SUBMISSION BY AIR TRANSAT A.T. INC. TO THE CANADIAN TRANSPORTATION AGENCY

Consultation on proposed changes to the
Air Passenger Protection Regulations

March 6th 2025

Montreal, Thursday, March 6, 2025

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Ms. Johnson:

Re: Canada Gazette, Part I Regulations Amending the Air Passenger Protection Regulations ("APPR") (date of publication: December 21, 2024)

INTRODUCTION

Air Transat A.T. Inc.

Founded over 37 years ago, Air Transat A.T. Inc. ("**Air Transat"**) is a 5,400 employee-strong Montréal-based airline recently awarded the distinction of the world's best leisure airline for the sixth time. From its Montréal and Toronto hubs (with service also offered from Québec City and airports across Ontario, and Eastern Canada), Air Transat flies five million passengers annually to 62 destinations across Europe, North Africa and the Americas.

During the post-pandemic restart and in the years since, Air Transat cautiously deployed capacity as staff resumed operations resiliently. Air Transat expends all efforts within its control to complete every flight possible and, in the rare event of significant flight disruptions under its control (and often well beyond), Air Transat accepts and exceeds its obligations to take care of its customers.

As a best-in-class airline, Air Transat places customer service at the heart of its values. This is reflected in various leading statistics, such as having the lowest number of passenger complaints among Canada's largest airlines, as well as the most favourable rate of adjudication decisions, as recorded by the Canadian Transportation Agency ("**CTA"**). Air Transat represents less than 2% of the complaints in the CTA backlog and currently is the object of an average of 85 complaints per month at the CTA (from an average of over 400,000 passengers flown) of which we are ultimately found responsible for under 30%. Air Transat should be rewarded and incentivized for this laudable industry-leading record of customer service and operational resilience. Air Transat accepts responsibility for travel disruptions within our control and our business is built around the satisfaction of our valued customers. However, such proposed costly regulatory amendments focused on financial compensation rather than operational improvements, in addition to the ever increasing regulatory burden on Canada's airlines, imperil and penalize Air Transat and its customers.

CONTEXT

The COVID-19 pandemic and related public health measures and travel restrictions devastated Canada's travel and tourism sectors which were the first hit, the hardest hit and among the last to recover. With borders closed and travel curtailed, as a primarily international airline, Air Transat was forced twice to suspend all its operations, with a devastating impact on travelers, our employees, and their families. Financially, the Government of Canada deployed emergency liquidity measures including the Canadian Emergency Wage Subsidy (CEWS) and the Large Employer Emergency Financing Facility (LEEF) for which Air Transat and its workers express their continued gratitude. While operations have long since recovered and staffing has returned to pre-pandemic levels, Air Transat alongside Canada's airlines, airports, and the rest of the aviation ecosystem have taken on significant amounts of pandemic-debt which weigh on the sector, hampering investment, competition and growth. For Air Transat, this represents total indebtedness to the federal government of $800 million where no debt existed prior to the pandemic.

The post-pandemic period has been characterized by strong inflationary pressures, severe supply chain disruptions (notably including aircraft engines), economic uncertainty and a recent rapid Canadian currency devaluation, all of which weighs heavily on airline finances. The entire economic and financial picture, including the prospect of significant trade disruptions, are important considerations in any regulatory process centred on financial compensation and significantly increased costs. As internal trade barriers are being dismantled and the Canadian economy girds for a period of uncertainty, now is precisely not the time for new costly regulation of a critical Canadian industry that moves its people and goods from coast to coast to coast. Canada's air transport system is vital to the lives of Canadians and to many important economic sectors such as tourism. As industry regulator, it is paramount that the CTA ensures that Canada has a safe, integrated aviation ecosystem, that is competitive, affordable, sustainable, resilient and offers a positive passenger experience.

Improving the flying experience should be the goal of any regulatory reform of the sector, second only to the over-riding policy imperative of safety which must transcend every facet of aviation. The proposed changes to the APPR are mainly centred on increased financial compensation from airlines to passengers. Whereas the current rules are governed by categories of responsibility with compensation tied to the control airlines have over events, the reform proposes, amongst other drastic changes, that airlines be financially responsible to provide compensation in all situations, save a list of exceptional circumstances. Furthermore, the reform proposes unprecedented and costly obligations on airlines to rebook and provide *standards of treatment* in all circumstances, including so-called exceptional circumstances, which are neither feasible nor operationally possible.

