



NACC

National Airlines
Council of Canada

CNLA

Conseil national des lignes
aériennes du Canada

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by the National Airlines Council of Canada
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Regulations Amending the Air Passenger Protection
Regulations (APPR)

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Who We Are

The National Airlines Council of Canada (NACC) is the trade association that represents Canada's largest passenger air carriers: Air Canada, Air Transat, Jazz Aviation LP and WestJet. We promote safe, accessible, sustainable, and competitive air travel through the development of policies, regulations and legislation that foster a world-class transportation system. It is estimated that in 2024, air transportation contributed to 3.8% of Canada's GDP, and supported 809,000 jobs in Canada.

NACC appreciates this opportunity to comment on the proposed amendments. NACC remains deeply concerned with many of the proposals contained in Canada Gazette 1 (CG1) for the reasons outlined in this submission.

Background

In July 2023, the Canadian Transportation Agency (CTA) released a draft regulatory framework containing proposed changes to the Air Passenger Protection Regulations (APPR) in response to the *Budget Implementation Act*, No. 1 SC 2023 c 26, which received royal assent in June 2023. A one-month consultation process followed, during which time a significant number of stakeholders raised concerns with the proposed framework – including provinces, municipalities, chambers of commerce, airports, NAV CANADA, small and large airlines (foreign and domestic), the tourism sector, and pilot unions, among others.¹

Key common concerns identified by these stakeholders included:

- **Air Travel System Performance:** There is no correlation between reformed passenger rights regimes and air travel system performance, as evidenced by studies of similar regulations under the European passenger rights regime (EC261), and as demonstrated by the fact that air travel performance has dramatically improved in Canada since 2022, in the absence of more stringent regulations.
- **Increased Costs:** The proposals would significantly raise operational costs, resulting in higher fares for passengers.
- **Regional Connectivity:** The amendments and accompanying higher costs would negatively impact regional air service.
- **Safety Considerations:** The exceptional circumstances list in the original draft lacked a robust safety lens.

In September 2024, the CTA proposed an additional cost recovery mechanism which would require airlines to pay a \$790 fee for each eligible APPR claim, regardless of case outcomes. This fee would apply

¹ <https://otc-cta.gc.ca/eng/submissions-consultation-proposed-changes-strengthen-air-passenger-protection-regulations>

retroactively to the existing backlog of claims. Although not directly tied to the Canada Gazette 1 (CG1)² proposals, this ‘cost recovery’ mechanism has been highly criticized as it will add additional costs to the air passenger system, further impacting the cost of air travel; risks exacerbating the backlog of complaints; and violates a number of core legal principles.³

Relevant Context

Air System Competitiveness

In 2024, the House of Commons Standing Committee on Transport, Infrastructure and Communities launched a study into the competitiveness of the air travel system. In July 2024, the Competition Bureau of Canada also released terms of reference for a market study on competition in Canada's airline industry. There has been a consistent message from many stakeholders through both these studies that due to excessive federal and third-party fees, taxes, and charges, the Canadian air travel system is one of the most costly systems in the world in which to operate, which negatively impacts affordability of air travel, and stifles industry growth. It is unfortunate that as the Competition Bureau and the Parliamentary Committee are examining the competitiveness of Canada's air travel system, the CTA would propose new regulations that will increase the cost of air travel.

Intermodal Inequity

Air travel is the only mode of transport subject to a passenger rights framework. No other mode – rail, marine, or road transport – is subject to such costs, obligations, and requirements; this, despite the fact that the CEO of Via Rail publicly endorsed a rail passenger rights regime in 2023.⁴ Even the European Union has a rail passenger rights regime. The federal government should be creating a level playing field where all modes of transportation are incentivized to compete and succeed; by only targeting one mode of transport with passenger rights regulations, the federal government is putting the aviation industry at a competitive disadvantage. Until such time that the federal government addresses this intermodal inequity, the financial and regulatory burden on the air industry should be minimized so as not to exacerbate this inequality between modes of transportation.

Global Competitiveness

Given the current challenges with the Canada-U.S trade relationship, it's important to underline the critical role airlines play in reinforcing the ties between our countries, in terms of tourism, trade, investment and strategic priorities. However, despite the importance of the transborder market, U.S airlines are not returning to Canada at pre-pandemic levels. For the winter 2024-2025 season, U.S airlines'⁵ capacity into Canadian markets will be reduced by 11% versus the same period pre-pandemic, and down over 40% in markets outside major hubs (Toronto-Pearson, Vancouver, Montreal-Trudeau and Calgary). Meanwhile, for the same period, these airlines have increased capacity significantly to

² For the purposes of this brief, references to “CG1” will refer to the revised regulatory framework included in Canada Gazette 1 on December 21, 2024.

