have. Sorry?

Scott Streiner: [41:11](#)

No, no, continue.

Elsner Lee A.: [41:11](#)

Okay. The current Public Service Employment Act empowered the federal public sector, labor relations, and employment board to provide mediation services at any stage of a proceeding in order to resolve the complaint. In addition to the mediation provision, the board has also adopted the public service staffing complaints regulation, wherein the board is automatically required to schedule a remediation for a complaint that is filed with it. If a party does not want to mediate, it must inform the board within a prescribed timeframe. So, again, that those kinds of thresholds for time be provided.

Elsner Lee A.: [41:49](#)

Entrenching, as I said, mediation processes, or ADR process, rather, would provide clarity to air passengers and air carriers, rather than referring them to another agency or legislation, another set of rules or documents. Enforcement proceedings can be costly, and if an administrative monitoring penalty is imposed, then there's a risk of appeal to the transportation appeal board. So, the idea would be that they have their first option is mediation, or met-arb, a way of getting a ruling and judgment around the issue up front. Just trying to see if there's anything key that I've missed here.

Elsner Lee A.: [42:42](#)

The primary consideration in providing guidance ... So, your first question was, what kind of guidance would be helpful for passengers on how to make a complaint to the CTA relating the new air passenger protection regulations. The primary consideration in providing guidance is to make sure the information is readily available, easy to access, easy to understand, travelers are from various diverse backgrounds and languages, and have various social and economic status that impact communication. So, access to information and following protocol or process is paramount. That guidance should be provided through multiple mediums and at multiple intersections. So, I did speak of the point of entry, such as buying a pharmaceutical product, but then there's other points of entry, obviously, that can be used. And, in terms of just a general recommendations ...

Scott Streiner: [43:45](#)

We're getting close to time.

- Elser Lee A.: [43:46](#) Okay. Is, really that if it's not processed through mediation, it should be quickly referred to a final and binding arbitration process.
- Scott Streiner: [43:59](#) Good. Thank you, Elser Lee. As you noted, your colleagues in other cities have also made some presentations on ADR. I want to ask you a question around information provision. Because, of course, the objective here is to ensure the passengers' entitlements are respected, while at the same time, this is your bread and butter, trying to avoid, as much as possible, the need for more formal processes which can be costly and time consuming. When do you think ... are there particular points in time in the travel experience where passengers are more likely to be receptive to information about their rights? Because, you talked about the inserts when you get some drugs from the pharmacy. I mean, another example would be the I agree form when you go onto a website. How many people click on I agree after reading all the information on that form? I'm going to guess nobody in this room, although maybe somebody here takes the time, most people just go click.
- Elser Lee A.: [45:00](#) Mm-hmm (affirmative).
- Scott Streiner: [45:00](#) So, the question is, what's the best way, in addition to sort of plain language and accessibility, simplicity, when are the best points in the travel experience to actually get the passenger's attention so that people genuinely absorb the information on their rights and on the recourse available to them?
- Elser Lee A.: [45:18](#) That particular question is not something that has been processed by ADRIAC, but to answer it, I think there are people who would see it at the first point of contact. They're booking their flight, and it's the idea that there's often, we talk about a bill of rights, and if there's something like the rights of passengers, they can click on it and get that information, print it, vet it. So, when they're getting their ticket, I think another point is, when they're on the flight. If you have your headset, and it may be that it's a compulsory little review you have, little video. If you want to watch a movie, the first thing you see is, what are my rights as a passenger, and what are my responsibilities? And, again, you do that in a user friendly way, in an accessible format, but it's almost like you have a captive audience, because they want a service from that medium.
- Scott Streiner: [46:17](#) Right, good. Liz, any questions?
- Liz Barker: [46:19](#) No questions, thank you.
- Scott Streiner: [46:21](#) So, just as you wrap up, I will just clarify for your benefit, because this is of interest to you, but also for others in the room who may be interested. So, at the CTA, the number of air travel complaints we receive has jumped dramatically in recent years, as a result, at least, in large part of some

public information efforts that we undertook, so people know that we're here to help. We've gone from about 800 complaints a year to about 6,000. But, what we do is, we use very informal facilitation services as a first step, followed by mediation where the parties agree, and we only go to adjudication if facilitation and mediation are unsuccessful. And, we actually resolve upwards of 95% of all of those 6,000 complaints a year through facilitation and mediation. So, we agree with you, that those services are essential. But, as these new regulations come in, we'll need to continue to think about how do we ensure that, in this new world, where there's a common set of rules, the services are as successful as they've been to date. So, that's something we'll be thinking about.

Elser Lee A.: [47:16](#)

Okay, thank you.

Scott Streiner: [47:16](#)

Okay, thank you, Elser Lee. So, I'd said at the beginning of the session after the break, that if we had a few minutes at the end we'd take any further questions or comments from the floor, we have a couple of minutes, and we have some handheld mics available. Sir?

Audience: [47:34](#)

Thank you. I'm representing the executive of the CCB, Canadian Council of the Blind. I haven't traveled since I have been in my wheelchair. I have a double whammy, vision and physical. Just to give an example, two years ago, our group had a cruise on the Ottawa River. I was denied access, since I was in a large electric wheelchair. I petitioned, and this year I was allowed to go on with my new collapsible wheelchair. But, the thing is, do, if I own a plane nowadays, do they remove a seat and place my wheelchair in its stead, or will they make me collapse the wheelchair and get in a standard seat, and put my wheelchair in the luggage department? That's one of my worries. And, I have a new collapsible, it's very unique, there are few in Canada. I'm told by Canadian Care that it's the only one in Ontario, and it's a special one coming up from the States. It's not recognized by our OHIP, so it's not compensated, when you buy it you have to pay out full cash. So, it'd be a while before new ones will be in here. But, my worry is, I would like to travel, but since I'm low vision, and can't walk, what are my prospects?

Scott Streiner: [49:12](#)

So, it's an excellent question. I talked a little earlier, as you heard, about the work that we've been doing on accessible transportation regulations. One of the things that became clear in the course of our consultations on those regulations is that the transportation of mobility devices on aircraft is a significant and growing issue. And, I say it's significant, because of course, for persons with mobility impairments, a wheelchair is an extension of themselves, it's essential for them to actually be independent and have full access to the same quality of life as others. It's a growing issue, because as you know, wheelchairs are becoming more customized to the individual, more technologically complex and therefore vulnerable to damage, and in many cases heavier and larger. So, what we're finding is that it's getting harder for airlines to actually transport wheelchairs and

other mobility devices safety, which is frustrating for the travelers, of course.

Audience: [50:12](#)

This one only weighs 56 pounds.

Scott Streiner: [50:15](#)

The fact that it weighs 56 pounds and it's collapsible is remarkable, because we've heard in some of our consultations about 400 pound wheelchairs.

Audience: [50:22](#)

My other one is.

Scott Streiner: [50:22](#)

There you go. And, you know, we heard one person came and spoke to us at our session in Winnipeg about the damage that her 400 pound wheelchair sustains pretty much every time she travels, and, she talks about look out of the window of the plane at the conveyor belt and watching the wheelchair get damaged in some way or the other, because it's hard for the ground handlers to pick up, the conveyor belt's not made for it, sometimes the cargo door isn't really big enough for the wheelchair. So, we recognize that this is a big issue, but we also don't think it's an issue that's going to be easily resolved just through regulatory rules.

Scott Streiner: [50:57](#)

If we say, "You shall transport every wheelchair no matter what, or you shall make the cargo hold this big," airplanes can't be redesigned in 20 minutes. So, we convened on June 12th and 13th, the CTA convened a multi-stakeholder session on the specific issue of the transportation of mobility aids, which brought together airlines, aircraft manufacturers, Bombardier, Airbus, and Boeing, wheelchair manufacturers, regulators, and representatives of persons with disabilities. And, we started a conversation about engineering policy training solutions to some of these issues, and that's going to be an ongoing process that we're going to sponsor and drive forward.

