

March 6, 2025

VIA EMAIL

France Pégeot
Chair and Chief Executive Officer
Canadian Transportation Agency
15 Eddy Street
Gatineau, Québec K1A 0N9

RE: Proposed Amendments to the Air Passenger Protection Regulations

Dear Ms. Pégeot:

On December 21, 2024, the Canadian Transportation Agency (the “Agency”) published a regulatory impact analysis statement (the “RIAS”) and accompanying proposed amendments (the “Proposed Amendments”) to the *Air Passenger Protection Regulations* (the “APPR”) in the Canada Gazette Part 1, Volume 158, Number 51.

As will be outlined in this submission, the Proposed Amendments represent a costly and entirely avoidable self-imposed tariff that will undermine air travel affordability for Canadians. The Proposed Amendments will disproportionately impact the viability of smaller market air services and reduce regional connectivity. Canada cannot afford such counterproductive policy at a time of unprecedented economic, geopolitical, and cost-of-living challenges.

WestJet’s submission outlines concerns with the Proposed Amendments and proposes an alternative approach to enhance passenger rights without compromising affordability or competition in Canadian air travel. An executive summary of these concerns is provided at the end of this letter.

I. WestJet’s Commitment to Affordable and Competitive Travel

WestJet is Canada’s leading low-cost airline, committed to providing safe and affordable travel to Canadians. We are committed to expanding choice for travelers, increasing competition in Canada’s air travel market, and always improving guest experience. We take pride in supporting the Canadian economy, driving tourism growth, and enhancing internal trade and the movement of labour and goods.

WestJet, the Government, and the Agency share a goal of improving air travel for Canadians. However, the Proposed Amendments fail to achieve this. They impose a heavy regulatory

burden on a vital industry, driving up costs and airfares while harming competition and regional service—leaving Canadians worse off.

Canadian air travellers already face some of the world’s highest government fees, taxes, and third-party charges, making travel less affordable and weakening competition. The Proposed Amendments would worsen this, significantly increasing costs.

Further compounding these concerns, on September 18, 2024, the Agency opened a consultation regarding an Air Travel Complaints Fee Proposal, which proposed a \$790 fee to be levied against airlines for all APPR complaints adjudicated by the Agency (the “Fee Proposal”). WestJet submitted a response to the Fee Proposal on November 4, 2024, and highlighted considerable concerns, including the following:

1. The runaway costs of administering the APPR (which are 20x more than the Agency’s original estimate);
2. Ongoing inefficiencies with the administration of the APPR, including the Agency’s forecast that it will process fewer complaints every year than it receives (and due to this, the backlog of complaints is expected to exceed 90,000 by the end of summer 2025); and
3. Risk of further exacerbating the issues associated with administering the APPR, including the backlog of cases, as the imposition of fees is solely on airlines and irrespective of the outcome.

II. Counterproductive Timing in a Challenging Economic Landscape

Since the release of the Proposed Amendments, the global landscape has shifted. Canada is facing serious economic challenges, including the threat of US trade tariffs. Building a more resilient domestic economy and removing barriers to internal trade are crucial and is being holistically reviewed by all levels of government on a priority basis. Aviation is critical to internal trade, and while progress is being made to streamline regulatory and cost burdens in several modes of transport and industries, the Proposed Amendments will increase airfares and impose a costly internal tariff on the movement of people and goods—making this the worst possible time for such changes.

III. Defining a Better Way Forward

Canada needs a different, modern approach. Given serious flaws with the Proposed Amendments and the negative effects on passengers, the air travel system, and the Canadian economy, WestJet proposes a modern alternative path with three key elements

that will provide greater benefit to passengers, and help build a stronger air travel system that supports Canada's domestic economy and internal trade at this critical time:

1. **Halt the implementation of the Proposed Amendments:** Due to their excessive costs to Canadians and significant flaws in the regulatory design and economic cost assessment. These issues are too substantial to be addressed through the usual revisions made between CG1 and CG2.
2. **Reform administration of the existing APPR:** To reduce the massive and growing backlog that has Canadian travellers waiting up to three years for the resolution of complaints. Despite spending 20 times more than initially proposed, the Agency is unable to keep up with demand for complaints to be heard under the existing rules. The backlog is growing and has now reached 80,000 claims. To help address this problem, NACC, on behalf of Westjet and other major carriers, submitted a letter on October 10, 2024, outlining specific technical proposals to help streamline administrative processing between airlines and the Agency. We are awaiting a response from the Agency.
3. **Reform the existing APPR to allow choice for Canadians:** The APPR functions as mandatory trip interruption insurance that the government requires all Canadian travellers to purchase through higher airfares. Like traditional insurance, many pay for the benefit of the few—higher fares from all passengers cover the costs for those who experience trip interruptions. Westjet is proposing to introduce optionality, whereby travellers can opt in or opt out from the compensation entitlements in the APPR at the time of ticket purchase.