³ See the November 4, 2024 response by the National Airlines Council of Canada for more information: https://airlinecouncil.ca/wp-content/uploads/2024/11/NACC-Ltr_CTA_Cost-Recovery_4-Nov-2024.pdf

⁴ There are many other examples that could be provided of intermodal inequity.

⁵ Includes Alaska Airlines, American Airlines, Atlas Air, Delta, Hawaiian Airlines, JetBlue, Southwest and United

other international markets, including almost 300% to Ghana, over 200% to Portugal, the Philippines and South Africa, and over 100% to Taiwan, Senegal and Nigeria versus the same period pre-pandemic⁶. According to Airlines for America (A4A), “Costs and burdensome regulatory requirements (and proposed additional regulatory requirements) in Canada can be considered among barriers of expansion and entry into the Canadian market.” This represents a significant loss of connectivity for Canadian communities, and further restrictive APPR and/or cost recovery regulations will only further negatively impact Canada’s connectivity. Millions of Canadians cross the border to travel on U.S airlines each year, as the costs are often cheaper due to lower taxes and fees in the United States. This price difference can be attributed to more favorable regulatory environments, including lower airport taxes and government-imposed fees, which make flying from U.S airports a more affordable option for many Canadians.

Removing Barriers for Internal Trade

In the face of trade tensions, and the threat of tariffs, and counter-tariffs, governments are seized with facilitating internal trade, and growing Canada’s domestic economy. Aviation is a critical mode of transportation for the movement of labour and goods across Canada, making businesses more productive, and stimulating regional economic growth.

Given aviation’s important role in supporting our economic resilience, the APPR changes are contrary to federal and provincial governments’ intentions to improve economic flows within Canada.

Airport Infrastructure

Many Canadian airports lack appropriate reinvestment or government funding and therefore lack the essential facilities and technologies required to ensure that disruptions can be minimized. For instance, limited precision approach capabilities, outdated snow removal systems or equipment, and limited runway capacities contribute to significant operational delays which are beyond the scope of control of air operators. These deficiencies can significantly impact airport operations, particularly during the harsh winter months.

Contrary to airports in other countries like the US, Canada’s airports are burdened with significant Crown rent payments to the federal government, averaging 12% of revenues, which restricts their ability to invest in necessary infrastructure upgrades. Carriers should not be financially responsible for flight disruptions caused by inadequate airport infrastructure.

Developments in Passenger Rights Regimes Internationally

As other comparable jurisdictions are stepping back from passenger rights regimes, Canada is increasingly becoming a global outlier by moving in the opposite direction. Examples include:

- The Australian government concluded in 2024 an in-depth consultation proposal of a passenger rights regime that could have included compensation for delays and cancellations, but decided not to proceed with a compensation regime. Submissions were made showing that such a regime would lead to increased cost and little to no improvement in customer service⁷.

⁶ Cirium

⁷ <https://www.theguardian.com/business/article/2024/aug/25/new-australian-aviation-ombudsman-could-force-airlines-to-pay-cash-compensation-for-delayed-flights>

<https://www.wfw.com/articles/wake-turbulence-australias-proposed-compensation-regime-for-cancelled-and-delayed-flights/>

- The new American administration has paused proposed new passenger rights regulations or rule making until a review of its cost and regulatory impact is conducted – all while proposals have received considerable pushback from American stakeholders. In addition, the American federal government has halted the implementation of virtually any new regulation on businesses (each new regulation issued must be offset by the elimination of 10 other regulations and the “total incremental cost of all new regulations, including repealed regulations, being finalized this year, shall be significantly less than zero”)⁸. In this context, the US is moving away from implementing a passenger rights regime in the US.
- The European Union – often cited as a model for APPR – has recognized that EC261 does not strike the right balance and is currently reviewing such aspects as capping certain costs and increasing various time thresholds – the objective being to lower costs for industry.

As other comparable jurisdictions are stepping back from passenger rights regimes, Canada is increasingly out of step. Canada must remain competitive on aviation policies.

