



Canadian  
Transportation  
Agency

Office  
des transports  
du Canada



# Consultation: Air travel complaints fee proposal

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# 1. Introduction

On June 22, 2023, the [Budget Implementation Act, 2023](#) (BIA) received Royal Assent and came into force. It modified the [Canada Transportation Act](#) (Act) to clarify, simplify and strengthen the Canadian air passenger protection regime and provided a new air travel complaints process.

The BIA also requires the Canadian Transportation Agency (CTA) to establish fees or charges to recover the costs for processing eligible air travel complaints, from airlines, under that new process. These fees or charges are temporary and will be replaced when the CTA establishes broader cost recovery schemes to encompass the costs of all its activities.

The purpose of this document is to present the CTA's proposed fee for processing and closing eligible air travel complaints. This includes an outline of the new air travel complaints process, a breakdown of the costing of that process, and the proposed fee.

## 2. Overview of the new air travel complaints process

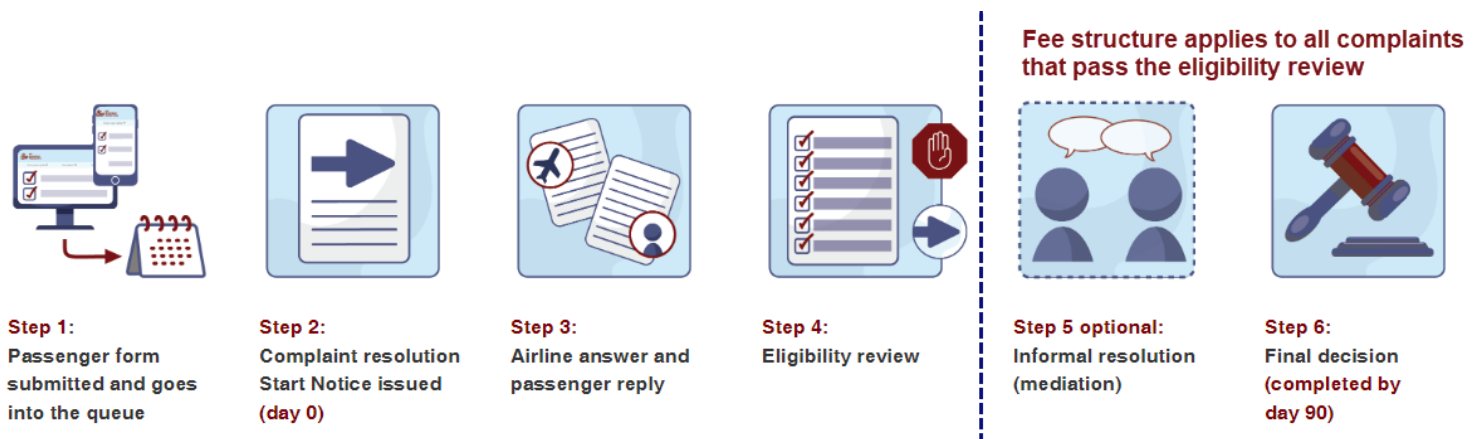
On September 30, 2023, the CTA established a new process to manage air travel complaints concerning entitlements under the [Air Passenger Protection Regulations](#) or the airline's tariff, a legal document that contains the terms and conditions that apply to a passenger's ticket. This new process does not apply to complaints regarding the reasonableness of a tariff or those that are accessibility-related.

The process has three key features:

1. Decision-makers, i.e. Resolution Officers (RO), are CTA employees and not Governor in Council-appointed members, as was the case with the previous process.
2. When the CTA receives a complaint, there are legislated criteria that must be met for the complaint to be considered eligible and processed by the CTA (see [Annex B](#)).

- There are legislated timelines that have to be met in handling each air travel complaint. In order to meet these timelines, the CTA has set out each step of the process and associated deadlines for each party in its [Guidelines on the Canadian Transportation Agency's Complaint Resolution Office air travel complaints process](#).

**Figure 1: [Air travel complaints process](#) as of September 30, 2023**



### 3. Costing the air travel complaints process

The CTA is required to establish fees or charges for eligible air travel complaints. Based on the [Financial Administration Act](#) and related Treasury Board policies and guidance, such as the [Directive on Charging and Special Financial Authorities](#), a department must not recover more than the full cost of the activities targeted by the cost recovery scheme, unless it has the authority. The legislative requirements applicable to the CTA's cost recovery obligations for eligible air travel complaints can be found in [Annex A](#).

To identify the full costs that can be recovered, the CTA has identified the following activities included in the process of eligible air travel complaints:

**Mediation:** An RO's activities can include mediating the resolution of a complaint between the airline and the passenger. The RO prepares the relevant documents that enable parties to have a voluntary, confidential, and productive negotiation to settle the complaint informally.

