

Response to the Accessible Transportation Discussion Paper
for Regulatory Modernization

Prepared for the
Canadian Transportation Agency

Greater Toronto Airports Authority

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Contact: Lorrie McKee
Director, Public Affairs and Stakeholder Relations
Greater Toronto Airports Authority
(416) 776-3008
Lorrie.McKee@GTAA.com

Toronto Pearson International Airport is a key part of Canada's transportation network, serving more than 41 million passengers in 2015.

This year, the Greater Toronto Airports Authority (GTAA) celebrates the 20th anniversary of the transfer of management and operation of Toronto Pearson from Transport Canada. The GTAA is a reporting issuer that is subject to the Securities Act (Ontario), and a "not for profit" corporation without share capital incorporated under the Canada Not-for-profit Corporations Act. It is not a Crown corporation or agency. The GTAA is authorized to manage and operate airports within the south-central Ontario region, including the Greater Toronto Area, on a commercial basis, to set fees for the use of its lands and facilities, and to develop and improve facilities.

Over the last 20 years, Toronto Pearson has grown into one of the world's most important global hub airports, serving as a key international gateway not only for Canada, but for all of North America. Today, the airport is second only to New York's John F. Kennedy Airport in North America for the number of inbound international passengers.

At Toronto Pearson, passengers are our passion. Delivering excellent customer service is a critical focus. The GTAA welcomes the opportunity to respond to the Canadian Transportation Agency's (CTA) *Accessible Transportation Discussion Paper for Regulatory Modernization (Paper)* and provide our feedback on a number of the issues in the *Paper* the GTAA believes are critical to the continued success of Canada's aviation sector and growth at Toronto Pearson.

General comments

As the operator of Toronto Pearson International Airport, the GTAA is responsible for the construction, maintenance, and operation of airport facilities. Airlines and other transportation service providers at Toronto Pearson are responsible for meeting the accessibility needs of their respective passengers or customers. In this regard, the role of the GTAA is that of a facilitator for airlines and other airport service providers to deliver services to their respective passengers and customers.

To avoid duplication and an unwarranted regulatory burden, the GTAA recommends that any regulatory changes take into consideration the current regulatory environment and that any proposed changes amend, simplify, or clarify regulations to the extent possible, and not create a new, duplicate, or more complex regulatory regime.

Scope of modernized accessibility standards

The GTAA complies with the numerous federal regulations and standards which collectively establish accessibility standards across Canada. These include, without limitation, the National Building Code, National Fire Code, Model National Energy Code, and TP312E Aerodrome Standards. In addition to complying with these standards, the GTAA acts as a facilitator to all other service providers that operate at Toronto Pearson and provide services to passengers. The GTAA proactively engages these service providers to ensure they are aware of applicable accessibility requirements. Furthermore, all GTAA leases, operating, and other commercial agreements with our service providers include a requirement to comply with accessibility

standards and legislation. These airport service providers, however, are ultimately responsible for their compliance.

As the GTAA strives to deliver a world-class customer experience, it would be beneficial to all, including the passengers with disabilities, to ensure that any new or amended accessibility standards enacted provide for prescriptive, object-based standards that nevertheless offer flexibility in terms of satisfying such objectives, thus allowing airports to address different operating environments, and most importantly, enable those service providers who choose to provide a higher level of service to do so. Additionally, airports should be permitted to meet such standards through a contingent response should an unusual situation occur.

Issues common to all modes of transportation

With respect to the inclusion of the technical standards currently in the *Code of Practice: Removing Barriers for Travellers with Disabilities* into proposed regulations, the GTAA recommends that only standards that are not already in place in other legislation be included and that these standards align with existing regulations. Ideally, these standards would also align with those in competing markets, such as the United States. This allows for greater operational efficiency and a seamless passenger experience.

The GTAA does wish to draw to the attention of the CTA that, for many of the modes of public transportation that connect into the airport, such as taxis, limousines, busses, and in the case of Toronto Pearson, the Union Pearson Express train (which is operated by the Province of Ontario), only a portion of these services are performed in respect of the federal aviation undertaking. These parties are invariably subject to regulation in respect of their activities by one or more government branches (e.g. taxis by municipalities and the train by the province). Given this fact, the concern would be in creating additional or potentially conflicting layers of federal governmental oversight and regulations for entities whose business only tangentially relates to the federal aviation undertaking.

With respect to proposed changes to the *Personnel Training for the Assistance of Persons with Disabilities Regulations* (PTR), the GTAA recommends that the CTA provide guidance on what constitutes compliance with the PTR, especially how frequently training should be undertaken, and what responsibilities an airport authority would have to audit compliance with this requirement by its contracted service providers. In practice, the GTAA requires airport service providers to comply with the PTR, and the GTAA confirms that they are compliant with the regulations.