Cost Implications for Passengers and the Aviation Industry of CG1

The Canadian air travel system is already challenged by significant federal and third-party fees, making it one of the costliest systems in the world. According to the CTA’s Cost Benefit Analysis (CBA) contained in CG1, the impact of the proposed amendments would add “incremental present value costs to Canadian air carriers and the Agency of \$512.4 million” over a 10-year period⁹.

This estimate is inaccurate and misrepresents the true cost to industry and Canadians, due to a number of inaccurate assumptions within the CBA:

- The CBA only reflects costs to Canadian airlines and Canadian passengers. It does not reflect the costs that the 140 foreign carriers estimated by the CTA who fly to and from Canada will face, nor the cost associated with foreign passengers. Omitting this portion of the analysis significantly underestimates potential costs.
- The CBA oversimplifies assumptions on the costs of hotels, meals, and taxis. It assumes an accommodation cost of \$152/night and a meal voucher of \$17/meal; both these costs are constant over the 10-year forecast period and are not indexed to inflation. Not only are these assumed rates low in current dollar values, particularly at larger urban airports such as Toronto Pearson, but vastly underestimate true costs by not applying an indexation factor over 10 years (e.g., inflation has risen 29% over the past 10-year period).
 - The CTA’s Cost Benefit Analysis that accompanied the original APPR regulations in 2018 pegged average hotel costs at \$145.56/night, and meal vouchers at \$16.50. Given that inflation has risen 21% between 2018 and 2024, the 2024 estimate is inconsistent with the CTA’s 2018 assumptions.

⁸ <https://www.whitehouse.gov/fact-sheets/2025/01/fact-sheet-president-donald-j-trump-launches-massive-10-to-1-deregulation-initiative/>

⁹ Canada Gazette 1, December 21, 2024, “Benefits and Costs”

- The CBA does not account for a lower Canadian dollar value, which will increase costs when the provision of care is provided outside of Canada.
- The CBA suggests that additional administrative costs to Canadian airlines will be \$15 million over 10 years (\$11.3 million over 10 years for new staff to expedite refunds, and \$3.9 million in new training). This significantly underestimates the actual costs, which include major IT upgrades, the hiring and training of additional staff, and other operational requirements.
- The CBA does not provide an elasticity analysis assessing the impact on air travel demand as a result of the proposed amendments, and the corresponding market loss.
- As referenced earlier, the CTA has proposed a “cost recovery” levy that would require airlines to pay a \$790 fee for every claim processed by the CTA. If enacted, this new charge will further increase the costs associated with the APPR regime and should be included in the CBA and considered in the context of the new regulations.

For these reasons, the actual costs associated with CG1 will be significantly higher than the \$512 million over 10 years forecast by the CTA.

Incremental costs associated with CG1 will be passed on to the consumer in the form of higher fares. Canadians are extremely mindful of cost when booking air travel. According to a passenger survey conducted for the International Air Transport Association (IATA) in October 2024, Canadian passengers indicated the following:

- 96% of Canadian passengers Strongly or Somewhat Agreed that “I care about the affordability of flying”.
- 88% of Canadian passengers Strongly or Somewhat Agreed that “there are too many taxes on flying” – the highest level of agreement amongst 15 comparator countries
- 73% of respondents Strongly or Somewhat Agreed that “I prefer to pay the lowest price possible for my air ticket”.

Furthermore, in a February 2025 Nanos Research poll, when respondents were asked to rank their most important considerations when booking air travel, 73% of respondents indicated that ‘Cost’ was their first or second most important consideration, greatly eclipsing any other factor or consideration. In short, Canadians are extremely mindful of the importance of cost in air travel.

The CTA and the federal government cannot simply ignore the cost implications of the proposed amendments or the cost recovery proposals. For a system already overburdened with costs and regulatory obligations, the proposed amendments would add significant new costs, exacerbate the lack of competitiveness in the system, and hurt Canadian businesses and Canadian passengers, posing significant risks to the sustainability of low-margin routes, and in particular regional air services.

On the latter point, in January 2024, the Council of Atlantic Premiers communicated their concerns to the Honourable Pablo Rodriguez, then-Minister of Transport, regarding the proposed amendments,

emphasizing that these changes could lead to higher costs for residents in Atlantic Canada and potentially deter airlines from maintaining or expanding services in the region.¹⁰

NACC is supportive of simplifying and streamlining the passenger rights regime, but what is being proposed will not improve the system, reduce the backlog, nor benefit passengers.

