



September 16, 2016

Canadian Transportation Agency Regulatory Modernization Initiative

Mitigating barriers to Canada's federally regulated transportation network for Canadians who are blind or who have significant sight loss

Canada's federally regulated transportation network has seen significant improvements for the travelling public over the past generation. The affordability and availability of safe, reliable intermodal transportation is almost taken for granted by those who board ferries, jets and buses. At Canada's busiest terminals, unaccompanied minors, travellers with family pets, and persons of varying abilities can be found frequently throughout our country's facilities.

At the same time, society is seeing an unprecedented growth in the numbers of travellers who both present unique needs and may not necessarily conform with the mould forged years ago. We are now at a unique point in history: a time where the population of persons over 65 is outpacing that of those under 25. Thus, it follows that as people continue to live longer, the diverse needs of the travelling public within Canada will continue to be transformed.

Given this unprecedented demographic shift, a modernization of the agency's regulations as they pertain to travellers with sight loss and other disabilities is timely.

In the coming months, Canadians with disabilities will be provided with a unique opportunity to provide input into legislation which will codify their

rights as citizens with disabilities. Thus, the timing of this initiative is ideal given that many barriers still exist within Canada's federally regulated transportation network for persons who are blind or who have significant sight loss.

Our comments will attempt to speak to the three goals identified by the agency:

- Ensure that industry's obligations are clear, predictable, and relevant to a range of existing and emerging business practices;
- Ensure that the demands associated with compliance are only as high as necessary to achieve the regulations' purposes;
- Facilitate the efficient and effective identification and correction of instances of non-compliance.

Within the context of transportation services accessed by travellers with sight loss, our discussion will endeavor to encompass the entire travel experience including researching suitable options, choosing service providers, purchasing travel services, as well as the journey and, where necessary, the complaint mechanism. We will also speak to the emergence of mobile devices and the opportunity this affords both travellers and facility/service providers alike.

[Ensure that industry's obligations are clear, predictable, and relevant to a range of existing and emerging business practices as they pertain to travellers with disabilities](#)

What should these expectations be?

These have been well articulated by the agency. The community of persons with sight loss has, through various stakeholder consultations including the Accessibility Advisory Committee (AAC), brought forward recommendations that have been embodied into the existing six codes of practice.

[Removing Communication Barriers for Travellers with Disabilities](#)

Following the introduction of this code of practice, expectations among would-be travellers with disabilities were high. The standards required to make websites usable were readily and freely available; all that was missing was a corporate will within the travel industry to adopt the standards.

Today, in 2016, many websites and online travel services remain, at best, difficult for someone using a screen reader or screen magnification software to use effectively.

Websites have completely transformed how travel information, including terms and conditions as well as competitive fares are conveyed to the travelling public. Yet, almost 12 years later, completing an online reservation using either screen magnification or text to speech software with many of Canada's service providers is difficult at best and impossible at worst.

Exacerbating the situation are many of the internal processes adopted by both service providers and facility operators alike. While beyond the "Removing communication Barriers" code of practice, the administrative steps required to complete a reservation can often prove unnecessarily complicated. Under the current regime, disability specific accommodations cannot be finalized without the need to make more than one call and to encounter inordinate hold times. As such, we would suggest that the agency consider updating this code of practice to better reflect a more customer-centric experience.

Facility operators are not excluded from this omission as information on their websites often relies on inaccessible content such as maps and images, which are seldom accompanied by descriptive text.

We understand the need to promote multiple revenue streams such as hotel or vehicle rental services, but many websites found within Canada's transportation industry seem to endeavor to capture everything possibly related to travel services with the primary business nested deep within superfluous content.

Were the industry to adopt the communications codes of practices put forth by the agency then travellers with sight loss who rely on assistive technology would have equal access to all products and services offered by both facility operators and service providers.

We would encourage the agency to codify the communications code of practice with an expectation that all federally regulated transportation providers, including facility operators prepare and make publicly available their plans to achieve the objectives set out in the existing code of practice. The modernized regulations should not differentiate between websites or mobile apps, which also contain an abundance of best practices on accessibility. These plans must include concrete steps which will be taken by service providers and facility operators along with targeted completion dates. These plans should be publicly available via accessible websites and where appropriate, be provided in alternate formats. We would further suggest that these plans be reviewed by the agency along with the AAC.