This regulatory reform imposing significantly expanded financial penalties on responsible actors, whether intentionally or not, is highly counter-productive as increased compensation costs for airlines (and therefore to consumers) would harm growth, jobs, competitiveness, accessibility and weaken competition without directly improving the travel experience. It must be added that the costs and risks borne by a passenger during a travel disruption can already be mitigated by products readily available in the market such as a more flexible air ticket and/or travel insurance. Transferring such costs onto airlines by this regulatory reform, especially for exceptional situations outside airline control, is tantamount to imposing the obligations of an insurer onto airlines.

Furthermore, a one-size-fits-all regulatory response of broadly expanded financial compensation and related obligations to situations outside airline control should be avoided as it does not reflect the operational realities of various airlines, including flight frequencies and duration.

Air Transat, with its record of operational resilience and customer-centred respect for its APPR obligations, should not – and indeed, cannot - face dramatically increased financial consequences under the proposed regulatory reform.

INTERNATIONAL CONTEXT

Canada's key trading partners are understanding the negative impacts that an overly punitive approach to passenger rights has on aviation. Examples include:

- The Australian government decided not to proceed with a compensation regime for flight disruptions, following a 2024 in-depth consultation. Submissions were made showing that such a regime would lead to increased cost and little to no improvement in customer service.

- The new American administration has paused proposed new punitive passenger rights regulations or rule making until a review of its cost and regulatory impact is conducted. There simply is no compensation based APPR-type regime for flight disruptions in the United States.

- The European Union – often cited as a model for APPR – has recognized that its regulation (EU261/2004) 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.

With this proposal, Canada is moving in the opposite direction, inviting economic consequences for its industry and consumers. Canada must remain globally competitive with its aviation policies.

SHARED ACCOUNTABILITY AND "USER-PAY" MODEL

Aviation is not limited to airlines. Airlines in Canada operate in a complex aviation ecosystem which is comprised of airports, airlines, and various government or independent entities which deliver essential services: NAV Canada (air traffic control), CATSA (security) and CBSA (customs and border services). Each of the actors is heavily inter-dependent on the others for their operations. Notwithstanding this inter-connectedness, Canada's APPR focus uniquely on airlines in terms of regulated standards of service including financial compensation and penalties. Further, Canada's entire aviation ecosystem operates on a user-pay financial model, unlike for example, the United States located a mere one hour drive from many of Canada's largest cities and airports, where government funds airport and aviation infrastructure. Canada's airports are burdened with significant Crown rent payments to the federal government, averaging 12% of their operating budgets for NAS airports, which restricts their ability to invest in necessary infrastructure upgrades. It is illogical for federal APPR regulations to penalize airlines for disruptions, many of which can be attributed to the federal government's own airport funding model and lack of infrastructure investment.

Ensuring the necessary infrastructure, including funding, and a regulatory framework requiring the widest possible accountability to travelers across the aviation ecosystem are essential ingredients in the pursuit of improvements in travel, alongside airline responsibility for events under their control.

EXPERT SUBMISSIONS

Air Transat endorses the comprehensive expert submissions of the National Airline Council of Canada ("**NACC**") and the International Air Transport Association ("**IATA**") and reiterates our earlier submission to the CTA in its public pre-consultation on APPR of July 2023. Sections of these submissions are reproduced here for emphasis.

Air Transat welcomes the CTA's stated intention to balance air carriers' operational realities with passenger rights in the APPR. As part of this consultation, Air Transat will identify where operational realities require a rebalancing of the proposed regulations. Specifically, as will be elaborated below, Air Transat highlights that the new obligations proposed by the CTA for *Communications, Rebooking, Assistance* and *Knock-on Effects* are not operationally feasible and will require multi-year multi-million-dollar investments which may be beyond the scope and means of many Canadian airlines. The CTA's proposals in these areas require rebalancing to reflect the operational realities and limitations of what airlines can be reasonably expected to provide.