Scott Streiner: [51:38](#)

The hope is that, with dialogue, we'll be able to come up collectively with some solutions, whether it's more collapsible wheelchairs, better packaging of wheelchairs, better training for airline staff, we think that all the stakeholders want to find a solution, so we're going to drive towards some non-regulatory solutions to these issues as well, so stay tuned. And, you're more than welcome, if you're interested in more information, we're happy to have some of our staff fill you in, tell you how you can give your input.

Scott Streiner: [52:03](#)

Now, you asked at the outset about removing a chair. At the moment, as far as I know, there is not a practice among any airlines I'm aware of, of removing seats and allowing people to stay in their wheelchairs, in part, I think, because the airplanes aren't designed that way, and in part because of safety concerns. But, there is an initiative underway in the UK to explore that option, to explore the option of people saying in their

wheelchairs on a plane. We're monitoring the progress of that option, but our sense is that that's a longer term solution, if it ever materializes, which is why we've decided to advance the conversation about storage at this stage.

Audience: [52:42](#)

All right.

Scott Streiner: [52:42](#)

Okay? So, that's where that's at. All of that to say, it is an issue, no question. We are working on some solutions which we hope to be able to implement in the short to medium term. Lots of people who travel in wheelchairs successfully and safely travel today on flights, but there's no question that this is a challenge, and it's one that we have to collectively tackle.

Audience: [53:02](#)

Well, they probably can walk.

Scott Streiner: [53:02](#)

Right, well, that's right. Oftentimes people in wheelchairs are still able to get up and switch to the travel wheelchair, and switch to the ... exactly, exactly.

Audience: [53:11](#)

Thank you.

Scott Streiner: [53:12](#)

Thank you, and again, happy to provide you with more information on that initiative. We've got a hand over here, and a hand over there. You pick, John.

John: [53:19](#)

All right.

Scott Streiner: [53:21](#)

Don't take it personally.

John: [53:23](#)

From you, and then we'll go back across.

Audience: [53:26](#)

Thank you, Mr. Chair. I just wanted to add a comment to the question you directed to these gentlemen about criteria the regulation drafters might take into account when trying to channel the delay cause into, say if you're not ... and, remind the drafters of the regulations that this is not going to define what is safe or not safe. I'm sure the safety of the airlines is well regulated, heavily regulated, and the Transport Canada governs all that. So that, if the regulations are simply recognizing that characterizing something as safety related or not is strictly for the purposes of passenger compensation and passenger treatment, that might give them a bit more room, and they might consider, in that context, defining a list of delay causes that will not be considered safety related for the purposes strictly of this regulation. Because, not naïve, I would suggest, as these gentlemen suggested, to think that airlines won't try to characterize everything as safety related in order to limit their exposure, so that if the regulations

carved out a number of generally characterized delay causes, it would not be considered safety, that would help enhance the passengers' position.

- Scott Streiner: [54:29](#) Actually, that's actually a very intriguing idea, that you would simply sort of back certain things out, and kind of help to send the signal that way. And, I will simply agree with you. I mean, I think everybody agrees, safety is non-negotiable. So, there's nothing about the consumer protection regulations that should or will compromise safety. It's a question of triaging around the availability of compensation. Thank you for that.
- John: [54:49](#) Who was ... Here you go.
- Audience: [54:57](#) The item I want ... Excuse me ... The item I want ...
- Scott Streiner: [54:57](#) Yeah, it's working, it's working, yep.
- Audience: [54:59](#) It's working?
- Scott Streiner: [55:00](#) Yep.
- Audience: [55:02](#) The seating in the aircraft, period, goes back to airlines trying to squeeze in as many bodies as they can. It becomes actually a safety commitment when you go down. You're talking about a wheelchair, you have a hard time getting a carryon suitcase down the aisle of an aircraft, and plus a person that happens to be a little bit oversize, has a difficulty. And, as far as I'm concerned, with a background in aviation, I think it's a safety management problem, and it should've been addressed years ago. But, through Transport Canada's deregulation back in '87, they took away all the rights of people in any way, or the airlines, to actually, other than fight their way through, they're all starving to death right now, basically what it amounts to, and they won't budge on anything, it's a dollar factor.
- Scott Streiner: [56:10](#) Mm-hmm (affirmative). So, never like to say, "I can't help you with that," but as I said in my introductory statement, there are some matters that parliament's given us the authority to regulate, and some where we simply don't have that authority. And, when it comes to seat pitches, and this is not the first time people have raised seat pitches in these sessions, we haven't been given the authority to do anything around that. Now, when you come at it from a safety angle, you're concerned that it compromises safety, that's not our matter, but it is a Transport Canada issue. Transport Canada regulates for safety, and we do have some observers in the room from Transport Canada, so they can certainly take some of that back-
- Audience: [56:47](#) Transportation Safety Board has brought it up before, Transport Canada doesn't pay attention to the safety board any more than they pay attention to you guys.

Scott Streiner: [56:59](#) Ah, well we're an independent tribunal so we-

Audience: [57:01](#) [crosstalk 00:57:01], that's exactly what it is, they do their own little thing, and the space cadet's still up there, he's not doing what he's required to do, he's more concerned with passenger rights and smiling on the television cameras.

Scott Streiner: [57:13](#) Well, what I would suggest then, nevertheless, notwithstanding your concerns [crosstalk 00:57:16]-

Audience: [57:16](#) I've already written them a few times.

Scott Streiner: [57:17](#) I was going to say, it's important-

Audience: [57:20](#) And, I've already sent out a letter to state that parliament should look after the whole aspect of Transport Canada, because things have been going downhill ever since the late '50s, because I've been there since the late '50s, and I know what I'm talking about. Thank you.

Scott Streiner: [57:38](#) Thank you.

John: [57:41](#) Others?

Scott Streiner: [57:42](#) Any other comments, any other questions? Going once ... John's there.

Audience: [57:55](#) I have to travel with a companion. Does my companion travel free, because he has to look after me?

Scott Streiner: [58:02](#) So, under the one person one fare adjudication decision that the CTA issued ...

Liz Barker: [58:08](#) 2006.

Scott Streiner: [58:10](#) 2006, Liz recalls, several Canadian airlines are required to allow somebody who requires an assistant to travel, to pay one fare, in other words to buy one seat, and the assistant flies at no additional charge. That currently is only in respect of those several airlines, and only in respect of flights within Canada, because that's what those cases dealt with. We're now looking in the context of this accessible transportation regulation that we're writing, whether that principle should be extended. Should it cover all airlines flying within Canada, should it cover Canadian airlines even if they fly abroad, should it even cover foreign airlines? So, that's one of the questions that we're thinking about in the context of the regulation.

Audience: [58:51](#) Well, I know years ago when I could walk, and could see a bit more, I was a companion of many disabled, mental disabled individuals, men, from Toronto, when they went on trains. And, my transportation was looked

after, their single fare paid for me, and even for the hotel room when we arrived at our destination. So, I'd wondered whether the same thing was with the airline.

Scott Streiner: [59:19](#) So, it does, as I say, with respect to certain airlines within Canada, that it may be extended more broadly once we make this new regulation.

Audience: [59:26](#) Thank you.

Scott Streiner: [59:27](#) Thank you. Okay, folks, well thank you all very much for coming, it was a fascinating session, very rich, lots of really helpful input. We are reconvening for those who are here as observers and interested, at six o'clock. We have four presenters between six and eight, so you're welcome to come back, if you wish, and to observe that session, and on Liz's behalf and my own, thank you for joining us this afternoon, and stay cool. Take care.