While the airlines have the regulatory responsibility to ensure that passengers are conveyed to their aircraft seat, the GTAA nevertheless complies with all training requirements under the PTR. All GTAA passenger-facing staff are fully trained to assist passengers with disabilities, and such training is maintained on an ongoing basis.

Technical standards—Terminals

Toronto Pearson terminals meet all federal regulations regarding accessibility standards, and the CTA has advised us that the GTAA is fully compliant. The GTAA does not foresee any

material burden in meeting any further provisions in the *Code of Practice: Passenger Terminal Accessibility (Terminal Code)*. That being said, the GTAA notes that many of the provisions of the *Codes of Practice* are not prescriptive and are extremely general. While the level of generality is not problematic in the context of non-regulatory “code of practice,” the lack of specificity would be highly problematic in the context of mandatory regulatory obligations. For example, Section 2.4.5 of the *Terminal Code* requires that “boarding equipment... be used in a manner to provide safe *and dignified* boarding and deboarding of persons with disabilities.”

The GTAA recommends that, to the extent that the CTA intends to convert the *Terminal Code* into regulatory requirements, the CTA either address this lack of clarity or convert into regulations only those portions of the *Terminal Code* that are in fact prescriptive in nature.

The GTAA recommends that, even with respect to those prescriptive requirements, any regulatory regime should provide for the satisfaction of such requirements through equivalent solutions that focus on objectives instead of specific “one size fits all” methodologies or solutions. In other words, the objectives should be prescriptive and carefully defined, while allowing for flexibility in terms of the method of satisfaction of those objectives. This is how building codes are increasingly structured. This approach will allow airports, and other stakeholders, the flexibility to design solutions that are consistent with their size and nature of operations, and will also allow for innovation, and changes in technology or design.

Regarding passenger access to pet relief areas from the secure side of the airport, the airport authority provides such areas in Terminals 1 and 3, available 24/7/365 for the use of passengers. These pet relief areas are on the public side. Passengers on the secure side are escorted to these areas by airline staff, given this is the airline's responsibility under the CTA. Creating these areas on the secure side would increase the risk to passengers and their service animals as hazards exist in these areas. The GTAA recommends that the current practice be maintained.

Regarding the suggestion that the CTA pre-approve all airport construction and renovations, the GTAA believes this would significantly slow down the GTAA's construction process and increase both costs and delivery schedules without any material incremental benefit, given that any new construction or renovation must comply with all regulatory requirements as a matter of course. As noted, Toronto Pearson terminals meet all federal regulations regarding accessibility standards, and the CTA has confirmed the GTAA to be fully compliant. The GTAA's Facilities Alteration process ensures that all projects are designed and constructed to fully comply with accessibility standards. Further, the GTAA files a notice of project with Transport Canada, which the GTAA would be willing to also send to the CTA for its records, and random audits could be conducted after construction to ensure compliance.

Systemic issues

The GTAA notes the CTA's concern with respect to the fact that a decision rendered with respect to one carrier or airport is not binding on the other carriers or airports, as appropriate. While these concerns are legitimate, the GTAA would caution against the implementation of measures that would make decisions regarding the circumstances of a particular airport binding

on other airports, in light of the material differences between the operations at each airport. The GTAA believes that such a measure could have significant unintended and potentially adverse consequences.

In considering complaints or disputes, the CTA tribunals have noted in their decisions that they consider each matter on its own merits and its own specific fact situation. This is an intuitively correct approach in our view, and as noted in the *Paper*, the circumstances of the airports in Canada are often vastly different in terms of facility configuration and operations. For example, the application of a decision made or solution reached regarding a small Canadian airport could be vastly different for an airport with the physical size and operational complexity of Toronto Pearson, and vice versa. In that sense, a “one size fits all” solution arising from a CTA decision may not advance the interests of the accommodation of persons with disabilities or of airports in their efforts to effectively meet their respective obligations to those persons.

A CTA tribunal may be placed in the position of making a decision or crafting a solution that would affect all Canadian airports without having received the benefit of submissions from those other airports as to the applicability of such a decision or solution to their own circumstances. A solution reached for one airport, therefore, may result in negative implications for people with disabilities travelling at another airport. It may result in each airport possibly needing to constantly seek, or at least consider seeking, intervenor status for itself regarding tribunal matters involving other airports.

It would effectively turn each CTA tribunal into a regulation-making body on its own; creating a fluid set of laws or regulations that could change decision by decision and impinge on the CTA’s own role as the body charged with sole regulatory authority.