Onboard entertainment

Touchscreen technology has become prevalent through practically every aspect of Canadian society. Self-serve kiosks at movie theatres, fast-food restaurants and government services are rapidly becoming the norm. These devices offer a multitude of benefits to all stakeholders, but for persons with sight loss, if not designed to be accessible, these kiosks in the form of onboard entertainment systems are significant barriers.

As industry strives to anticipate the future needs of its customer base, a greater consciousness of and attention to the accessibility of self-serve kiosks is required. While under the agency's current recommended guidelines, to have 25% of all self-serve kiosks be made accessible by 2021, we feel that a more stringent expectation should be put into place for service providers regardless of mode of travel.

A traveller with sight loss should no longer encounter touch screen technology, regardless of mode of travel, which is completely inaccessible to them. We would encourage the agency to include onboard entertainment along with self-serve kiosks in directing industry to mitigate this barrier.

We have recently learned that Air Canada on some of its 777 long haul liners, have completely removed physical call buttons or personal lighting controls. These have been incorporated into the seatback onboard entertainment systems. We are concerned that newer aircraft such as Boeing's Dreamliner will possibly adopt similar technologies there by further proliferating the existence of call buttons or personal lighting which cannot be independently operated by travellers with sight loss. It is therefore imperative, that the agency, perhaps through the AAC take a more active role when Canadian service providers refurbish their fleets. This should apply regardless of mode of transport; rail, ferry, bus or plane. Were Air Canada to have consulted with the community of persons with sight loss, as is recommended by the agency in several of the existing codes of practice, this design oversight may have been avoided.

The ability to request assistance, especially on flights lasting many hours should not be viewed as optional. Travellers with sight loss regularly travel independently and if they require assistance, it should not require struggling to activate a call button. We are discouraged to learn of this as this is regressive with respect to accommodating travellers with sight loss. Of course, accessible personal devices are readily available which can help pass the time on long haul flights but the ability to solicit aid is not a trivial matter.

Alternate formats

Alternative formats go beyond braille or large print. The prevalence of portable document formats (PDF), popular due to their readability across multiple platforms and document protection, can prove completely inaccessible if not structured properly. Again, an abundance of free and readily available information exists as to how this can be accomplished.¹ Regrettably, evidence seems to indicate these resources are not being adopted among both service providers or facility operators. Travel documents, including terms and conditions, reservation confirmations and even travel forms are often created in such a manner as to make them awkward to read.

The travelling public relies on accurate and abundant information when completing journeys. Schedules change, departure points are updated and the inevitable construction cycles within facilities create a state of uncertainty for Canadian travellers with sight loss. Yet, while little expense is spared on posting public notices, minimal, if any effort is made to provide this vital information in alternate formats.

It would be unwise to assume that travellers with sight loss are always accompanied by a companion or ground assist personnel. While this is likely true more often than not, many travellers who are blind regularly frequent Canadian facilities independently. A lack of appropriate information in formats other than print reduces the independence of this population.

Recommendation

The “Removing Communication Barriers for Travellers with Disabilities” code of practice should become a regulatory requirement. In addition to usable/accessible websites that convey or offer travel-related information, the revised regulation should also include the timely delivery of alternate format documents in a medium specified by the traveller. Onboard accessible entertainment systems as well as self-serve kiosks should be included as alternate format materials; especially if additional functionality such as call buttons are added to these devices.

Facility operators should not be relieved of this requirement as every journey passes through their premises. If documents are provided via a website, then large print, DAISY and braille formats should also be available.

¹ <https://helpx.adobe.com/acrobat/using/create-verify-pdf-accessibility.html>

The cost of achieving this is not significant, thereby mitigating the argument of posing an undue burden.² Large print documents can be readily created using every day word-processing software, DAISY files can easily be created using free software, and simple one or two-page braille files can be generated with only a modest effort.