Séance du soir/Evening session

Scott Streiner: 00:00:00 [inaudible 00:00:00]

Okay, folks. Thank you very much for coming out to this evening session. I'm Scott Streiner, Chair of the Canadian Transportation Agency, joined here by Liz Parker, the Vice Chair of the CTA. Now, as far as I know, staff tell me that everybody here registered or came as an observer as opposed to a presenter. I'm hoping that we're going to be able to encourage some of you to speak. Otherwise, it's gonna be less interesting for Liz and myself.

We have translation services, so anglophones or francophones are welcome to present in the language of their preference. That also means that when you do speak, we'll ask you to speak into the microphones.

This will be a relatively informal session, in part because we do have folks signed up as observers. But I will try to provide a bit of background, just to give you some context. And this context will both be around the consultation process that we've undertaken, but also I'll share with you a bit of what we heard in the earlier session today, between two o'clock and five o'clock, to give you a sense of some of the issues that were raised.

So, let me begin with the background to these consultations. On May the 23rd, a bill, Bill C-49, became law, and that bill gave the Canadian

Transportation Agency, the CTA, the authority to make air passenger protection regulations. This is the first time in Canada that we actually have the ability to make a set of binding rules that will apply across all airlines for all flights within Canada, leaving Canada, or arriving in Canada.

Now, Parliament gave us this power in specific areas. They said that we can make regulations with respect to how airlines communicate with passengers on their rights and the recourse available to them, flight delays and cancellations, denied boarding, bumping, lost and damaged bags, the seating of children near their parents, tarmac delays over three hours, and the transportation of musical instruments.

So, those are the areas where parliament has given us the authority to make some binding, new rules. The reason that we're out consulting with Canadians in eight in-person sessions across the country, starting in Toronto here today, is because we want to hear from as many travelers as possible, as well as consumer rights groups and airlines, on what they think should be in these regulations. Parliament has established the broad parameters. We can't regulate anything. We have to regulate within the areas parliament has laid out. But what we need to do now is fill in the details.

So, an example would be, the legislation says that we should set minimum levels of compensation for travelers where there's a flight delay or a flight cancellation for reasons within the control of the airline. The job that we have before us to figure out what that compensation should be. So, those are the sorts of issues that we want to hear from Canadians about. Now, earlier today, we had about eight speakers who came forward and talked about different issues. I'll just share with you - as I said earlier - a few of the comments that we heard, and then I'll talk a little bit about what the next steps are in this process before inviting you to pose questions or offer comments of your own.

There were a lot of interventions earlier today, so I won't go through all of them, but a couple of issues that really jumped out were as follows: first, there was some concern expressed by several of the speakers about how the regulations would treat the issue of mechanical malfunctions.

For those that may not be familiar with the details of the legislation, it indicates that there are three categories: if a flight is delayed or canceled, or if someone's denied boarding. There are situations that are fully within the control of the carrier, and for those situations, the regulations will set minimum standards of treatment; food, water, accommodation, things like that, and minimum compensation levels.

The second category is when these situations happen for reasons within the control of the carrier but that are safety-related, and then the

regulations will only provide for minimum standards of treatment but not compensation.

And the third category is these situations happen for reasons that are out of the control of the carrier, and then the regulations will simply require that the carrier insure that the person reaches their destination.

So, what the law says is that a mechanical malfunction is one of the factors, one of the situations that might lead to an event being categorized as falling into category number two. So, some speakers express concern or questions about how we would define what counts as a mechanical malfunction and therefore allows a flight or an event like a flight delay or cancellation to be placed in the category where there are minimum standards of treatment but not compensation. So, we had a bit of a conversation about what sorts of criteria could be applied to make that determination. Another issue that came up - not surprisingly - was around bumping as a result of overbooking by airlines, always a sensitive topic, and we talked about a question that we raised in our discussion paper, which is whether the minimum compensations levels that an airline is required to pay should be higher in that kind of situation than they would be in other situations to encourage airlines to look for volunteers if a flight's overbooked and everybody shows up at the airport.

A third issue that came up - and I'll just cover one or two more - was around how compensation is paid. So, of course, one option will be cash, just straight up, "Here's x dollars for x delay," or for a cancellation. But the questions that's arisen is, should an airline be able to offer travelers, say, vouchers, if those vouchers are worth more, in terms of their value, than cash? Some people say yes; some people say no, keep it simple and make it only cash. So, we had a discussion about whether things like vouchers should be permitted by the regulations and, if so, whether any conditions should be put on that.

And the last thing that I'll point to that came up was more around how any disputes between passengers and airlines, on these issues, get treated. So, the CTA already has a very active program of informal dispute resolution. We use methods like facilitation and mediation to resolve 95% of the air travel complaints we receive. And I have to say, just in passing, that that's especially important today because we've seen a very dramatic rise in the number of air travel complaints over the last two years.

We undertook some efforts in 2016 to make sure that the traveling public knew that we're here to help if there's a problem with an airline that travelers can't resolve directly. And the result has been a growth in the number of complaints from about 800 a year to about 6,000. With that kind of an increase in the number of complaints, it's important that we have informal methods for resolving as many of the disputes as possible. Several of the speakers underscored this and made some suggestions on

how we could use technology to a) make sure passengers are aware of their rights and the recourse available to them, and b) actually resolve some of the disputes between passengers and airlines before they escalate and require some sort of formal proceeding.

So, those are some examples of some of the topics that we talked about. Just before I open it up for questions and comments, a bit of information on what happens next: so, this is, as I said, the first of our eight-city tour. Liz Parker, the vice chair, and I, together with several of our staff, will be seeing much of the country in a blur over the next two weeks. I'll share with you - it's an informal session - that we had had these dates planned for a while, but because of the back and forth on this legislation between the House of Commons and Senate, the start date got pushed a little later than expected, but we decided to move quickly and hold these sessions because we thought it was important to open them up to Canadians before the summer, when people are more likely to be traveling and perhaps slightly less likely to come out to a public session on public policy issues.

So, after we've had a chance to hold these eight in-person sessions and to gather input through our online mechanisms as well - and we do have a website set up specifically for these consultations, airpassengerprotection.ca -, once we've gathered all the input from people through these public sessions, the online sessions, we're gonna do a call-in session as well for people that want to give us their input verbally but can't attend one of these in-person sessions, we'll need to take some time to digest all of the input.

Now, we've committed to completing consultations at the end of August, so, at that point, we'll start the process of analyzing everything we've heard and actually drafting the regulations. Once that's done, once the regulations are drafted, then they're subject to two approvals, one by the CTA itself and one by the federal cabinet.

I get asked virtually every time I talk about this, "What's the ending?" And the answer is, the closest I can come to an answer is to say, "It will be months, not years." We're going to dedicate and mobilize as much internal capacity as we can to make sure this work gets done. We know that once the consultations end, Canadians are gonna want to see the new rules enforced as quickly as possible, but we're also gonna have to take at least a couple of months to actually reflect on everything we've heard and get the drafting right, make sure we get the language of the regulations right. So, I can't give a precise date, but months not years.

And with that, I will look to Liz and ask if I've forgotten anything by way of context. Anything you'd like to add, Liz?

Liz Barker: 00:11:10 [inaudible 00:11:10] no, thank you.

Scott Streiner: 00:11:12 Alright, so we've got some staff with handy dandy mics, and the floor is open for questions, comments, feedback, and I really do want to encourage folks to treat this as an opportunity for a dialogue. I mean, yes, we have the titles of chair and vice chair, and it can be a bit intimidating to talk at a session like this unless you've been at the earlier session and are perfectly comfortable doing so.

Speaker 3: 00:11:39 Really important question, though, that follows up on your timeline.

Scott Streiner: 00:11:42 Sure, yep.

Speaker 3: 00:11:42 Once the regulation goes into effect and is accepted and passed, what's your timeline implementation from the airline perspective?

Scott Streiner: 00:11:50 Oh, that's a super good question to which my answer will be, it's one of the issues we're gonna have to hear from Canadians on, but I'll go a little further than that. I think at first blanche, most people would like to say, "Well, the day the regulations come into force, they're going to apply to airlines on all issues across the board," and maybe that's where we're gonna land. But I expect that we're gonna get some feedback, potentially from airlines, that, at least with respect to certain provisions, they're gonna need a transition period. And so, we're gonna have to take that into account.