Recommendations In Response to CG1 APPR Proposals

In comparing the CG1 proposals to the original proposals released in July 2023, NACC acknowledges that the CTA has introduced modifications reflecting a number of the concerns that were identified by NACC and other stakeholders. For instance, the list of exceptional circumstances in CG1 has been modified to better reflect safety related incidents over which airlines have no control. However, there remain several specific proposals in CG1 that we do not support, would add significant and unnecessary costs to the air travel system, do not reflect operational and logistical realities of aviation, and ultimately would do nothing to improve the performance of air travel in Canada.

Exceptional Circumstances

NACC recommends the following amendments to the exceptional circumstances list contained in CG1:

- CG1 establishes a defined list of situations where a flight disruption would be considered to be caused by an exceptional circumstance. However, it also imposes an additional subjective test to meet, that *“the flight disruption could not have been avoided even if all reasonable measures had been taken by the air carrier”*. The occurrence of an exceptional circumstance should be sufficient, as these are uncontrollable by nature. The additional proposed test has been used by courts across Europe to slowly degrade the concept of “extraordinary circumstances” over time, it is a vague and highly subjective requirement that will add confusion, litigation, cost, and could be open to a considerable degree of interpretation and an unnecessary casual factor for passenger complaints. NACC recommends that this additional test be removed.
- The list of exceptional circumstances cannot be exhaustive. By its nature, aviation is unpredictable, impacted by a multitude of factors. Any attempt to identify every possible instance of an exceptional circumstance is impossible. In this regard, NACC recommends adding the following clause to the exceptional circumstances list: *“any other act of god or force majeure”*.
- The proposed list of exceptional circumstances does not include the following circumstance that NACC safety experts had recommended in the initial consultation: *“system outage or infrastructure breakdown by governmental or essential service providers, essential to the operation of a flight”*. There have been several examples in Canada and the US in the past year of system outages by essential service providers (for instance, CBSA) that have resulted in disruptions.

¹⁰ <https://cap-cpma.ca/atlantic-premiers-concerned-about-the-impact-of-proposed-changes-to-the-air-passenger-protection-regulations/>

- While NACC strongly supports including an exception for delays and cancellations caused by unforeseeable technical defects, we believe it should be clarified to ensure it achieves its purpose. In this regard:
- The burden of proof set out for mechanical incidents that such "defect was not caused by an act or omission" is vague, can be misinterpreted and risks degrading the nature of the exception provided. The proposed regulations already specify that technical defects can only constitute an exception to compensation if the required scheduled maintenance is up to date and the defect was discovered after the completion of the most recent required scheduled maintenance, so that carriers have a clear obligation to properly maintain the aircraft, perform checks and act to fix findings. The additional requirement that a defect must not be caused by an "act or omission" is unnecessary and will bring confusion. Alternatively, if the intent is to protect passengers from technical defects caused by any fault or negligence by carrier, it could specify that.
 - Similarly, the proposed language for this exception does not take into account that unforeseeable technical defects can be discovered during scheduled maintenance checks, causing unexpected delays in aircraft returning to service. NACC therefore suggests that the exception applies for unforeseen defect - therefore subsection 18 (G) (II) should be removed.
 - The exception for technical defects should not be limited to determinations made by the pilot-in-command, as there are several other regulated functions within an airline responsible for determining when such defects arise. The exception should also apply to the airline's maintenance personnel. While pilots-in-command play a key role, maintenance personnel oversee maintenance records, inspections, and compliance before departure.
- Airport-generated issues that cause flight disruptions are often linked to infrastructure or equipment availability (e.g. gates; APU breakdown; etc.). The proposed regulations would inequitably limit the concept of airport issues to full or partial airport closures¹¹, and should be expanded to other airport issues related to infrastructure and equipment availability that carriers have no control over.
- The list of exceptional circumstances should be adjusted to account for malicious disruptions targeting airline and airport IT systems, those of air traffic control, or other critical IT platforms, as well as unforeseen failures in third-party infrastructure that airlines rely on. These events are often akin to acts of war, although evidence that these may be acts of war is generally not readily available, so the exception related to war would not suffice to cover these situations. These IT disruptions can cause widespread disruptions that are entirely outside carriers' control and should be included in the list of exceptional circumstances. Section 18(a)(i)(B)(I) should be amended to include "security threat or security regulation." This addition accounts for mandatory compliance with security protocols, such as sequencing for no-show passengers, where airlines must locate or remove baggage associated with absent passengers to ensure safety. These processes, required by security regulations, often result in delays outside the airline's control. Including "security regulation" acknowledges the broader scope of security-related delays and exempts airlines from liability when such compliance-driven delays occur.