The GTAA’s view is that systemic issues are more properly addressed at the regulatory level itself, and should be the subject of prior consultation with the industry. To the extent that a CTA decision may result in the identification of a systemic issue, the relevant tribunal itself can readily communicate such issues to the appropriate CTA level of authority to be addressed by way of regulatory or statutory means in the normal course.

The GTAA accordingly suggests that, as a general matter, the CTA continue the practice of having CTA decisions apply only to the fact situations before them.

Systemic issues—One person, one fare

The GTAA charges airlines an Airport Improvement Fee (AIF) for all applicable passengers: \$25 for departing passengers and \$4 for connecting passengers. The GTAA’s AIF agreements with airlines provide for extremely limited exceptions regarding who constitutes a “passenger”; those exceptions generally correlate to those who are required by airlines to purchase a ticket. It is our understanding that attendants accompanying passengers with disabilities are currently required to purchase an airline ticket that includes the AIF. Airlines collect the AIF from passengers and remit it to the GTAA.

Systemic issues—Curbside assistance

The GTAA notes that the current regulatory regime places the obligation to provide assistance to passengers requiring mobility assistance squarely and solely upon the airlines.

At Toronto Pearson, the GTAA requires all airlines to provide assistance to departing passengers with disabilities from the curb or a GTAA-operated parking garage. For arriving passengers, the GTAA requires all airlines to provide assistance to passengers with disabilities to the passenger's point of departure from the airport site, be it the curb or a GTAA-operated parking garage. The GTAA also requires airlines to facilitate in-terminal passenger transfers between Terminals 1 and 3. As a result, the service gap between curb and check-in has, in practice, been addressed at Toronto Pearson.

The services provided by airline representatives include wheelchair assistance, operating surreys throughout the airport on a continuous scheduled service, and guiding visually impaired passengers. Porter services for baggage also are available. Such assistance is provided by the airlines through a combination of their own staff and licenced, trained third-party service providers who have received licences from the GTAA, which permit them to operate at Toronto Pearson. The GTAA is not involved with the provision of services, with the following exceptions:

1. the GTAA maintains an inventory of wheelchairs and surreys for use by the airports and their respective service providers, who manage, repair, maintain, and replace such inventory; and
2. the GTAA monitors the performance of these services to ensure that passengers receive an appropriate level of service.

Passengers request these services directly from airlines generally on a pre-arranged basis at the time of ticket purchase. Where a passenger has not pre-arranged these services, they can be requested on site using one of the many information phones across the airport, including phones on the terminal curbs or in GTAA-operated parking facilities. While it is the GTAA's experience that most passengers with disabilities are familiar with the processes made available to them by the airlines, information resources are available at the airport and on our website to assist passengers in this regard.

The GTAA has long noted an existing gap in the legislative framework under which the physical point where the airline assumes responsibility for their passenger (curb, check-in counter, etc.) has not been defined. As noted above, the GTAA has worked extensively over the years to develop an approach that requires the airlines to address the needs of passengers with disabilities in an efficient and timely manner at the earliest feasible moment on airport property—specifically, the point of disembarkation of the passenger from their mode of conveyance to the airport (car, bus, train).

This approach has provided much needed clarity that has accrued to the benefit of all concerned parties, particularly the passengers. Moreover, it has created a virtually seamless obligation of the airline that avoids unnecessary “hand-off” points that would otherwise create stress and potential hardship for passengers requiring mobility assistance.

The GTAA strongly believes that the obligation to convey passengers from their point of embarkation at the airport to their aircraft seat properly rests with the airlines. For such passengers, there will always be an obligation to ensure that the passengers are conveyed on and off the aircraft; in fact, frequently, that is the most logistically challenging portion of the process for many passengers requiring mobility assistance.

The GTAA suggests that the Toronto Pearson model that defines the starting point for the airlines' existing statutory obligation (e.g. from the curb or a GTAA-operated parking garage to check-in and visa-versa) to assist passengers requiring mobility assistance can serve as the basis for a country-wide standard. Further, the GTAA recommends that the CTA enact stronger accessibility service level standards as well as reporting and auditing processes to ensure service level standards are consistently achieved by the airlines.

The GTAA also recommends that the CTA obtain the necessary funding and resources to regularly assess compliance and to enforce these standards themselves. As the GTAA is a non-regulatory entity and has no enforcement mechanism, it is not in a position to perform a regulatory function. It would not be appropriate or legal for the GTAA to perform that function even if it were so inclined.

Systemic issues—Reporting, monitoring and compliance

At Toronto Pearson, the GTAA collects customer compliments, complaints, and inquiries, which are reported regularly internally; however, given the airlines' responsibility to provide assistance to their passengers, it is likely that air carriers receive more of this feedback than airports do. If deemed of interest, the GTAA would be pleased to provide accessibility-related customer feedback received by the airport to the CTA.