Facility operators, regardless of mode of travel should be expected to adopt leading edge way finding practices. These include various indoor navigation systems which can provide travellers with sight loss additional information such as the location of commercial venues within facilities, the location of relieving areas for guide dogs, boarding points and other public amenities. We do not recommend that emerging technology replace existing accessibility guidelines but rather that these technologies are adopted in such a manner as to complement large print or braille signage.

Personnel training

The agency's resource materials on serving travellers with disabilities are well done. We would like to encourage the agency to periodically update these resources in order to ensure their relevance within a modern context. Particularly, the use of modern communication devices such as mobile phones, text to speech, large print and braille. Employees or contractors of federally regulated transportation providers, including facility operators, should be expected to regularly review these materials.

We would also like to see the expectation of assisting travellers with sight loss not placed solely with service providers. Some travellers with sight loss may require curb-to-curb assistance. Facility operators must be able to ensure that drop-off zones are not policed to the point of preventing families or taxis from rendering assistance; guiding a traveller to an information counter or connecting the traveller with an agent. It is our expectation that accommodating the unique needs of all travellers, including those with sight loss, facilitates the independent and dignity of the traveller.

Recommendation

We would support the agency's proposal to incorporate personnel training within the updated regulations. It is strongly recommended that this "training be required by employees and contractors who provide transportation-related services and who may be required to interact with the

² One such system is the DAISY TOBI software.
<http://www.daisy.org/tobi>

public or to make decisions in respect of the carriage of persons with disabilities".³

We would encourage the agency to require all transportation and facility operators to document their training regimen, reporting to the agency on a three to five-year cycle. This reporting should be made public so that travellers with sight loss are fully aware of efforts undertaken by facility operators or service providers. Again, these training regimens should include concrete timelines that should be readily available to the travelling public in formats accessible to them. In those rare circumstances when complaints are brought to the agency, this may facilitate more expeditious resolutions. This training must be delivered by properly qualified individuals such as persons with lived experience or agencies such as CNIB.

International air services

The number of jurisdictions around the world that have introduced regulatory requirements of their transportation providers continues to grow. International law, such as the United Nations Convention on the Rights of Persons with Disabilities (CRPD), introduced expectations requiring states to ensure that persons with disabilities have increased equitable access to federally regulated services such as transportation.⁴ The CRPD has been adopted by Canada's parliament and 13 provincial/territorial jurisdictions.

It remains unclear to us the logic as to why the codes of practice were not extended to foreign airline carriers operating within Canada. The agency's

³ The Canadian Transportation Agency discussion paper on modernizing Canada's transportation system.

⁴ 1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

- a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
- b. Information, communications and other services, including electronic services and emergency services.

code of practice for rail travel does include Amtrak when defining which railways the code applies to.⁵ It is our hope that rather than striving for the lowest common denominator with respect to requirements on foreign service providers, Canada's regulatory landscape aims higher with the expectation other jurisdictions will follow. Canadian service providers are expected to adhere to regulatory requirements when they do business in other jurisdictions, therefore, a reciprocal expectation seems not to be unreasonable.

Recommendation

We wholeheartedly support the agency's direction to impose regulatory requirements on foreign carriers doing business in Canada. Canadians with disabilities should not expect second-tier service if they purchase travel services in Canada from a foreign carrier. These regulatory requirements should apply to all modes of transportation including facility operators as well as service providers.

We would discourage the agency from considering any regulatory approach wherein international service providers could apply for exemptions due to provisions within their country's regulatory framework. Canadian travellers who are blind or who have significant sight loss should receive, and expect, uniform accommodations regardless of which service provider they conduct business with in Canada.

Technical standards

Section 1.5

Accommodating service dogs

While the technical standards outlined in the agency's current code of practice have been clearly articulated, we remain concerned with accommodations provided for travellers with guide dogs. The vast majority of seats on aircrafts are configured uniformly, and yet the agency has provided air carriers with dimensional guidelines based on the size and weight of a guide dog, as seen below.