What I will say is the transition period, if one is adopted for any of the provisions, would only be as long as is reasonably necessary to implement the provisions. We're not gonna have an unnecessarily lengthy or sweeping delay before these come into force, but if some of the regulated parties can make a compelling case that they are gonna need some time to get ready for some of these provisions, then we're gonna have to hear them out on that and consider it.

Okay, the floor is open. Who's gonna take the mic?

Speaker 4: 00:13:02 [inaudible 00:13:02] a mic?

Scott Streiner: 00:13:05 Oh, so, the reason you need a mic, in theory, is because we do have translation services, although, at the moment, no one's using them. But if the mic is the problem, then you can talk without the mic.

Speaker 4: 00:13:17 No, I'm [inaudible 00:13:18].

Scott Streiner: 00:13:19 Okay, well, if you're willing to use it, it's probably better, just in case. Thank you.

Speaker 4: 00:13:29 My question is just further to your introduction and the presentations. There were eight presenters today, so are those presentations ... I

understand that they're public. How public, how quickly? So, the ones that were done today, are they available? And, I guess where I'm going is, if they were available as of tomorrow, that it would, I think, help for other stakeholders going and attending the other consultations because you have that insight.

Scott Streiner: 00:14:09 Actually, that's a really good question. When it comes to the presentations at these sessions, many of them are verbal, right? People are just getting up and speaking, so there's no easy way to make those public. We'll have a transcript at some point. There's no easy way to make them public because we're not video recording it.

Speaker 4: 00:14:29 I was thinking that it was maybe-

Scott Streiner: 00:14:29 Like PowerPoints or whatever?

Speaker 4: 00:14:34 That they were doing PowerPoints [crosstalk 00:14:34].

Scott Streiner: 00:14:35 No, if they were, then I think we would quickly upload them, but they're not. In terms of the written submissions we get, we will be posting them on a regular basis as they come in. Nevertheless, I am thinking about what you said. Where we know that speakers have ... when we can see that they've come with written comments, and sometimes they'll hand us their comments - I'm looking to staff now -, we might want to ask them if they are comfortable having us treat those as written submissions and posting them online.

Now, I don't want to put anyone on the spot, but if they agree, I think you're right. For future sessions, it would be good for people to see what others have said. So, we'll think about that.

Speaker 5: 00:15:24 In the beginning, you mentioned some of the ... if an airline is delayed within reasons that can be controlled by the airline, is there any hard and fast rule as to what is within control of the airline, outside of weather. Because, as a frequent traveler, and I do a lot of emergency services in remote regions in Ontario, I've been in some pretty interesting positions being stranded in northern Ontario. Now, if a flight doesn't come in, by, for example, Porter, which is one of the only flights that goes up there, if the airplane isn't there, is that a reason that's within the control of the airline, or does that mean if the flight is there but it gets too late and they don't fly because they were late ... I understand that that might be their fault, but where is the kind of black and white within the reason that is within the control of the airline?

Scott Streiner: 00:16:18 Liz and I are always in favor of transparency anyhow, and this is a pretty informal setting. I even feel like the table's a bit unnecessary, but anyhow, so, I'll be really frank. I think that figuring out how we categorize some of

the events that are in the gray zone between these three categories is gonna be one of our key tasks because, for the traveler, it effects what sort of treatment they're entitled to and whether or not they get compensation. For the airline, it has financial implications if it gets classified as a category one, two, or three.

So, as much as possible, we're gonna strive to have clear, agreed criteria so that, in the vast majority of cases, passengers, airlines, and the regulator can agree that an event belongs in this category or that category.

I'll tell you what I think are some of the easy ones because you asked about black and white, and then we can talk about some that are not so easy. An easy one, in terms of the first category, is overbooking. If an airline makes a conscious business decisions to sell more reservations for a flight than there are seats on the flight because they're anticipating no-shows - and that happens -, and it turns out that everybody shows up for the flight, so now you've got more people in the airport with a confirmed reservation than seats on the plane, that's within the control of the airline, period. Right? That's an easy one that goes into category one.

An easy one that goes into category three, fully out of the control of the airline, is a severe storm that grounds all planes or a volcano exploding in - where was it? - Iceland, Greenland, that grounds all flights. Clearly, in situations like that, it's nothing the airline did, not even safety-related.

So, we can identify some of these cases that are black and white and fall into the different categories, and then we're gonna get some gray zone cases, like debates about whether certain kinds of mechanical issues could be reasonable anticipated and should count for an event being placed in category two versus category one. That's an example.

I'm being a bit spontaneous here, but maybe something that's related to some sort of a labor issue, a labor disruption. So, we may have an interesting conversation. If there's a labor disruption and a flight is delayed, which of the categories does it go in to?

That's a partial answer, but I think one of the things we're gonna want to hear from people on, the traveling public but also the airlines and consumer protection associations, is what are some of the criteria we can apply so that we're not debating every event. Because nobody wants to be in a world where every time there's a flight delay or cancellation, everybody's engaged in a tug-of-war over which category it falls in to.

Now, can I just throw one back at you? In terms of the northern flights and your experience ... because we know that how these rules play out in different contexts is gonna look a bit different. What's your experience ...

if you're going in and out of the north, did you say it's on medical stuff, like ambulatory stuff?

Speaker 5: 00:19:32 [inaudible 00:19:32]

Scott Streiner: 00:19:34 Right. Gotcha.

Speaker 5: 00:19:36 [inaudible 00:19:36]

Scott Streiner: 00:19:41 Off you go, right? So, my question is, what's your observation in terms of flights not happening or being delayed or whatever? Do you have any sense of what, usually, is behind any flight disruptions?

Speaker 5: 00:19:56 Yeah, so sometimes because [inaudible 00:19:59] is the weather patterns that are up there. [inaudible 00:20:08]. Sometimes, where it's clear is when it's a level three or a it's a severe storm that grounds all flights. Fine, nothing can be done about that. But, in the beginning of August, when it's a summer's day and weather is not an issue and I have a twelve-noon flight, how is there not a replacement flight that is going to be a subsequent flight that is after that, and mine is just canceled is what creates the confusion.

But, my understanding of it is there must be a domino effect because there is only a couple flights per day that go out there. So, if one of the flights doesn't leave Toronto or doesn't arrive in Toronto, that is perhaps a layover, that's going to prevent any flights than returning from there.

So, it's a domino effect. It's not like a flight from Toronto is grounded when you're looking at 20 planes outside, what is the reason, which is more of a gray area that could be-

Scott Streiner: 00:20:57 Domino effect, that's actually a tricky one. It came up earlier today as well. So, it's not that that was a problem with that plane, but there was a problem three flights before that and each one effected the other, and, again, that's gonna be something we're gonna have to grapple with, like-

Speaker 5: 00:21:13 Is that a reason, is that something that is within the control of the airline?

Scott Streiner: 00:21:17 Right. At what point is it too many dominoes away to kind of still be-

Speaker 6: 00:21:23 [inaudible 00:21:23]

Scott Streiner: 00:21:32 Can't handle it, yeah. Yeah.

Speaker 6: 00:21:39 [inaudible 00:21:39]

Speaker 7: 00:21:39 A numbers of years ago [inaudible 00:21:40]. When I got to the airport and checked in, they basically told me the first flight they could get me on was Friday because just the backup and the pileup of people and not enough airplanes, and it was Christmastime, so the flights were full to start with. So, that just kind of rolls you through because there's one or two flights a day only.