¹¹ S. 18(a)(i)(J)

Air Carrier Claims Process and Providing an Explanation for Denial of Claims

Under the section regarding explanation for denial of claims, CG1 contains the following requirement: *“...if a carrier declines to pay compensation based on an exceptional circumstance, the carrier’s clear and detailed explanation would have to be accompanied by any documents, reports, or other evidence that establishes the existence of that exceptional circumstance.”*

The obligation to provide detailed documentation when carriers refuse a compensation claim disregards the complexity of these documents, of airline operations generally, and of how disruptions can unfold. They are drafted for internal operational purposes and are complex to understand, especially for those with no aviation expertise. Communicating these documents will add a great complexity and generate questions, exchanges, and debates between carriers and customer. This obligation will not help to simplify the regime, both for passengers and carriers.

Moreover, these documents often contain private employee data or proprietary and sensitive operational information, including Safety Management System (SMS) reports. It is impossible to share such documents, as ICAO standards are clear that safety information and safety reports are to be protected and not for public consumption.

Many such reports are also not accessible. Adapting them for individuals with disabilities, such as through screen readers or Braille, would require significant investment and resources. These operational and financial burdens are disproportionately expensive relative to their potential benefit.

In addition, such information often does not exist in any one system. Disruption assessments must regularly be made by experts who investigate and analyze information gathered from several different systems. The implementation cost of identifying and gathering information from dozens of IT systems and combining it into a single, clear, legible, accessible document in a customer’s language of choice would be unfeasible.

Passenger Assistance (Standards of Treatment)

The proposals in CG1 regarding standards of care are costly and have no parallel or equivalency in any other service industry, let alone transportation, either domestically or internationally. Furthermore, they do not reflect the concern raised by many stakeholders in the 2023 APPR consultation that regulations must be realistic and achievable by airlines; many of the passenger assistance proposals in CG1 are impossible for airlines to adhere to. Specific concerns include:

- The CTA is proposing that airlines would be responsible for providing standards of care to passengers for up to 72 hours, including during exceptional circumstances. This is an exceptionally long period of time for which the airline is responsible for provision of care; the cost of providing standards of care over a 72-hour period could greatly exceed the cost of the air ticket paid by a passenger. In its August 2023 submission, NACC had recommended provision of care be required for up to 24 hours following planned departure, particularly when disruptions are due to exceptional circumstances. 24 hours is a more reasonable balance of protecting the interests of passengers without requiring airlines to take on excessive onerous costs that they cannot control. Costs should also be reasonable – they should be capped to the average hotel rate at the relevant location. Any additional passenger care costs can be covered by an applicable flight insurance offering.

- The CTA still does not expressly clarify that these standards of care should apply only if it is possible and feasible to do so, and only states that “the location will be taken into account” in determining whether it was possible to provide reasonable standard of care. Depending on the severity of an exceptional circumstance, being able to supply standards of care may be difficult or impossible, even in large urban centers. For instance, in the event of a lengthy weather event, hotel space may quickly become unavailable. For disruptions into the night, food supplies may be unavailable. To enhance clarity, the regulations need to explicitly recognize that standards of care can only be provided if they are available, and that carriers’ obligations are to make reasonable efforts to secure them – airlines cannot achieve the impossible.
- Similarly, CG1 states that standards of care must reflect the needs of passengers with disabilities, with overnight accommodation used as an example. Although NACC fully agrees that passengers with disabilities need to be treated with equal levels of care and respect, airlines have absolutely no control over whether a hotel or eating establishment is able to meet the specific needs of an individual with a particular disability. For that matter, airlines cannot control other specific needs or requests, such as provision of vegetarian or kosher meals. NACC recommends revising this section to reflect that it is impossible for airlines to be held responsible for provision of care provided by external providers.

Rebooking

In NACC’s August 2023 submission, NACC recommended that rebooking obligations for all carriers - large and small – explicitly recognize that rebooking options may not always exist. As NACC stated in August 2023: *“airlines may not have partners with similar schedules or itineraries to be able to effectively and promptly rebook passengers in the event of a disruption. There may not be any alternative flights available within the time frame specified in the regulations, including at nearby airports.”* This is particularly true for international destinations, especially those destinations with infrequent flights, where alternative flight options are limited, especially when regulatory factors such as crew rest times must be considered.