Some APPR requirements, such as ensuring children are seated next to their parents align with common international standards and are reasonable to keep mandatory. Other concepts, like requirements to provide a rebooking or refund, are also reasonable provided a carrier has an adequate period of time for their provision.

However, many other APPR regulations are not widely adopted internationally. These regulations effectively force Canadians to pay for trip interruption insurance, while travellers in most other countries do not face these costs. There is no clear justification for the government mandating the exact level of trip interruption insurance Canadians must purchase.

To foster choice, affordability, and competition, the government should reform the APPR by making these additional requirements voluntary. This would allow Canadian travellers to decide what works best for them. A recent national survey of 1,800 individuals found that 71% believe the government should offer the option to choose between a lower-priced

ticket that excludes the compensation amounts in the APPR, and a higher-priced ticket that includes these amounts.

IV. Canada Needs Affordable and Competitive Air Travel to Stimulate the Economy

WestJet has serious objections to the Proposed Amendments. We recognize that this letter goes well beyond the scope of these regulatory measures and the role of the Agency and relates to broader air travel policy which is the responsibility of the Minister of Transport and the government more broadly.

The air travel system is a key economic driver for Canada, and we have an urgent imperative to build a more resilient Canadian economy to respond to the US trade threats. Now is the time to begin addressing the most important challenge facing the Canadian air travel system: the high fees and government charges that are impairing affordability and competition in the system. The better way forward we are recommending is a good first step in addressing that challenge.

We are available to discuss any matters in this submission at your convenience.

Yours truly,

WestJet



Christina Iversen
Head of External Affairs, WestJet

cc.

The Honourable Anita Anand, Minister of Transport

Arun Thangaraj, Deputy Minister of Transport

Tom Oommen, Director General, Analysis and Outreach, Canadian Transportation Agency

Allan Burnside, Senior Director Analysis Regulatory Affairs, Canadian Transportation Agency

Alexis von Hoensbroech, Chief Executive Officer, WestJet

Jacqui McGillivray, Executive Vice President, Chief People & Public Affairs Officer, WestJet

Executive Summary

WestJet's Key Concerns with the Proposed Amendments

WestJet has significant concerns regarding the Proposed Amendments. The most critical issues with the potential for the greatest impact on the airline industry and Canadian air travellers are outlined below, including:

1. The Agency has materially erred in the regulatory impact analysis statement;
2. Certain portions of the Proposed Amendments are impossible to implement and will increase traveller confusion;
3. The Proposed Amendments will worsen air travel affordability as Canadians face a cost-of-living crisis;
4. The viability of small market routes and regional connectivity will be compromised; and
5. The Agency should not implement this costly and avoidable self-imposed tariff.

The attached appendix provides a detailed discussion of each of the Proposed Amendments.

I. The Agency Has Significantly Underestimated the Cost of the Proposed Amendments

The Agency has clearly underestimated and in some cases ignored the cost of compliance required by the Proposed Amendments, which is materially higher than suggested in the RIAS. For example:

1. For several provisions, the Agency assumes no cost to airlines, such as the requirement to rebook passengers on any carrier after a 9-hour delay instead of the current 48 hours under the APPR. The RIAS claims this is a "net zero cost," which is incredibly unrealistic, as it introduces a more costly obligation on carriers and would involve administrative and staffing costs to accommodate the significant increase to rebookings on other carriers. Additionally, last-minute ticket purchases on a competitor are materially more expensive than reaccommodating on a carrier's own aircraft and may involve non-Canadian carriers, leading to revenue outflows that could negatively impact the Canadian economy and domestic airlines.
2. The new requirement to provide standards of treatment—hotels and meals—in all circumstances, including for up to 72 hours in exceptional circumstances such as

weather events, natural disasters, political instability, terrorism, and war, will introduce a major new cost to airlines that is underestimated by the Agency.