Scott Streiner: 00:22:08 Because there's not a lot of capacity in the system, right? The airlines are trying to run as tight as they can to be as efficient as possible, and they'll say that helps keep prices down, but I guess the question that's gonna come up for us is, "Okay, so you run a very tight fleet, but at what point are we too many dominoes away, and do you actually own the effects of that?" And it don't know what the answer to that's gonna be, but I think we're gonna have to grapple with it as we write the regulations so that we're not debating every case.

Speaker 8: 00:22:40 So, as I was sitting here listening to some of the stuff this morning an this, I'm starting to think so when the regulations finally are written and in place, is there some kind of end-goal for the airlines to be mandatorily responsible for this? Is it something that ... if a customer is in a situation, say, everybody gets grounded for hours, is it an automatic compensation, or is it just the people who are willing to go through the process won't be denied and won't have to fight for it? Is it one of those things where if you're willing to put up with the back and forth of dealing with a claim, they're gonna approve it? Or, is it everybody on the plane gets 500 bucks because you're all late. I'm just curious if there's an end goal for mandatory compensation. Thanks.

Scott Streiner: 00:23:27 So, it's a really good questions. I think that our preference is where it's cut and dry, where there's no debate, it should be as smooth and as automatic as possible to the traveler. Now, we'll see how this all plays out in practice. But I think, just from a common sense perspective, if it is a situation that even the airline's not debating was within their control and therefore compensation kicks in, we want a system that is as efficient and as straight-forward as possible for the passengers because then it's an entitlement. It's not a question, right?

Where there's a debate, like, let's say it is in the gray zone, and the airline goes, "Yeah, I don't think so. This was a safety issue," and some of travelers say, "No, we think this was category one. This was within your control," then we may have adjudicate. We may have to hear those complaints and actually make a decision. But, what's helpful is that Parliament included, in these recent changes to the law, the authority for us to make an order in a case like that for all the passengers on the plane.

So, even if you're the only one who comes forward, if we say, "She's right. This was within the control of the airline, so she's owed the compensation," but we can then order the airline to pay the

compensation to everybody on the plane. So, that actually should help. It's called a general order power, and it should help us not force every single person to come forward with a claim where there's a debate.

Speaker 8: 00:24:54 [inaudible 00:24:54]

Scott Streiner: 00:24:56 To just deal with it. That's the idea.

Speaker 8: 00:24:59 [inaudible 00:24:59]

Scott Streiner: 00:25:00 The idea, really, I think, ultimately, is to have a regime where there's as little ambiguity as possible so that attitudes change, the travel experience improves, but not only so that travelers are clear on what their rights are, but so that they know how they can get those rights satisfied with a minimum of effort and drama. One of the issues that we've noticed in the course of our work over the years is that part of the issues is people having rights; part of the issue is people knowing they have rights. So, we want to make sure we get good communications obligations in to these regulations as well as just good standards of treatment and compensation.

Speaker 8: 00:25:42 [inaudible 00:25:42] in terms of having like a central office that all of these complaints could be filed through.

Scott Streiner: 00:25:52 That would be us. That would be us.

Speaker 8: 00:25:53 So, do you have like a customer service thing for every airline customer in Canada to go through you instead having to deal directly with each airline?

Scott Streiner: 00:26:03 So, the answer is, "Yes, but." Yes, we are the place people can turn to if they have any air travel issues, but the first question we always ask is, "Did you try to resolve it directly with the airline?" Because what we don't want is we don't want people skipping a phone call to the airline or an email to the airline and coming straight to the government agency. But, if somebody says, "I've tried to resolve it with the airline. We can't come to an understanding," then we are the central place that they can come to, and we will process the complaint.

Did you still want to jump in? You had your hand up earlier.

Speaker 9: 00:26:38 Well, yeah, just upon that note is that that's how it is now, that you go to the airline first, then you go to CTA. So, the legislation, as you say, there's a general-

Scott Streiner: 00:26:57 General order power.

Speaker 9: 00:27:00 Order power. So, really, they don't necessarily have to go to the airline first. They'll go right to you. Is that-

Scott Streiner: 00:27:11 If somebody comes to us, here's how it would typically unfold. I'm not saying every case, but the vast majority. We've developed an online complaint form for air travel issues, very easy to use; five, six minutes, you get all your basic facts in. "This was my flight. This is what happened. Here's what I'm seeking." Boom, it comes in.

The first thing we'll ask ... we have a service standard where people will get a phone call from one of our agents within a week of sending in that form. And the agent'll say, "Did you try to fix this with the airline?" If the person says no, the agent, our agent, our officer will say, "Okay, here's the number to call. See if you can resolve it with the airline. If you can't reach a solution that you think is fair and reasonable, come back to us."

If they come back to us, then we try informal dispute resolution, facilitation, mediation. It might involve a few phone calls. Maybe we convene a meeting, and we have a mediator sit down with them, and, if at the end of that informal dispute resolution, which is usually about 30 to 60 days - we don't let it drag on -, we'll then say, "Okay, so, are you satisfied now?"

And if the person says, "Nope, didn't get a deal, still not happy," then we can adjudicate, and then we act like a court of law; we hear evidence, and we can make a binding order. But, as I said earlier, only about 5% of cases escalate to that point. We're happy to use the full force of our authority as a tribunal and do that when we need to, but, generally, we think that both passengers and airlines benefit if we can reach resolutions without having to do that in most cases. So, that's kind of how the process unfolds.

Other questions and comments? The door are actually locked, and you can't leave here until ... so, I'm gonna throw a question out there and see if I elicit a response, and if not, it's fine. I mean, we wanted to give people the chance, but we're not gonna put anybody on the spot. But there's two or three issues that we're thinking about that are identified in the discussion paper where I'd be interested in whether anybody's got any views.

One of them is around ... People tend to talk a lot, when we discuss these regulations, and I did earlier, about cancellations, delays, bumping, so we spend a lot of time with those issues, but I'm gonna actually turn to some of the other ones.

Los and damaged bags. So, what the law says is we should establish a minimum compensation level for lost and damaged bags. So, we're asking

travelers, what do you think that should look like? Should it be a dollar amount? Should it be the value of the bag? Should it just be a refund if you paid a baggage fee? What should the regulation set as the minimum payment if a bag is lost; the minimum payment if a bag is damaged?

Speaker 10: 00:30:05 How does the Montreal Convention then factor in to that? If you're asking ... there's already minimums in there.

Scott Streiner: 00:30:15 For those that don't know, the Montreal Convention is the international treaty for air travel that, among other things, provides remedies for travelers. So, in fact, what the Montreal Convention does is it sets a maximum. Montreal Convention sets a maximum for lost bags. So, these new regulations will say, "At least this much." Eventually, if you were on an international flight, you might hit the Montreal the convention maximums. Yeah.

So, Montreal Convention is maximums, and these are minimums. It differs in the Montreal Convention in that way, in that it's a floor, not a ceiling, but also these regulations will cover domestic as well as international flights. The Montreal Convention only covers international. So, this'll cover both.

Speaker 10: 00:31:01 [inaudible 00:31:01]

Scott Streiner: 00:31:03 Yeah. Montreal Convention caps it. We're saying, "At least this much."

So, any thoughts on ... I mean, other than inevitable \$10,000 answer or whatever, which ... No? You look like you're tempted.

Speaker 11: 00:31:22 [inaudible 00:31:22]. There's some pretty big dollars. Don't get me wrong. I'm not in the-

Scott Streiner: 00:31:41 The diamond-smuggling business.

Speaker 11: 00:31:42 Yeah, I'm not that, and I'm not carrying Luis Vuitton luggage, but I'm just saying, if you're packing for two weeks in Europe, and you're coming back on the Queen Elizabeth across the Atlantic, you have to wear ball gowns every night, your luggage might be worth a heck of a lot more than, "I'm taking a trip to Cuba, and all I want to bring with me is my bathing suit."