To be clear, the increased costs of the proposed regulations will be exponentially higher than the $512 million over 10 years projected by the CTA, for the reasons detailed in the submissions of, *inter alia*, the NACC and IATA. The cumulative effect of regulatory costs, high taxes, charges and fees have led to Canada already being among the world's costliest jurisdictions in which to fly – which is particularly concerning in the face of the affordability challenges facing many Canadians today. This situation will be exacerbated by the proposed amendments, disproportionately impacting Canada's medium-sized airlines like Air Transat, as well as regional markets, with fewer passengers to absorb the significant cost increases. While larger carriers may spread increased costs and investments over larger passenger volumes or otherwise pass along the costs, and smaller carriers are exempt from various aspects of the regulation, it is the carriers in the middle such as Air Transat that stand to bear the far-reaching impacts of the proposed reforms disproportionately without the means to do so.

PROPOSED APPR AMENDMENTS AND RECOMMENDATIONS

1. REBOOKING (ALTERNATE TRAVEL ARRANGEMENTS)

APPR currently provides a 9-hour rebooking window for controllable delays and a 48-hour rebooking window for uncontrollable delays, for large airlines.

In removing the three categories for delays in APPR, the CTA now proposes a one-size-fits-all rebooking requirement of 9 hours in all cases of delay for larger carriers, including exceptional circumstances, in place of the current 48-hour window.

Air Transat flights, which are exclusively medium and longer-haul international flights, operate once daily or less frequently. While constantly offering expanded options for travelers, Air Transat is not a large global network carrier nor part of a global airline alliance. Only three of Air Transat's current 62 destinations are served with more than a single daily flight within 9 hours of the other, on a seasonal basis. Regional or remote flights of other Canadian carriers would similarly be less frequent. Air Transat's direct international flights are not available within a 9-hour rebooking window. Furthermore, the proposed 9-hour rebooking window is not operationally feasible when considered in the context of such factors as major airport curfews (at origin and destination), crew rest and fatigue requirements, aircraft availability, airport slot and gate availability, in particular for longer-haul and international operations.

Air Transat concurs with the CTA that the rules must be clarified in line with the CTA's *Guiding Principles* of simplicity, ease (possibility/practicality), and balance. A rule requiring a 9-hour rebooking window is complex, costly, imbalanced and does not reflect operational realities for all but higher-frequency shorter-haul, mostly domestic routes, **which Air Transat does not operate**. Simply put, **the 9-hour rebooking rule for large carriers is unworkable in the context of Air Transat operations**. Such a requirement is not operationally feasible for Air Transat and should be rebalanced to maintain the current 48-hour rebooking window on its own aircraft for all but short-haul, high frequency, mainly domestic routes (i.e. flights under 3 hours) as would be the case for small carriers. We reiterate that airlines have every economic incentive to return aircraft to service as safely and promptly as possible; there is simply no incentive for an airline to delay very costly aircraft on the ground for any longer than is strictly necessary.

Air Transat practice is to resume delayed flights as quickly as is safe and operationally possible, thereby protecting its customers and respecting its APPR obligations. For these reasons, the current 48-hour rebooking window (formerly, in uncontrollable situations) is the only reasonable and practical rebooking solution. From Air Transat's perspective, where an airline resumes or replaces a delayed journey within 48-hours on its own aircraft, barring further Exceptional Circumstance, no further rebooking obligation should be imposed under APPR.

Imposing an obligation on Air Transat to rebook delayed passengers on indirect routes via third countries or on other airlines with whom we have no commercial nor operational agreements is unlikely to improve a traveler's journey, may not even be possible at the last minute, and could have the very opposite effect. Further, the costs of purchasing tickets on a competing carrier, if seats were even available, could be multiple times the original fare paid to a more affordable leisure-oriented carrier like Air Transat, and therefore be punitive, unfair and disproportionate, where Air Transat can rebook its passengers (often on the same flight) within 48 hours.

Recommendation: Maintain the current 48-hour rebooking window on its own aircraft for large carriers in all circumstances. A 9-hour rebooking window is only feasible for short-haul high-frequency mainly domestic routes (under 3 hours).