3. WestJet estimates that as a result of the Proposed Amendments, the APPR will cost WestJet more than \$300 million a year. By extrapolation, all else being equal, the figures suggest a potential cost approaching \$1 billion dollars to the Canadian aviation industry. We estimate an APPR cost of \$14.15 for a typical one-way WestJet ticket. Put into practical terms, a round trip for a family of four would incur more than \$113 in total APPR costs under the Proposed Amendments. The impact on the cost of airfares for Canadians is significantly higher than the \$0.99 per passenger segment claimed by the Agency in the RIAS.
4. The RIAS also states that the Proposed Amendments are estimated to result in present value benefits to Canadian passengers of \$527.3 million, and a net present benefit of \$14.9 million, over a 10-year period. However, this conclusion of a net benefit to society hinges entirely on underestimated costs made by the Agency. As indicated in the preceding bullet, WestJet's incremental costs alone over such a 10-year period would dwarf the benefits which have been calculated. When updated with accurate assumptions and properly projected on an industry-wide basis, the Proposed Amendments result in a net cost to society. No Canadian airline can absorb a cost increase of this magnitude, and as such these costs will necessarily be passed to travellers, resulting in a clear and significant net cost to Canadians.
5. The cost associated with the significant administrative requirements related to providing refunds within 15 days instead of 30 days. This will require investments in new systems and staff to administer that is several orders of magnitude greater than assessed by the Agency. These costs are above and beyond any benefits or compensation to passengers.

It is noteworthy to point out that the Agency has previously underestimated the cost of compliance with respect to the APPR as it has indicated [publicly](#) that it is now spending 20 times more than what it originally projected in the original RIAS when it initially introduced APPR. At the same time, the backlog of complaints awaiting adjudication at the Agency continues to grow, with travellers waiting up to three years for decisions.

II. Overly Complex Provisions Drive Up Costs and Complaints

WestJet is deeply concerned that many provisions are nearly impossible to comply with logistically and operationally, driving up costs with minimal benefit to travellers and putting carriers at risk of fines, which are set to increase tenfold (from \$25,000 to \$250,000). Some of these burdens include:

1. The Proposed Amendments would place a heavy administrative burden on carriers, making them difficult to implement in practice. Under the new Section 2.1, if a carrier denies a claim under Section 85.01(1), it must provide a detailed explanation referencing the relevant terms, conditions, fares, and fare rules. If compensation is refused, the carrier must also include supporting documents, reports, or other evidence. This effectively forces carriers to provide a comprehensive, legally detailed decision within 30 days—rather than a straightforward explanation—turning a clear and practical claim denial into a complex, quasi-judicial ruling.
2. The Proposed Amendments place full responsibility for compensation on airlines. Air carriers do not operate in isolation; when one part of the system fails, it affects the entire network. The Proposed Amendments put the burden on airlines to compensate after 24-hours of a large-scale flight disruption, which is extremely difficult. This could require airlines to pay compensation, even if the disruption was due to an exceptional circumstance.
3. Vague language in the Proposed Amendments creates further uncertainty, not clarity. For example, the Proposed Amendments impose an obligation on carriers to arrange alternate flights as soon as it is determined that a flight “is or is likely to be delayed” by three hours or more. Additionally, the requirement to act also applies when a passenger “is or is likely to miss” a connection. The terms “likely to be delayed” and “likely to miss a connecting flight” introduce ambiguity, as carriers and passengers may interpret them differently and have varying thresholds. This lack of precision will lead to disputes and inconsistent application of the APPR, causing passenger confusion and unpredictable treatment across airlines. Similar concerns arise with the introduction of a “reasonable measures” test to the exceptional circumstances analysis. As a result, unfounded complaints may increase, unnecessarily burdening both the Agency and carriers.
4. Reducing the refund window from 30 to 15 days imposes a significant new administrative burden on airlines. The claim in the RIAS that airlines would only need to hire one additional person to manage the reduced processing time is simply not credible.
5. The proposed handling of government issued travel advisories and related cancellation rights for passengers is not possible for airlines to put into practice. The current system of travel advisories does not provide the information airlines would require for assessing refund requests in compliance with the proposed regulations.

Given the additional complexity that these rules would bring and the new opportunities for differences in interpretation, it is very likely that these amendments would significantly

increase the volume of complaints to the Agency, contrary to the assumption made by the Agency that it would decrease the volume of complaints.