Scott Streiner: 00:32:02 And then the questions that comes up for us is, so, should the minimum be based upon the value of the luggage, or should we just say \$25, or should we just say any baggage fee you paid? Because the tricky part, again, in terms of the regulations, is if we say, "Well, the minimum payment is the value of the luggage if it's lost," and I'm not saying that's not where we'll land, but then you get in to the tricky business of how do we establish the value of the luggage? Because who keeps all the receipts

for all of the items in the bag and has evidence for what was in there? So, I'm not saying it's not a good idea, but we have to think about, practically, how we would implement something like that.

- Speaker 11: 00:32:36 Yeah, that's a tough ... but yet, to set a \$25 amount on it is kind of an insult.
- Scott Streiner: 00:32:41 Right. So, it seems ridiculously low, so then, what do you ... So, that's why we're asking the question. The law says, "Set a minimum." We gotta figure out what that minimum looks like. Anyhow, keep thinking.
- Liz Barker: 00:32:55 An answer, and you don't feel comfortable discussing it today, there is an online survey, and you can think about what price might be appropriate, or method, and that would give you time for reflection. And we're open to having that type of informal-
- Scott Streiner: 00:33:06 And we're taking input any way people want to provide it to us. And then ... oh, go ahead. Because there's one more I also wanted to raise.
- Speaker 12: 00:33:14 And, it's ...
- Scott Streiner: 00:33:16 Yep, it's working.
- Speaker 12: 00:33:17 Okay. So, just I wanted to throw it out, so that it might spur some thoughts, that in the U.S., it says if it's damaged, the airline will usually pay for repairs or negotiate a settlement to pay its appreciated value. So, on domestic trips, the airline can invoke a liability ceiling that is regulated by the DOT, and that's adjusted for inflation every to years. The limit's currently 3,500, but that's again-
- Scott Streiner: 00:33:17 That's the cap.
- Speaker 12: 00:33:53 Taking about maximums, not minimums. And then they talk about the special drawing rights. In Europe, it's up to - again, maximums - 1,000 special drawing rights, but it's dependent if the baggage is checked, or I guess it's different if it's unchecked. But-
- Scott Streiner: 00:34:21 Yeah, it's actually interesting because I'm not ... I look to staff. Jordan's back there. I don't know that there other jurisdictions that have set minimum payments for lost and ... Jordan is shaking his head. He's our subject matter expert on tariffs. So, I don't think, Jordan, there are other ... like, we're gonna be the first ones who say, "This is the minimum." We've got maximums but not minimums, right?
- Jordan: 00:34:42 Yeah, maximum's kind of threshold so for, and it's mostly through Montreal. And then, the U.S. went their one way with their domestic.

Scott Streiner: 00:34:49 Right. So, we're gonna have to obviously think about this. We don't want to set a minimum payment which is so low that it's insulting, as you said. On the other hand, maybe somebody did just check their [inaudible 00:35:01] bag with a couple of bathing suits and a baseball cap in it, so we want to be careful that we're not setting irrationally high minimums as well.

The other issue that I wanted to raise is - I don't know how many folks here travel with kids under the age of 14, but - the legislation says that we should make rules around the seating of children 14 and under in proximity to their parents. So, there question is, well, what does "in proximity to the parents" mean, parents or guardians, and should that vary by age? I know we'll get a few people giving input on where other passengers should be seated relative to the screaming child, but that's not within our regulatory power.

So, I don't know if anyone's got any thoughts on ... I mean, I think everybody agrees that when the kids are little, they should be next to their parents. The question is whether that should be loosened up as the kids get older. I don't know whether anyone's got any views on whether the regulation should be kept simple and just say, "If it's a kid under 14, they're next to their parents," or if we should provide greater flexibility as they get older. For those of you who have children and may or may not want them close to you during a flight.

Speaker 12: 00:36:16 So, first, I should actually say. I did introduce myself to a couple of people. My name is [Heather Craig Petty 00:36:22], and I'm the Vice President of Advocacy and Member Relations at ACTA, the Association of Canadian Agencies.

Scott Streiner: 00:36:28 Great. Thus, your high level of interest in the knowledge. Great.

Speaker 12: 00:36:37 At ACTA, we had formed a CTA review committee, and the committee, they conducted a jurisdictional scan of both the U.S. and Europe-

Scott Streiner: 00:36:55 And Europe.

Speaker 12: 00:36:56 And what the proposed legislation had been at the time. So, in actual fact, the committee, after much debate, discussion, was satisfied with the age of 14. What we thought could be just, I guess, if anything, emphasized - and maybe it already exists within -, just to ensure at the time, we were saying that the legislation includes special needs and those requiring and traveling with assistants.

I know that some of that would be covered under another act, but that was something that we wanted to make sure.

Scott Streiner: 00:37:42 That's actually a really important point, and it's one that came up earlier this week. Earlier this week, Liz and I held a meeting with the CTA's Accessibility Advisory Committee, which brings together community organizations working on disability rights issues and the travel industry, transportation industry. And we talked about these regulations and we asked the folks, mostly from the disability rights organizations, are there accessibility dimensions to any of these consumer rights that we need to keep in mind as we're making the rules?

Now, I should explain that we have a whole other process under way, which I think you were referring to, to develop modern accessible transportation regulations. So, there's a whole regulatory package we're working on to protect accessibility in general. But the question that we're asking, and it's still an open question, is whether anything we're doing with respect to these consumer protection regulations should also have an accessibility dimension. And you've just raised a really good example.

So, if a kid is under 14 ... let's say we do say the child has to be sat right next to the parent up to a certain age but within a row or two if they're this age or older, does that change if they're special needs, right? To pick up on what you're saying ... or, when we make minimum standards of treatment for people if there's a flight delay or a flight cancellation. Is there any variability in those standards of treatment if somebody's got special needs because they've got a disability of some sort?

So, you raised a really good question. It's very much in our minds. We got an initial round of input from the disability rights organizations on Monday. We're gonna want to be careful, to be honest, not to make these regulations too complicated, but accessibility is one of our core mandates, and we also want to make sure that these regulations take account of some of the particular needs of travelers with disabilities.

Okay? Any other questions or comments? Yep? John is literally sitting behind you with the mic, just ready.

Speaker 14: 00:39:57 I was on a conference call yesterday with a team from CTA, and one of the things that came out in the call that I didn't read in any of the documentation that was on the website is the idea of there being new regulations in regards to unaccompanied minors. And I found that to be really quite fascinating. I'm totally in agreement with the reasons why it would be started to be eliminated or at least restricted, but I know it's not in any of the documentation. I was just kind of wondering if anyone here had anything to say on that.

Scott Streiner: 00:40:33 That's a really good point, and it's a good reminder for me - not only at this session but future sessions - to note that there are two or three areas where we're seeking feedback during these consultations, that weren't

covered by the legislation that gave us these new regulatory authorities because they come from somewhere else.

One of those is the travel of unaccompanied minors, and that actually stems from Canada's international treaty obligations. [ICAO 00:40:57], which is the governing body for international air travel, passed some treaty modifications that require every member state to make rules around the travel of unaccompanied minors. So, we said, "Well, this is rather convenient timing. Canada needs to come in to compliance with these international treaty obligations just as we're consulting the public on air passenger protection, so we're gonna add that questions to the mix." So, that's context.

In terms of the question, really, it's around the making of rules for unaccompanied minors when they travel. But one key question is what's an unaccompanied minor? What age should be treated as the age for coverage of unaccompanied minors? Should it be adulthood? Should it be 18? Should it be 19? Should it be younger? We need to think about that as we make these new rules.

Speaker 12: 00:41:52 So, just to clarify, actually, when we went through the legislation, when we looked at 14, it was like, "Yeah, that's okay." So, we were fine with that. However, when you look at what the other carriers are, their level, what they've already set and what the international level is is 12. And that was actually our recommendation for unaccompanied. The legislation that it should be more aligned with the mandatory international rules for unaccompanied minors, and that is 12. So, 14 is what it ended up-

Scott Streiner: 00:42:36 14 is for the sitting with parents provisions, and then there's this question around unaccompanied minors, but you might argue that you'd want to align the two, right? Like, why not have the special rules kick in with respect to both?