⁵ <https://www.otc-cta.gc.ca/eng/publication/passenger-rail-car-accessibility#toc-tm-1>
1.1.1 Carriers and rail cars covered by this part of the code

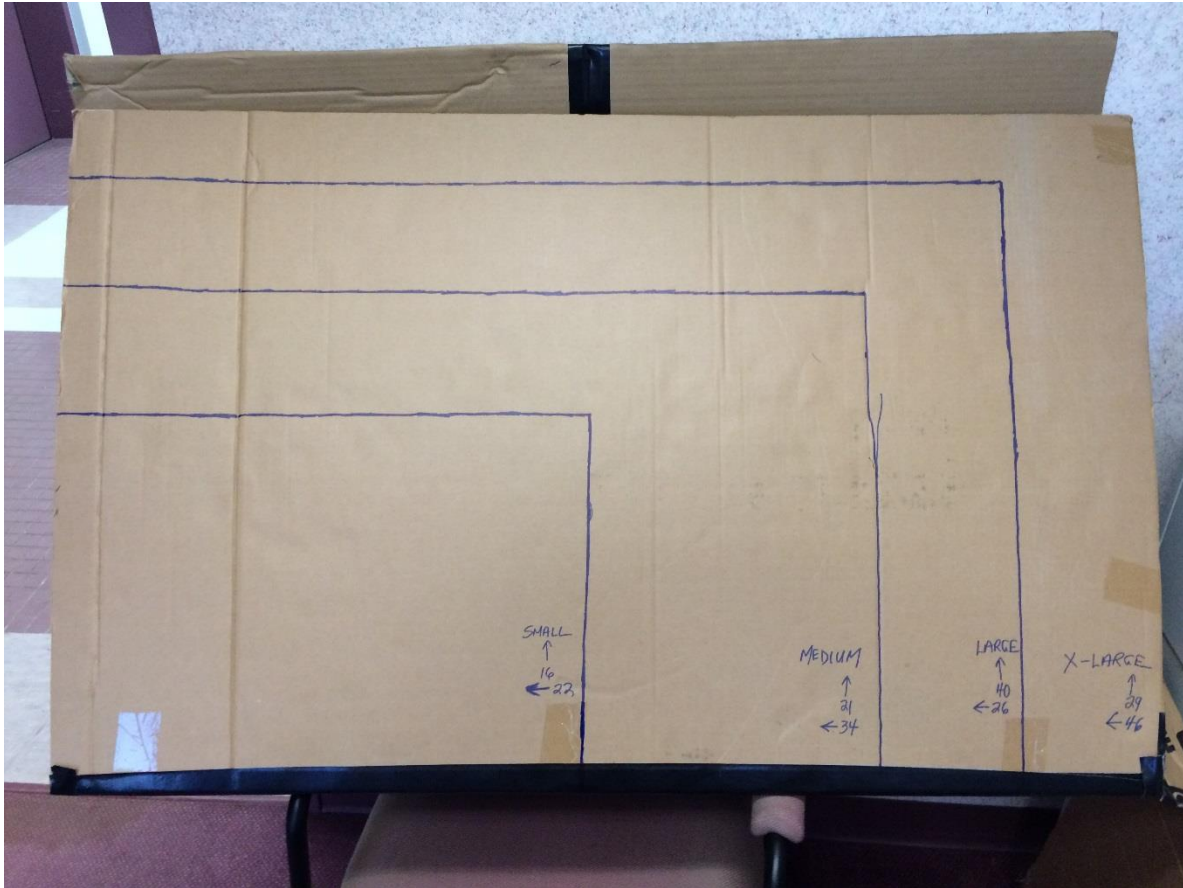


Image 1: A replica of the signage outlining the dimensional guidelines for guide dogs.



Image 2: A man is holding a sign outlining the dimensional guidelines for guide dogs, with a guide dog standing in front of it.



Image 3: A guide dog is standing in front of a signage replica outlining the dimensional guidelines for guide dogs.

It is our opinion that these size guidelines should be eliminated given that every seat on modern aircraft are virtually identical. Instead, travellers should be provided with a choice based on their unique needs, as to the nature of the accommodation for their guide dog. While some may require an additional seat given health concerns and the size of their guide dog, others may be adequately accommodated, provided they are able to be seated in specific seats. For instance, certain Airbus aircrafts have a row with two seats instead of three. The additional space, not large enough for a third seat is ideal for a guide dog. The overarching objective in providing suitable and reasonable accommodations for travellers with guide or service dogs should be the safety of both the traveller and their guide/service dog, dignity and comfort of the traveller as well as their fellow passengers.