**Case Analysis:** In making a decision, ROs must analyze and consider which party has the burden of proof, the relevant legislation, the tariff, and the evidence on file.

**Decision:** The decision must be drafted, sent to parties, and specific information from the decision must be published on the CTA's website.

**Development and publication of binding guidelines:** the CTA may make guidelines on the procedure for dealing with air travel complaints and the extent to or manner in which provisions of the regulations apply to complaints.

**Assistance by the Agency:** The CTA, may, at the request of the RO, provide administrative, technical and legal assistance to the RO.

The costs related to these activities include:

- Employee salaries
- Employee benefits
- Operating and maintenance
- Professional services
- Internal services and program support
- Services provided by other branches and departments

The costs associated with the manual processing of eligible air travel complaints that will not be administered through the new portal have not been included in the calculations that are part of this fee proposal.

Based on historical complaints data and trends, the CTA estimates it will have the capacity to close – with decision, 22,615 eligible air travel complaints per year. As described in Table 1, the estimated total costs to administer air travel complaints is \$29,777,523 per year.

**Table 1: Breakdown of total costs**

<b>Costs</b>	<b>Complaints Resolution Office</b>	<b>Legal Services</b>	<b>Complaints Resolution Support Office</b>	<b>Director General's Office</b>	<b>Program Support</b>	<b>TOTAL</b>
Full time equivalent (FTE) (#)	111.00	10.75	16.25	4.50	5.35	147.85
Direct salary (\$)	11,496,216	1,894,402	1,753,048	461,549	670,230	16,275,445
Direct operating and maintenance (O&M) (\$)	854,700	82,775	125,125	34,650	326,495	1,423,745
<b>Total direct costs (\$)</b>	<b>12,350,916</b>	<b>1,977,177</b>	<b>1,878,173</b>	<b>496,199</b>	<b>996,725</b>	<b>17,699,190</b>
Internal services (IS) FTE 23% (\$)	25.53	2.47	3.74	1.04	1.23	34.01
IS salary 23% (\$)	2,644,130	435,712	403,201	106,156	154,153	3,743,352
IS O&M 23% (\$)	196,581	19,038	28,779	7,970	75,094	327,461
<b>Total IS costs (\$)</b>	<b>2,840,711</b>	<b>454,751</b>	<b>431,980</b>	<b>114,126</b>	<b>229,247</b>	<b>4,070,814</b>
Employee benefit plans (\$)	3,817,893	629,131	582,187	153,280	222,583	5,405,075
Public Services and Procurement Canada costs (\$)	1,838,245	302,915	280,312	73,802	107,170	2,602,444
<b>Total central costs (\$)</b>	<b>5,656,138</b>	<b>932,046</b>	<b>862,500</b>	<b>227,082</b>	<b>329,753</b>	<b>8,007,519</b>
<b>TOTAL COSTS (\$)</b>	<b>20,847,765</b>	<b>3,363,973</b>	<b>3,172,652</b>	<b>837,407</b>	<b>1,555,725</b>	<b>29,777,523</b>
<b>Portion to be recovered</b>						
<b>Recoverable costs (\$)</b> (60% of Total costs)	<b>12,508,659</b>	<b>2,018,384</b>	<b>1,903,591</b>	<b>502,444</b>	<b>933,435</b>	<b>17,866,514</b>
Number of closed complaints with decision (#)	22,615	22,615	22,615	22,615	22,615	22,615
<b>Recoverable costs per eligible closed complaint (\$)</b>	<b>553</b>	<b>89</b>	<b>84</b>	<b>22</b>	<b>41</b>	<b>790</b>

## 4. Proposed fee

The CTA proposes a fixed fee of \$790 per eligible closed complaint by an RO, as illustrated in Figure 1.

This fee represents 60% of the total costs (direct costs, internal services costs and central costs) of the tasks related to processing and closing eligible air travel complaints as set out in Table 1.

Airlines will be notified 30 days before the finalized fee comes into force. A fees notice will be posted on the CTA's Internet [website](#).

## 5. Invoicing

All airlines will be billed once the charge comes into force and only for eligible complaints (processed and closed) where a start notice is issued after the coming into force date. This includes complaints received prior to September 30, 2023.

Based on a fiscal year of April 1 to March 31, an invoice is proposed to be sent every two months, with the first period being April and May, therefore the first invoice would be issued in June.



# Your feedback and how to submit it

You have until Monday October 21, 2024, to submit your comments online via the [feedback form](#). You are invited to explain the rationale and evidence supporting your comments.

The CTA has developed Frequently Asked Questions that may help with your feedback available at the following link: [Questions and answers – Air travel complaints fee proposal](#).