Now, another one of the issues, just sort of as we head toward the conclusion, but another issue that's raised in our discussion paper and that we'll likely cover in these regulations but is not a function of this new legislation is around air price advertising.

We currently have regulations in place on air price advertising, and, basically, they say, quite simply, you would know this from [TECO 00:43:14], airlines and others who are advertising airfares have to advertise the entire airfare. You'll recall that there used to be a situation where you'd click onto an airfare, it looked great, and then all the surcharges and taxes would kick in at the end, and you'd be paying twice as much. So, we made regulations that said, no, that's not okay. When you advertise an airfare, it's gotta be the whole thing. You can say at the end what the different pieces of that were because some airlines want travelers to understand that only a part of that is actually going to the

airline, but when people are searching for fares, they've got to see the full fare.

So, we're asking, as part of these consultations, if any of that needs to change. And one issue that's been raised with us is there are these new programs that actually allow people to bid on tickets, and it's almost like auctions on tickets. So, the question is, should there actually be some ability around airfare advertising? Should we adjust some of the rules, make some of them maybe more flexible or adaptable so that things like online auctions for tickets are facilitated. Because right now it's at least debatable if the current rules allow them. I don't know if anybody's tried those auction sites for tickets or if you think that we should tweak the rules to allow it, but the public liked and likes the all-in price advertising rules. So, the question is whether we should just leave them, keep it simple, just require the full fare to show every time, or if we should create some space for things like online auctions. Any thoughts?

- Speaker 12: 00:45:02 I can't comment on that because I haven't done any consulting. However, one of the things that we had considered during that time that those regulations were developed and implemented with respect to the airfare advertising was the actual to go beyond and extend it to charters because right now a company can make it so that a portion of ... they'll tax something, they'll tie something to it, just so that they don't have to abide by the rules.
- Scott Streiner: 00:45:46 Sort of move it into the charter territory, right?
- Speaker 12: 00:45:57 Yes.
- Scott Streiner: 00:45:57 [inaudible 00:45:57] Pretty close. That might be a sign. Any final questions or comments on these new regulations? What's that? Yeah, well, it's a pretty exciting time for the CTA, to be able to create something new that Canadians have been waiting for for so long is exciting. The trick in all of this is going to be strengthening air passenger rights in a way that Canadians feel actually makes things better and that concretely makes things better and, at the same time, making sure that we stay balanced, that these regulations are fair and balanced to all parties. So, we have our work cut out for us, but it's an exciting time to be doing this kind of work. So, thank you everybody for coming out ...
- Speaker 12: 00:46:47 Sorry, I had a had a question about, so, the tarmac delays, I thought that got changed from three hours to the 90 minutes.
- Scott Streiner: 00:46:57 It did not. For those that are interested in a little bit of the backstory, some airlines currently have, in their own tariffs, their own terms and conditions of carriage, provisions that say, for example, they'll consider disembarking passengers if a tarmac delay goes longer than 90 minutes.

There's no rule that says that. There's no binding regulation, but some airlines chose that 90-minute benchmark.

The government chose to put a three-hour timeline into the bill that had tabled a year ago for special provisions related to tarmac delays. That issue was much debated in the House of Commons and in the Senate. The Senate, in fact, amended the bill to change it to 90 minutes, but when the bill went back to the House of Commons, the House of Commons rejected that amendment. So, the bill continues to say that there's gonna be some provisions, some general passenger rights that apply to all delays, and that would include a tarmac delay. For example, if you're owed compensation of x dollars if you reach your destination y hours after the planned arrival time, you'll get that compensation whether you were sitting in the terminal or sitting on the plane. But, for the special, supplemental entitlements that kick in on a tarmac delay, Parliament decided that that would be only at the three-hour mark. So, you're right that it was changed, but, ultimately, the change wasn't accepted. There was a really back and forth between the House of Commons and the Senate until this bill was actually passed.

- Speaker 12: 00:48:35 So, I have another question about are we ... is it sticking to just these points? Is there an allowance for other issues? Where I'm going is that our agencies, our member agencies, deal with, frequently, issues where travelers get stopped due to-
- Scott Streiner: 00:49:07 Name issues?
- Speaker 12: 00:49:08 Yeah, name changes. So, is that going to be considered in all of this?
- Scott Streiner: 00:49:16 The simple answer is no, not that we don't think it's an important issue. But, what I said for those who were here in my opening remarks this afternoon is we can only regulate with respect to the issues where Parliament's given us the authority to regulate. And things like that, I don't think there's any reading of the legislation that came into force on May 23rd that allows us to regulate things like name changes.

Now, that doesn't mean there's no recourse for travelers. We could still take a complaint about that issue, and if we found that the airline's terms and conditions in this area were unreasonable, we could order a change. So, people can still file a complaint on those kinds of questions, and we can still ultimately adjudicate and order changes. But, in terms of there being common binding regulations, that's an example of a topic where we simply have not been given the power to make a single standard regulation that cuts across all airlines. So, we would have to deal with that on a case-by-case basis if somebody brought forward a complaint.

We've got all evening.

Speaker 16: 00:50:23 Back to the tarmac delay conversation because this came to me just as you were discussing. It takes me back almost to the same conversation that we have in regards to mechanical failure. Only once have I ever really been stuck on the tarmac for a long period of time, and what they told us is they could not let us deplane because there was lightning in the region and, of course, that makes you a target because we didn't even have like a it was like climb from the stairs of the aircraft, walk across before you went into the airport. So, we were stuck there/

But, are those conditions regulated by another piece of legislation that says, "You absolutely cannot leave the airplane because of safety," or the airline is choosing to not put you to a gate because they don't have an available one and they don't want to deplane and go through the process? Is there a gray area there, or is it very clearly cut and dry?

Scott Streiner: 00:51:22 First, I'll say, when it comes to safety considerations, the safety rules for airlines and enforced by Transport Canada, so Transport Canada is the ministry. We're a separate and an independent agency. And we've said all along that safety is non-negotiable, so the safety rules are the safety rules, and whatever rules we make around consumer protection, and through our process on accessibility, will never come at the expense of passenger safety.

When it comes to questions like disembarkment in a situation where there could be a risk to passengers, again, I don't want to get ahead of the consultation process and anticipate the outcomes, but we know that, for example, in the United States where airlines are obligated to have contingency plans for tarmac delays, the language often says something like, "The airline will disembark passengers, as long as it's safe to do so." Or, "The airline will offer passengers an opportunity to disembark, as long as there's no risk to their safety."

So, it may be that, assuming we're going to have mandatory disembarkment kick in at some point, that we would have similar sorts of language. At some point in time, you shall allow people off the plane unless there's a demonstrated risk to them in doing so. Again, I don't want to go too far in anticipating the outcome of the consultation process, but that's language that we say often times in tarmac delay rules.

Now, you might still have debates about individual circumstances and whether, in this particular case, there was a risk to passengers, but those'll get resolved then on a case-by-case basis.

Speaker 16: 00:53:08 And the travel chain, the whole process involves many stakeholders, from customs and border security ... so, where does that all fall in, and, knowing that this legislation really does shine a light on the airlines and what their responsibilities are, but there are many instances where it is

beyond ... but yeah, where does that fit in when it is a delay, a cancellation, all that is due to another stakeholder?

Scott Streiner: 00:54:03

Right. So, I'll begin with two points. One is you're absolutely right. The law gives us the power, in this area, to regulate with respect to airlines. Parliament has not given us the power to make regulations in terms of customer service by airports, for example, or CBSA. We do have the power to regulate those entities for accessibility purposes. So, those accessibility regulations we're working on will cover CBSA [inaudible 00:54:32] the airlines but not the consumer protection regulations. Welcome.