The above recommendation is based on a premise that travellers with vision loss will request only reasonable accommodations, and that service

providers will endeavor to meet the unique needs of their customers. We cannot speak to the implementation costs of adopting such a regulatory requirement as we do not have access to load information, which would inform us as to unsold seats. Thus, the question of undue burden, a legal test administered by human rights adjudication is one that we are unable to speak to. Yet, undue burden does not mean without any costs. Thus, should these accommodations be challenged and brought before a human rights tribunal, we are confident that the foregone revenue of a miniscule number of seats over the course of a year would not be considered an undue burden.

Relieving areas for guide dogs

CNIB was pleased to learn that the Vancouver International Airport had installed a relieving area for the use of guide/service dogs and pets. We are also aware that the Calgary International Airport has begun examining plans for similar facilities. In short, this is great news and CNIB would like to suggest that the agency in its revised regulatory framework establish expectations of all facility operators, regardless of mode of travel, to make available suitable relieving facilities without requiring travellers to exit secure areas. While the community of persons who rely on guide/service dogs have been requesting the agency to mandate this of federally regulated facility operators, today, provision of this necessary accommodation appears to have been brought about only because of the increased number of passengers travelling with their pets. Regardless, the availability of relieving areas without the need to pass through security if between flights is a positive development within Canada's travel network.

We would encourage the agency to, again, expect facility operators to clearly communicate to their patrons both the availability of these facilities and to ensure that they are located in a convenient accessible location. Facility staff should be made aware of these facilities as part of their ongoing training.

Rail travel within Canada

Of relevant note is the age of the agency's existing rail code of practice — introduced in 1998, almost 20 years ago. Prior to consideration as to whether or not this code of practice should become a regulatory requirement, we would suggest that the agency undertake, at minimum, consultation with the Accessibility Advisory Committee (AAC) and, ideally, open public consultations with the community of persons with disabilities.

The disability landscape has shifted dramatically in recent years. Of particular note is the prevalence of accessible mobile devices, which can open up a vast array of communications possibilities, as well as shifting demographics where more elderly travellers with sight loss are likely to use rail as a mode of transport.

Two essential considerations must exist within any modernization of this code of practice:

- Wayfinding within rail stations
- Appropriately trained staff to assist travellers with sight loss.

Public facilities, such as rail terminals, should be fully accessible to all travellers, regardless of disability. For travellers with sight loss, this includes enhanced wayfinding strategies such as directional tactile warning strips, colour contrast, lighting, accessible signage and adoption of emerging technologies. CNIB's "Clearing our Path" contains significant guidelines on how to enhance the accessibility of public spaces, both indoors and outdoors.

In Canada's largest rail terminals, such as Toronto's Union Station and Montreal's Via rail station, navigating these facilities while working a guide dog and managing luggage can be extremely difficult. As with established practices within the airline industry, passengers who self-identify when making reservations should receive appropriate assistance from trained railway personnel from arrival through to departing a station. This assistance should be provided regardless of when trains arrive or the size of the station.

We are also aware that Via Rail has embarked on an initiative to revitalize their fleet. While the AAC was invited to provide input into Via's future acquisition plans, it would be premature to consider modernization of this code of practice without adequate deliberation.

Ferry travel

When passengers with sight loss access transportation via ferries, adequate accessibility accommodations can make the experience both safe and enjoyable.

All customers should be able to access onboard amenities including dining and entertainment. Where self-serve kiosks are deployed, regardless of their purpose, CNIB would like to encourage operators to ensure that every reasonable effort is undertaken to ensure that these kiosks are deployed with accessibility features built in. Automated Teller Machines (ATMs) are a prime example and so-called white label ATMs should not be installed if they

do not meet CAN CSA-B651.2-07 accessible kiosks. These standards have been adopted by many of Canada's financial institutions and the technology has been successfully deployed for almost 20 years. The result is that persons with sight loss can safely and independently conduct transactions at almost any ATM throughout Canada; and probably the world.

Ensure that the demands associated with compliance are only as high as necessary to achieve the regulations' purposes

How much regulation is enough?