Furthermore, there is a significant change in CG1 – under CG1, large carriers are required to rebook within the 9-hour window regardless of whether the cause of disruption is an exceptional circumstance or not. This differs from the current regulations which provides large carriers with a 48-hour window when a disruption is out of the control of the airline.

NACC recommends that rebooking requirements for large carriers be maintained at 48 hours on their network, for international or long-haul flights. A 9-hour timeline disregards the reality of air operations, such as airport curfews, crew rest times, and slot availability; It is also not in the best interest of the passenger as rebooking on another airline may cause multiple connections and travel at odd hours. NACC believes that regulations should not remove consumer choice. The first available flight of any carrier may not be the alternative that best accommodates the passenger’s needs. For example, passengers travelling with young children may prefer going to a hotel and returning at another time the next day, rather than waiting at the airport for the next available flight, or traveling with connections. Similarly, a connection through another airport may lead to different entry requirements (e.g. new visa), and may not be appropriate for all customers. This requirement should always be subject to passenger’s preference to travel on another rebooking option, even if it is not the first available. Conversely, 48h hours for long-haul or international flights allows carriers to reschedule a delayed or cancelled flight at the most appropriate schedule for passengers, and at the earliest possible time taking into account

applicable regulations (e.g., crew rest regulations, airport curfews at origin and destination) and aircraft and crew availability.

To note, the CTA claims this is a net neutral cost; however, it is certainly not, especially when rebooking last-minute flights on other air carriers.

NACC again recommends that regulations explicitly specify that rebooking obligations are required only if alternative options exist. If a large carrier cannot rebook a passenger within a specified timeframe due to no alternative available flights within their own network, then it is impossible to adhere to this regulation.

Communication

CG1 has revised a number of communication requirements. NACC supports the requirement that elements of current audible communication requirements now be provided electronically, and does not object to the requirement that a passenger's preferred method of communication be verified upon check in. However, there are key concerns with communication requirements, including:

- The communication of entitlement to compensation is unrealistic and given current systems in place, is impossible. A large percentage of passengers connect on other airlines, and there is no system in place for airlines to automatically communicate length of delays and reasons between themselves.
- In addition, there can be multiple causes of delay in a passenger's journey, in particular for connecting passengers. This proposed proactive communication obligation can therefore create several communications that might appear contradictory and generate confusion for travelers.
- Real-time communication requirements fail to account for the inherent complexities of airline operations. Disruptions often arise from a network of interdependent factors, such as weather, mechanical issues, and airspace congestion, which require thorough investigation to determine root causes. Providing immediate explanations risks spreading inaccurate or incomplete information, fostering passenger confusion and false expectations about entitlements. Variations in individual itineraries further complicate accurate compensation assessments, as not all passengers on the same disrupted flight are affected in the same way.
- Furthermore, in the case of a collective booking (e.g., a family booking), NACC recommends that the requirement to verify the preferred means of communication be limited to the lead passenger.

Knock On Effect

In CG1, the CTA has revised the "knock on effect" rule to allow for a 24-hour recovery period for large airlines in the event of an exceptional circumstance, rather than a one subsequent flight approach as suggested in July 2023. CG1 does not impose any limit on small carriers for knock on effects.

Although NACC agrees that a time standard is a better approach than an arbitrary number of flights, NACC had recommended a 48-hour window to fully recover from the impacts of an exceptional circumstance. This recommendation was not taken lightly – airlines work tirelessly in the face of an exceptional circumstance to return schedules back to normal. However, the reality of the airline operating ecosystem is that it will take all carriers – large and small – a reasonable amount of time to return schedules and operations to normal in the face of an exceptional circumstance. 48 hours was

recommended as a reasonable time frame to fully return operations to normal, which includes large carriers who operate both long haul flights and short haul flights (CG1 recognized the challenge of returning short haul flights to normal operations when it exempted small carriers from the knock-on rule). Although a 24-hour window can be sufficient in most circumstances for short haul travel, it is not sufficient for longer-haul flights and in the event of major events significantly impacting an airline network.

NACC therefore recommends that a 48-hour window apply to flights of three hours or more and in the case of exceptional circumstances (ex. unplanned mechanicals, weather, etc.). Moreover, the mere existence of a knock-on from a previous disruption should be sufficient. Carriers should not be required to demonstrate that they took all reasonable measures to avoid the knock-on, as this test requires such vast amounts of evidence that it is disproportionate to the value of claims made under APPR.