III. Proposed Amendments' Compliance Burden Threatens Core Safety Mission

WestJet's top priority is safety, requiring continuous investment and focus. The compliance burden of these complex new regulations will divert resources and management attention from safety. Additionally, certain provisions in the Proposed Amendments could undermine safety across operations. These include:

1. Rules for exceptional circumstances are too limited in recognizing safety issues and should be more broadly drafted to ensure safety-related decisions are not penalized through the imposition of compensation entitlements.
2. Additional requirements on cabin crew undermine their safety responsibilities. Adding detailed new process requirements for cabin crew to continuously update passengers on delays will dilute their attention on their most important role related to safety.

IV. The Proposed Amendments Are Out of Step With International Standards

The Proposed Amendments establish regulatory requirements that would make Canada a global outlier, as many countries such as the US and Australia do not have extensive requirements for compensation and accommodations for delays and cancellations beyond airline control. The APPR are modelled after Regulation EC 261, and there is a growing recognition that this regulation [has failed to improve on time performance](#).

Carriers are incented to continue to improve operational performance by naturally occurring competitive forces, and in order to operate profitably given the materially negative impact of flight delays, disruptions and cancellations on financial performance. A regime that punishes carriers, even in circumstances where they are not responsible for the disruptions that arise, has not improved guest satisfaction or on-time performance. In fact, it has paradoxically created more frustration due to poorly understood and unfair rules that are impractical to enforce, creating a backlog of claims without a credible plan to address them that will only increase under the Proposed Amendments

As WestJet has previously communicated to the Agency, another unwelcome side-effect has been the creation of a claims industry. There are a number of businesses in the UK and the EU whose primary line of business is assisting airline passengers in pursuing claims following delays and cancellations, to an extent which did not exist before Regulation EC 261 was introduced. This is now being seen in Canada. Ultimately—claims companies, which

have not suffered any loss as a result of the delay or cancellation, are financially benefitting from regulations which were intended to protect consumers.

V. The Proposed Amendments Exacerbate Intermodal Inequity

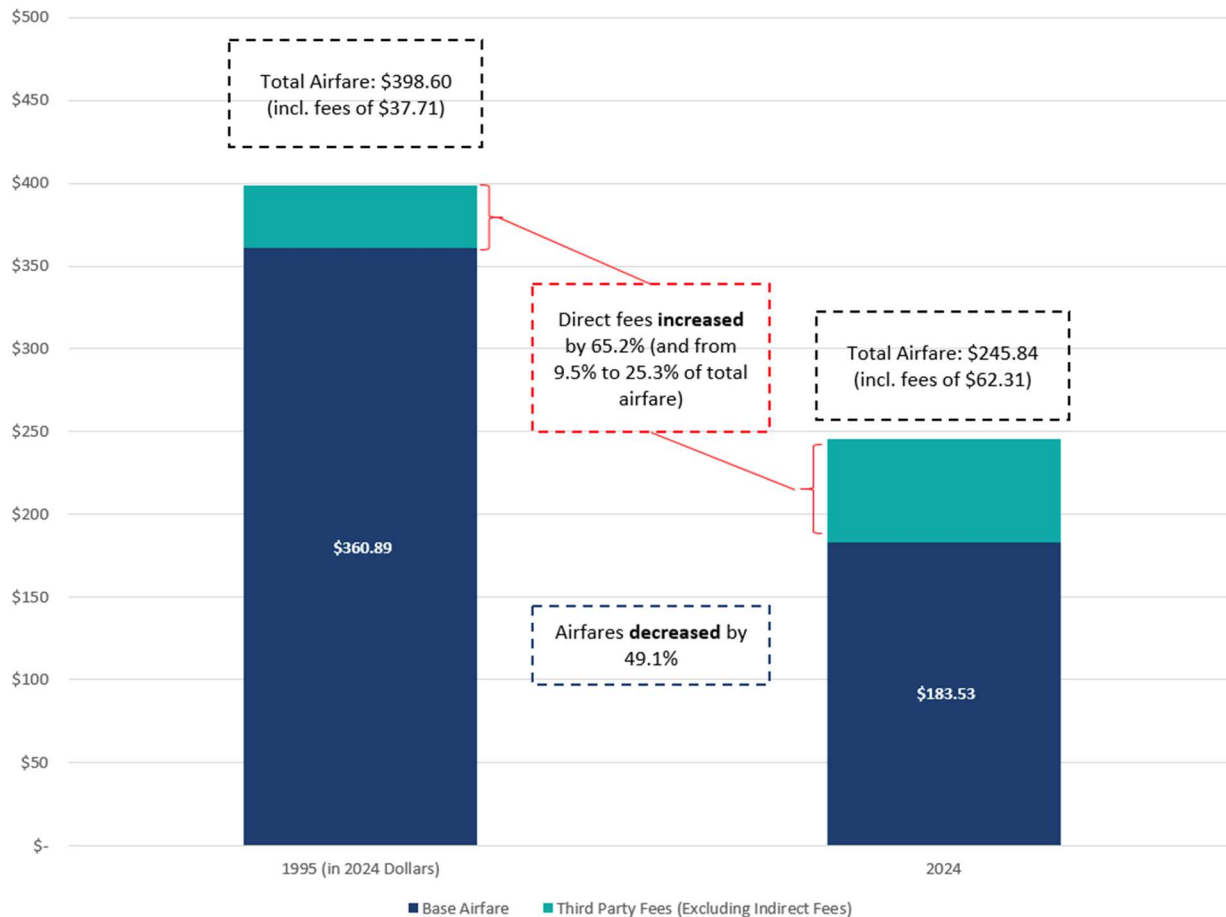
It is also critical to note that the Government of Canada has undertaken a policy approach that penalizes air travel relative to other modes of transportation. For example, while the government imposes high fees and charges on the air travel sector that are not applied to others, it provides large annual subsidies to VIA Rail and ferry services. The Proposed Amendments make this inequity worse, as they would significantly increase regulatory requirements on airlines that are not applied to any other transportation service provider in Canada.