2. ASSISTANCE (STANDARDS OF TREATMENT)

Air Transat submits that the proposed expanded obligation to provide passengers with standards of treatment in exceptional circumstances is not operationally feasible.

While airlines accept responsibility for occurrences under their control, such a dramatic policy shift can neither be realistically delivered in real-world situations across vast airline networks, nor is such an expansive regime affordable. Canadians are witnessing increasingly frequent extreme weather and climate events, which impact flight operations. We are not aware of any other mode of transport nor sector of the economy that would be subject to such regulated standards of treatment, nor are airlines best suited to suddenly provide accommodation, meals and ground transport at scale across their vast networks in real-time in extraordinary circumstances (well outside normal operating conditions). Outside their hub airports, airlines are reliant on third-party ground handlers for passenger services. By their very definition, extraordinary circumstances would often be systemic or widespread events, making access to standards of treatment limited, and where available, costly, exponentially beyond estimates (Cost Benefit Analysis) provided by the CTA.

In sum, the proposal is akin to mandatory insurance for passengers, that will likely be paid for through higher ticket prices. The CTA presents no evidence that passengers are willing to pay extra for this level of protection, nor is any opt-in alternative such as purchasing readily available voluntary travel insurance presented. As IATA has concluded, airlines should not be used as insurers of last resort. The simplest solution, should the regulator proceed with such an expansive regime and should passengers wish to pay the associated costs, would be to obligate all air passengers to purchase comprehensive insurance or to create a voluntary insurance scheme which the government could administer. The proposed expansion is fraught with complexity and runaway cost, and must be approached with caution and balance, so as not to create new challenges or unmanageable expectations.

It goes without saying that it is entirely foreseeable that amenities are unlikely to be readily available in exceptional circumstances such as weather events or disturbances. To enhance clarity, any such regulation must 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. Even more so, for up to 72 hours as is being proposed (rather being tied to the rebooking window). It is for this precise reason that the proposal ought to be abandoned.

Recommendation: Airlines cannot be obliged to provide standards of care in exceptional circumstances. Insurance products are readily available for consumers who opt for such protections.

3. COMMUNICATIONS

The proposed amendments would require that the reason for any delay or cancellation, together with specific entitlements, be communicated "without delay" to passengers when there is a flight disruption, using each passenger's preferred electronic method of communication.

This unprecedented requirement is impractical and may be positively unhelpful. Airline personnel may not have reliable information to share, particularly at the onset of disruption. For example, the reason for the delay or cancellation may not be known immediately. Similarly, it may be unclear what the impact or duration of the disruption will be. Sharing information that is liable to change is of no benefit to passengers.

The requirement to provide immediate information – to be updated every 30 minutes – is neither possible nor not fit for purpose. Requiring airlines to provide an update irrespective of whether new information is available does not make any sense.

Such real-time communication systems and infrastructure do not currently exist save for at the largest of the world's airlines. The costs of developing such a sophisticated system, hiring and training staff and operating it in practice are neither reflected in the Cost-Benefit Analysis nor even feasible for most airlines currently operating in Canada.

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.

Recommendation: Airlines cannot be obliged to communicate detailed disruption information, specific entitlements nor how to claim them in real-time.

As regards the collecting by airlines of passenger contact information at check-in, there is a specific issue with bookings made through intermediaries where the intermediary does not pass contact information to the airlines operating the flights involved. Rather than imposing additional burdens on carriers and all passengers, IATA has urged the CTA to address this issue head-on, with a requirement for intermediaries to either a) pass contact information on to the carriers or b) be liable with complying with all of the information requirements e.g. updating passengers in case of disruption. The requirement to collect contact information at check-in would also not benefit passengers in the event of a need to communicate with passengers prior to check-in for example to provide advance notice of disruption and potentially save passengers the time and inconvenience of travelling to the airport unnecessarily. Further, it is unclear how this provision would work in practice for travel booked through an intermediary with flight segments operated by different carriers. Would the first carrier have to transmit information to other carriers included in the booking? It is particularly unclear, how the proposed approach would work if the different segments were bought under different contracts of carriage and combined into an itinerary by the intermediary. In contrast, this problem would not arise if the intermediary were required to ensure that airlines have access to contact information at the time of booking.