Government of Canada Travel Advisories

NACC notes that CG1 maintains the requirement contained in the original draft that carriers would be required to provide refunds in the event of a Government of Canada travel advisory, although CG1 adds the requirement that the refund only be available if the passenger cancels the flight prior to the check in period. NACC had recommended that this requirement apply only to Level 4 advisories, “Avoid All Travel”. By adding this reasonable condition, Canada’s airlines would not be in the position of being the de facto insurance agent for the passenger in the event of a less restrictive Level 3 advisory. NACC recommends that this clause reference Level 4 Government of Canada travel advisories.

In addition, passengers’ right to be refunded should be exercised within 7 days of the issuance of an advisory. When the travel advisory changes occur within 7 days prior to departure, the right to a refund should be exercised no later than 48 hours after the changes. This would provide passengers the option to be refunded, while preserving a reasonable opportunity for carriers to mitigate the potential loss of revenue.

Advisories for connecting points should not justify refunds, as these locations are not the passenger’s final destination. NACC carriers do not operate to destinations that are dangerous to fly into. Brief transits in countries where NACC carriers operate pose negligible risk compared to extended stays, making it unreasonable to expect airlines to refund tickets based on minimal exposure.

Furthermore, if airlines are expected to validate Government of Canada travel advisories for refund eligibility from time of purchase, the government must provide both historical and real-time, accessible, and user-friendly information on affected regions. Without such clarity, airlines will not be able to validate refund eligibility.

Seating of Children Under 14 Years of Age

CG1 introduces amendments with respect to children under age 14 seating next a parent or guardian. NACC member airlines already have such policies in place, and as such already adhere to this requirement. However, the requirement that seating arrangements be confirmed *during* the booking process is impossible with current booking engines and would require costly IT development while adding little to no value. NACC recommends that the text be greatly simplified to reflect adequate seating prior to departure, without being as heavy and prescriptive.

Timeline for Implementation

There are a number of requirements within CG1 that could be implemented within a few months, such as changes to policies and procedures. However, other requirements involve in-depth changes to information system and development. NACC estimates that IT system changes needed to support CGI requirements will take a minimum of three years to develop.

For example, for some carriers, it takes 3-4 hours of research per flight on average to locate and retrieve documentary evidence necessary to defend claims. This is done for a very small portion of complaints that are made to and subsequently activated by the CTA. If there were a requirement to provide documentation to customers at a carrier complaint level, significant changes to dozens of IT systems across any given airline would be needed.

Similarly, providing specific standards of treatment to customers during massive uncontrollable disruptions will not be possible without automation, as manual handouts of hotel and meal vouchers to hundreds or thousands of customers in short order would not be practicable. Imposing automated adjacent seating requirements at time of reservation, as opposed to any time prior to departure as the requirement exists today, also requires significant IT development. Changes to requirements to trigger notifications regarding compensation entitlement is another major IT change.

A three-year implementation timeline is needed, at minimum, in order to develop the necessary IT requirements.

Alternative Proposal – Voluntary Coverage

Given the significant increase in costs and impact on regional connectivity associated with CG1, with no impact on air system performance, NACC would urge the CTA and federal government to consider alternative proposals to the current APPR. One such alternative is to make passenger protections a voluntary option when a passenger books a ticket. Such a system would allow a passenger to choose passenger protection coverage in the event of a disruption as an optional service – essentially a form of insurance.

Such a system would be fairer, put more choice in the hands of passengers, lower costs for those passengers not wishing to be covered, and would dramatically reduce claims to the CTA. Such an approach could result in a simpler, clearer regime, causing fewer misunderstandings and fewer disgruntled passengers. Cost and time invested in managing claims would be significantly reduced for all parties, including the CTA. NACC and its member airlines would be pleased to discuss such an alternative with the federal government.

Conclusion

The proposed regulations impose unsustainable costs on an already strained aviation system, jeopardize regional connectivity, and will do nothing to improve air travel performance. To ensure a resilient, globally competitive air travel ecosystem, the federal government and CTA must adopt balanced regulatory measures that uphold passenger rights while recognizing the operational and financial realities faced by the aviation industry. Without such balance, the long-term competitiveness of Canada's air transportation network is at risk.