VI. The Proposed Amendments Worsen Canada's Air Travel Affordability Problem

Canada has an affordability problem in air travel and, [according to the IATA](#), is ranked 101st in the world for air travel affordability because Canadian travellers pay some of the highest government-imposed air travel taxes and fees in the world.

Third-party charges and government fees and taxes on air travel in Canada are more than double those in the U.S. or Australia and have risen faster than inflation. While Canadian airline ticket prices have dropped by approximately 50% since 1996, over the same period, government fees and charges have increased by over 65%, now making up over 25% of ticket price. These figures are even worse when considering the indirect regulatory costs of the APPR which are embedded into (and therefore increase) airfare prices. The government is taking the savings that Canadians should be receiving.

If government and third-party fees and charges were reduced by just half, the elastic nature of demand in the airline industry, would spur 12 million new one-way domestic flights in Canada, enough demand to support an entirely new airline the size of Westjet. Put another way, fees and charges are preventing millions of Canadians from being able to afford domestic air travel, and are limiting the potential for new competitors, particularly ULCC's, to enter and succeed.



It is obvious that higher fees result in lower demand for air travel, which translates into fewer flights, less choice, and less competition among airlines. It is well-known that several Canadian ULCCs have failed in recent years, and they have cited the very high government charges and third-party fees in Canada as a primary reason why they could not succeed. With a typical Canadian airfare including \$75 in taxes and fees, it is very difficult for the ULCC model to work in Canada.

The Proposed Amendments would move Canada’s air travel market further in the wrong direction, exacerbating affordability challenges and eroding competition by increasing travel costs substantially.

With the Canadian economy facing the threat of US tariffs, the priority must be building resilience, removing internal trade barriers, and diversifying international trade. Adding self-imposed tariffs on domestic air travel is counter to the growth of internal trade and the domestic economy.

The increased cost of using Canada’s air travel system may drive more Canadians, particularly from border cities, to start their journeys at US airports to avoid these additional

fees. In the face of US economic threats, it's counterproductive to encourage Canadians to travel from US airports.

VII. Rural and Regional Routes Will Be Most Impacted by the Proposed Amendments

With higher costs, regional routes to smaller, rural and remote communities will be the most vulnerable to service cuts. When flight disruptions occur in these regions, there are fewer reaccommodation options available by which to adjust and rebook passengers in a timely way. This unfairly and unfortunately places a much higher cost risk in these regions, which governments and WestJet seek to prioritize for service. We have 30 new routes that have been added in the last year, and 119 routes that we fly less than daily. These routes are the most vulnerable to the adverse effects of these Proposed Amendments.