Recommendation: The CTA should legally require all third-party booking agents to provide airlines with passenger contact information (mobile number and email address) at the time of booking or exempt airlines when such passenger information is not provided .

Recommendation: Airlines may communicate with a lead passenger in the cases of families or groups.

4. EXCEPTIONAL CIRCUMSTANCES

Air Transat refers to the detailed expert submission of the NACC in this regard.

In defining exceptional circumstances, the CTA has proposed an exhaustive list of situations, plus an additional subjective catch-all 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 and litigation and could be open to a considerable degree of interpretation and an unnecessary source for passenger complaints. In sum, the new test runs counter to the CTA's goal of simplifying the regulation and we recommend that it be removed.

Recommendation: The CTA should drop the proposed subjective test ("*the flight disruption could not have been avoided even if all reasonable measures had been taken by the air carrier*") from exceptional circumstances.

Air Transat welcomes the inclusion of an exception for delays and cancelations caused by unforeseeable technical defects. Safety is at the heart of civil aviation, is a critical element of APPR (2019) and was an essential feature of dozens of submissions received from stakeholders, including from labour, community, and safety experts, during the CTA's July 2023 pre-consultation which unequivocally opposed the proposed removal of the safety exemption. Safety must remain paramount in everything that we do. Air Transat reiterates the expert NACC submission on unforeseeable technical defects with crucial refinements:

> **While NACC strongly supports including an exception for delays and cancelations caused by unforeseeable technical defects, we believe it should be clarified to ensure it achieves its purpose. In this regard:**
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> - **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 carriers, it could specify that.**
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> - **Similarly, the proposed language for this exception does not take into account that unforeseeable technical defects can be discovered during scheduled maintenance check, causing unexpected delays in aircraft returning to services. NACC therefore suggests that the exception applies for unforeseen defects. Therefore, subsection 18 (G) (II) should be removed.**
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> - **Finally, 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.**

Air Transat maintains that long delays due to unforeseen technical defects in its operations are exceedingly rare and are impossible to avoid entirely.

Recommendation: The CTA should refine the definition of unforeseeable technical defects in the exceptional circumstances list, in line with the proposal of the NACC.

5. KNOCK-ON EFFECTS

The CTA has revised the "knock-on effect" rule to allow for a capped 24-hour recovery period for large airlines in the event of an exceptional circumstance, rather than a one subsequent flight approach in its July 2023 pre-consultation. The CTA would not impose any limit on small carriers for knock on effects.

Due to the nature of its international longer-haul flight operations as elaborated above under *Rebooking,* Air Transat requires a 48-hour window to fully recover from the knock-on impacts of flight disruptions due to exceptional circumstances. Although a 24-hour window can be sufficient in most circumstances for short haul flights (under 3 hours), it is not sufficient for longer-haul international flights and in the event of exceptional circumstances significantly impacting an airline network.

Recommendation: The cap for claiming "knock-on" effects from flight disruptions due to exceptional circumstances should be set at 48 hours for large carriers, at least insofar as flights of three hours or more. Moreover, the mere existence of a knock-on from a previous disruption with the same aircraft 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.

6. REFUNDS

Recommendation: Air Transat clarifies here that any obligation on an airline to refund (within a certain amount of time) must consider airline tickets sold by third parties. In such circumstances, the obligation to refund should fall on the seller or can only fall on the airline once the airline becomes aware that the request for a refund has been made and must necessarily be limited to the amount that the airline itself has collected exclusive of any charges or fees imposed by the third-party seller. The proposals would also require refunds to be processed within 15 days from when the passenger becomes entitled to a refund. The trigger for a refund being payable should always be from the time the refund request is made, not from the flight delay or cancellation.