On the one hand, we don't have the power to regulate for consumer protection around those other entities. On the other hand, we all recognize that the air travel experience is affected by a supply chain and by a multitude of stakeholders.

And I'll give you a practical example. Last year, in the Air Transat case, where we held fairly high-profile hearings, our decision ultimately found that Air Transat had not fully respected their obligations to travelers, but it also acknowledged that there were other players in the mix. Now, the fact that some of those other players may have fallen short didn't absolve Air Transat of their responsibilities, but it meant that there's a wider ecosystem, if you like, of people that are involved.

So, what we can do for consumer protection is we can make regulations with respect to the airlines. We can continue as the CTA to encourage airlines and airports and CBSA and CATSA to work together and to develop plans so that things flow as smoothly as possible. So, it's non-regulatory, but we'll continue to push on that front.

The other thing is we hope that once we make regulations that establish clear obligations on the part of the airlines around passenger protection, that that will create incentives for the airlines to work with their partners and press their partners to make sure that things work as coherently as possible. So, we think that this may create the right set of conditions for airlines and airports and CBSA and CATSA and everybody else just to talk and to try to make sure that they're ready for situations where events are unexpected, where unexpected things happen, and that might create challenges for travelers. Because we've had two folks join us, I'm just gonna let them know what we're doing here, so welcome. Thank you for coming. We had no formal presentation scheduled this evening, so we're having just a bit of a back and forth with anybody who wants to ask questions or offer comments on anything related to air passenger protection. Liz Barker is the CTA's vice chair, and I'm the chair, and we will ultimately be making regulations on air passenger protection based on the input we receive during these consultations.

So, it's a free-flowing discussion. You are welcome to pose questions or offer comments as you wish. Go ahead.

- Speaker 16: 00:57:08 Going back to compensation, what if it covers another jurisdiction that offers compensation as well? How are you going to work with other countries if it's Europe? If it's the United States, where there are regulations in place, so how are you going to handle that?
- Scott Streiner: 00:57:37 I'm not sure how we're gonna handle it operationally, but I know what the principle is because Parliament's established the principle. Parliament has said you only get compensated once. So, the law actually says, if you've received compensation under another regime, then you can't receive compensation under these new regulations. We'll have to look at how we operationalize that, but I would suspect it may be as simple as saying to somebody who brings forward a case, "Hey, have you received compensation under some other regime," and if they say yes, then we probably say, "We may be able to help you with other matters, but you can't compensated for the same event. That's what the law says."
- Speaker 16: 00:58:19 Are the two regimes connected? Is there data flow that you can tap into to verify, validate that that's correct, the information that's being ...
- Scott Streiner: 00:58:37 So, that's an operational question that we're looking at. You may think it would be simple with Europe, but it's not simple with Europe because, while there's a central set of regulations, there's national administration of those regulations. But we're looking at, operationally, how would we actually be able to share information with other jurisdictions.
- We speak regularly with our counterparts, the regulators in the U.S. and in Europe. So, we're in regular contact, but there's an operational question here. If we need to validate whether or not somebody has received compensation under another system, how can we do it? So, that's an operational question that we're looking at right now.
- Other questions and comments? I will ask our two new ... not to put you on the spot, but we were getting pretty close to sort of exhausting the questions and the comments in the room. So, I don't know if you came to ask questions or offer comments on any particular element of air passenger protection or if you just came out of interest to observe because if you have any questions, now's a good time.
- Speaker 17: 00:59:46 [inaudible 00:59:46]
- Scott Streiner: 00:59:51 Apologies, but you can see it's very informal, other than the fact that you're about to handed a microphone. It's ... well, it's because we've got an interpretation service, yeah. Karaoke session starts immediately after the consultation's done.

Speaker 17: 01:00:08 Oh, is that what this meeting's for?

Scott Streiner: 01:00:09 Yeah.

Speaker 17: 01:00:09 Excellent. I'm actually curious. You're discussing other countries, so where is that all following under? There's U.S. law, Montreal Convention, and then EC 261. So, if we're compensated here in Canada, you're saying there's no compensation ... or, sorry. Let's say we're compensated by EC 261, we can't have another compensation happen here in Canada?

Scott Streiner: 01:00:37 Right. So, the way that Parliament passed the law, and I can't remember the precise language of the provision, but I basically says if you're compensated for that event under another regime's rules, then you can't be compensated a second time under the Canadian regulations.

Speaker 17: 01:00:54 Okay, interesting.

Scott Streiner: 01:00:56 Mm-hmm (affirmative). Also, I will simply observe - just straight, factual observation - that was not actually the subject of much debate or discussion when the bill was before Parliament. So, this was an element that was included in the bill from the get-go, and there were certain aspects of the bill that were quite hotly debated. This particular aspect, the one compensation rule, did not come up very much in the parliamentary hearings.

Speaker 12: 01:01:26 That doesn't surprise me because I've done quite a bit of jurisdictional research in regards to just travel regulation, and pretty much every regulation around the world that has any kind of compensation built into it says the same thing in some way, shape, or form.

Scott Streiner: 01:01:43 The policy choices are for the government and Parliament to make, right? We are now making the regulations, but I assume that the logic is, some flights might be covered by two or even three regimes, depending on what the routing was, and the idea would be that an airline would be obligated to compensate once but not more than once for the same event. I assume that's the underlying logic.

Speaker 12: 01:02:03 Yeah, it goes back to the whole idea of trying to make a passenger whole versus trying to give them gains.

Scott Streiner: 01:02:08 Right. It may mean, by the way, just as a corollary, that passengers may make choices, right? If there's a flight between Toronto and Brussels, and it's delayed by x hours, then a passenger may make a choice under which regime they want to see compensation.

Speaker 17: 01:02:34 So, you mentioned Toronto and Brussels. Would that give Canadians a choice to bring it to the Brussels regime, if they had one, versus Canada's?

Scott Streiner: 01:02:43 So, Brussels would because there's the EU regulations. So, I'm gonna answer the question, but I'm gonna just put the caveat that each situation might be a little bit different. But here's what I would say. On the compensation side, I think the answer is likely to be yes. If the passenger were entitled to compensation under both regimes, I think that the way the law is written, they could opt for one or the other to seek compensation.

But the regulations don't only allow us to set compensation levels. They also have us setting minimum standards of treatment. So, those might actually be much more clearer cut. Let's just say, for sake of argument, that the departure from Toronto is delayed by six hours. Well, there, clearly, any obligations around the provision of food, for example, or water, or, if a flight were delayed 24 hours, accommodations. Those would be the Canadian rules, right? Because you're on Canadian soil, the delay is happening in Canada, so there there'd be no ambiguity.

Where I think you could see some ambiguity is less around standards of treatment, food, water, accommodation, information, things like that, and more compensation. I think that's the main area where passengers might have to make a choice. Make sense?

Speaker 12: 01:04:11 So, the legislation did not include or address anything about downgrading.

Scott Streiner: 01:04:19 Right, although we had an interesting intervention on it earlier today.

Speaker 12: 01:04:19 Oh, did you? Okay.

Scott Streiner: 01:04:21 So, it did not, but go ahead.

Speaker 12: 01:04:23 No, it's just one point we had raised to the Senate was that we felt that that should be, or it was in our submission that that is something that it should be included, and, in fact, it is something that's addressed in the European Bill of Rights.

Scott Streiner: 01:04:50 So, I think a question ... one of the fascinating things about a process like this is through this dialogue you're alerted to issues that you hadn't thought about in the context of travel. I mean, even though Liz and I live and breathe this stuff every day, there's still all kinds of angles that maybe weren't front and center in our thinking. So, this is the second time today this has come up. And I think the question it will raise - back to definitions - is whether ... if a passenger has purchased a business-class ticket, for example, the airline has overbooked business-class seats, so the person is not told, "You can't fly," but, "You can't fly in the class you booked for. You can only fly in economy." Does that count as denied boarding?