Your submission will be considered a public document and will be posted on the CTA website. Please do not put any personal or confidential information in text boxes or attachments you submit.

Thank you for your participation.

# Annex A

Section 85.16 of the [Canada Transportation Act](#)

As per subsection 85.16(1) of the Act, the CTA is required to, either in whole, or in part, recover the costs associated to processing eligible air travel complaints:

## Fees and charges

- (1) The Agency shall establish fees or charges for the purpose of recovering all or a portion of the costs that the Agency determines to be related to the process of dealing with complaints — other than complaints disposed of under subsection 85.04(2) — under sections 85.05 to 85.12.

## Air carrier's liability

- (2) The carriers that are the subject of complaints — other than complaints disposed of under subsection 85.04(2) — are liable for the payment of the fees or charges.

## Consultation

- (3) Before establishing fees or charges, the Agency shall consult with any persons or organizations that the Agency considers to be interested in the matter.

## Publication

- (4) The Agency shall publish the fees and charges on its Internet site.

## Debt due to His Majesty

- (5) Fees or charges required to be paid under this section constitute a debt to His Majesty in right of Canada and may be recovered as such in a court of competent jurisdiction.

## Spending authority

- (6) The Agency may spend the amounts obtained under this section in the fiscal year in which they are paid or in the next fiscal year.

## Service Fees Act

- (7) The *Service Fees Act* does not apply to the fees and charges referred to in subsection (1).

# Annex B

Complaints eligibility criteria – Subsections 85.04(1) and 85.04(2) of the [Canada Transportation Act](#)

**85.04(1)** A person may file a complaint in writing with the Agency if

- (a) the person alleges that a carrier failed to apply a fare, rate, charge or term or condition of carriage applicable to the air service it offers that is set out in its tariffs;
- (b) the person is adversely affected by the failure to apply that fare, rate, charge or term or conditions of carriage;
- (c) the person seeks compensation or a refund as set out in the carrier's tariffs or compensation for expenses incurred as a result of that failure; and
- (d) the person made a written request to the carrier to resolve the matters to which the complaint relates but they were not resolved within 30 days after the day on which the request was made.

**85.04(2)** A complaint resolution officer may refuse to deal with a complaint or, at any time, cease dealing with it if they are of the opinion that

- (a) the criteria set out in subsection (1) have not been met;
- (b) it is clear on the face of the complaint that the carrier has complied with the obligations set out in its tariffs; or
- (c) the complaint is vexatious or made in bad faith.

# Annex C

Sections 85.05 to 85.12 (Figure 1) of the newly amended [Canada Transportation Act](#) stipulates the following:

Section	Description
Section 85.05:	<b>Mediation:</b> The air travel complaint has been deemed eligible and the Resolution Officer will begin the dispute resolution process.
Section 85.06:	<b>Decision on complaint:</b> If no agreement is made between the parties through the mediation process, the Resolution Officer shall make an order with regards to the complaint, which may include an order to dismiss the complaint or an order against the airline.
Section 85.07:	<b>Order related to tariffs:</b> If the Resolution Officer finds that the airline has failed to apply the terms and conditions set out in the tariff, the Resolution Officer can order the airline to apply the terms and conditions set out in its tariffs, and compensate the air passenger for any expenses incurred as a result of the airline's failure to correctly apply the terms and conditions in its tariffs.
Section 85.08:	<b>Prior decisions to be taken into account:</b> A Resolution Officer who is dealing with a complaint in respect of a flight disruption shall take into account any prior decision on that issue that is contained in an order made by a Resolution Officer in respect of that flight.
Section 85.09:	<b>Confidentiality of information:</b> All matters related to the process of dealing with a complaint shall be kept confidential, unless the air passenger and the airline otherwise agree, and information provided by the air passenger or the airline to the Resolution Officer shall not be used for any other purpose without the consent of the one who provided it.

Section	Description
Section 85.10:	<p><b>Procedure:</b></p> <p>Procedures may be set out by guidelines that are binding on the Resolution Officer. If a procedure is not set out in a guideline, a Resolution Officer shall deal with complaints in the manner that they consider appropriate in the circumstances.</p>
Section 85.11:	<p><b>Assistance:</b></p> <p>At a Resolution Officer's request, the CTA may provide administrative, technical and legal assistance to the Resolution Officer.</p>
Section 85.12:	<p><b>Binding guidelines:</b></p> <p>The CTA may issue guidelines with regards to procedures for dealing with complaints and interpretations about regulatory obligations, and the guidelines are considered binding unless it is revoked, modified.</p>

The guideline on the Canadian Transportation Agency's complaint resolution office air travel complaints process can be found by clicking on the following link: <https://otc-cta.gc.ca/eng/guideline-canadian-transportation-agencys-complaint-resolution-office-air-travel-complaints-process>