7. REFUNDS FOR CHANGES IN GOVERNMENT TRAVEL ADVISORIES

Currently, passengers do not have any right under APPR to a refund if they cancel their ticket based on a change in Government of Canada travel advisories, which constitutes an event entirely outside airline control. Such a right would be unprecedented. Any such risk can readily be covered by travel insurance or the purchase of a flexible airline ticket and should not be imposed on airlines which have no control of such occurrences. In line with the proposals of the NACC and tourism industry, any such expanded financial liability arbitrarily imposed on airlines should be avoided entirely, or at worst, limited to the most exceptional Level 4 (Avoid All Travel) travel advisories **only**. In an increasingly uncertain world, Level 3 advisories are increasing in occurrence and would constitute an unreasonable and imbalanced obligation for airlines, as well as a significant competitive disadvantage out of synch with the global market, especially when flight operations routinely continue under Level 3 conditions around the world without

refund obligations. Here again, Canada's airlines should not be expected to assume insurance-type liabilities for travelers in such circumstances.

For clarity, such a refund obligation should only be in cases where the airline ticket was purchased prior to the change in government travel advisory. Similarly, if an airline cancels a flight because of such a change in government travel advisory, such cancellation should be exempt from APPR financial compensation.

Recommendation: The CTA should discard the unprecedented proposal to oblige airlines to refund passengers for changes in government travel advisories. Should such an arbitrary obligation be introduced, it must be limited to the most exceptional Level 4 (Avoid All Travel) travel advisories only, given the increased occurrence of Level 3 travel advisories**.** A refund would only be required where the ticket was purchased prior to the change in government travel advisory and no APPR compensation should be due to passengers on flights cancelled due to the issuance of a government travel advisory.

8. AIR CARRIER CLAIMS PROCESS AND PROVIDING AN EXPLANATION FOR DENIAL OF CLAIMS

The CTA proposes a new requirement that *"…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."*

As the NACC has explained, 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.

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

Recommendation: The CTA requirement of an airline to provide a clear and detailed explanation establishing the existence of that exceptional circumstance, should not include an obligation that said explanation be accompanied by "any documents, reports, or other evidence."

9. SEATING OF CHILDREN UNDER THE AGE OF 14

As Canada's family airline, Air Transat already has policies in place to seat children under the age of 14 near a parent or guardian, at the time of departure. However, a new requirement that such seating arrangements be confirmed during the booking process is not feasible and would require costly IT development, while adding little value.

Recommendation: The child seating requirement be greatly simplified to reflect adequate seating prior to departure as is the case currently.

10. ALTERNATIVE PROPOSAL – VOLUNTARY COVERAGE

Given the exponential increase in costs and impact on competition and competitiveness associated with the CTA's proposal, with no amelioration to the travel experience, the CTA and the federal government ought to consider alternative proposals to the current APPR. Beyond simply requiring the purchase of travel insurance, one such alternative is to make enhanced 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 – beyond situations strictly within a carrier's control.

Such a system could be managed by the CTA and administered as a traveler compensation fund. If a passenger chooses this option, they would pay a premium and enjoy indemnification in the event of disruptions; if they chose not to accept coverage, their fare would be lower. 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 adjudications. Such an approach could result in a simpler, clearer regime, causing fewer misunderstandings and disputes due to unachievable expectations. Cost and resources invested in managing claims would be significantly reduced for all parties, including the CTA.

CONCLUSION

The proposed APPR amendments will not lead to improvements in Canada's air travel ecosystem as has been demonstrated in Europe. To the contrary, the singular focus on airlines and broadly expanded financial compensation will necessarily increase airline costs and administrative burdens and invariably lead to new friction as expectations are further raised in exceptional circumstances outside airline control. Increased costs translate into higher fares for consumers, less choice, and a less competitive market, disproportionately harming medium-sized airlines such as Air Transat. While Canda's largest airlines may spread increased costs across their much larger passenger numbers, and smaller carriers are exempt from parts of the regulation, it is precisely medium-sized carriers such as Air Transat that are disproportionately exposed to the significant impacts of the proposed regulation, some of which they cannot realistically operationalize. Instead of a one-size-fits-all approach, regulations should reflect diverse operational realities across the industry and should incentivize, rather than punish, airlines such as Air Transat with strong customer-service practices and low complaint levels which conduct their operations in a passenger-centred way.