Evidence points clearly that the existing codes of practice have not served either Canadians with sight loss or industry well. Simple straight forward matters seem to take an inordinate amount of time and resources to resolve. Few, if any travellers will embark on a process which will likely take years to bring to fruition and even fewer will do so if they are at risk of becoming embroiled in legal proceedings. Thus, in addressing this goal, we would like to encourage the agency to adopt a more consumer focused approach rather than considering issues strictly from the perspective of industry.

We believe that the existing codes of practice, if codified, would, for the most part, be an excellent starting point. It is our position that these requirements are readily achievable provided that corporate will exists within Canada's federally regulated industry to better serve their customers with sight loss or other disabilities. We do not wish to discount progress realized thus far but rather reinforce the need for better compliance and accountability on the part of all stakeholders within the sector.

Looking south of the border, US regulators have adopted punitive measures which could see service providers or facility operators incur substantial fines if they are found not to be in compliance. This, is not the Canadian way of bringing about systemic change; but perhaps it should be?

We believe that a more appropriate wording of this goal should be what level of services are required by travellers within Canada's federally regulated network and what level of regulation would be required to support this. For example:

- Websites must be W3 compliant and adhere to AA accessibility guidelines
- Facility operators and service providers must ensure that when requested, curbside assistance is provided

- Terminal assistance must be provided by personnel who receive regular training on how to assist travellers with sight loss or other disabilities
- Facility operators must demonstrate as part of their ongoing maintenance activities that way finding and alternate format communications are an inherent part of their planning cycles
- Service providers must demonstrate how amenities offered to their customers are being made accessible and finally
- That the agency regularly reports on what measures have been adopted to more effectively resolve complaints from travellers with sight loss or other disabilities.

Facilitate the efficient and effective identification and correction of instances of non-compliance

We are hopeful that the vast majority of Canadian travellers with sight loss rarely encounter barriers. Yet, in those instances where the codes of practice are not followed, seeking resolution can prove to be an intimidating and possibly expensive proposition.

The agency's current role as a quazi-judicial tribunal provides little relief when travellers with sight loss encounter barriers and choose to exercise their right to bring formal complaints. It is unreasonable that years transpire between the time where a complaint is brought forth and a decision is reached.

The complex nature of the current complaint mechanism places a traveller among legal and policy experts, all of whom are skilled knowledgeable advocates for the industry or for the agency. The traveller is the only individual without representation by a skilled and knowledgeable advocate. This is both inefficient and unfair.

Recommendations

When legitimate complaints are raised, a modern regulatory framework should see the agency assuming a more proactive role as an advocate for the traveller. The agency's current role as a neutral 3rd party does not serve the travelling public well and particularly travellers with sight loss. In fact, given the nature and complexity which currently exists within the Canadian Transportation Agency's complaint mechanism, it is not unreasonable to put forward that advantage lies with industry given the depth of their pockets and ready access to skilled advocates.

We would support a process whereby mediation is sought, but concrete timelines, such as 60 or 90 days, from the time a complaint is brought forth

and mediation concludes must be firm. Failure to reach a mediated settlement within a predefined time should see complaints immediately escalated to a formal hearing before an impartial panel with the agency representing the traveller with a disability.

Conclusion

The timeliness of this initiative could not have been more opportune. Canadians are presently being invited to provide input into legislation which will fundamentally address and promote equality and increase the inclusion of Canadians who have disabilities or functional limitations. While the vast majority of travellers with sight loss likely enjoy unencumbered, barrier-free access to most of Canada's federally regulated transportation system, problems do, and will, continue to arise. In order for these to be effectively mitigated, all stakeholders, including industry and travellers with sight loss, must be able to expect reasonable and timely dispute resolution. Unfortunately, the current system falls short on the latter points.

Will a more regulated system bring about the change necessary to eliminate undue barriers for travellers with sight loss? No. But, if expectations are clearly articulated and noncompliance brings with it consequences, then we are hopeful that progress will come about more quickly.

CNIB, in preparing this submission was fortunate to receive input from several individuals. We would like to thank persons, all of whom are blind or who have sight loss for taking time to share their comments and lived experiences with us.

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