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**December 11, 2020**

**VIA EMAIL**

**RE: Temporary Exemptions from Certain ATPDR Provisions**

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Dear Ms. Jones,

In response to the Agency's communication of November 16, 2020, Air Canada, on behalf of itself and Jazz Aviation LP ("Jazz"), requests additional extensions to the compliance deadline for sections 9, 15-23, 58 and 59 of the *Accessible Transportation for Persons with Disabilities Regulations* ("ATPDR") due to the devastating ongoing effects of the COVID-19 pandemic on the aviation industry, pursuant to Section 170(3) of the *Canada Transportation Act*.

As the Agency is acutely aware, the airline industry has been devastated by the effects of the COVID-19 pandemic. Passenger volumes have vanished around the world, as governments have implemented various stay-home orders, travel restrictions and border closures, with little to no advance notice.

Airlines have been forced to implement aggressive cost-saving and cost-reduction strategies in order to stay afloat. Air Canada and Jazz have taken unprecedented measures, such as reducing their respective workforces significantly through furloughs, lay-offs, granting unpaid leaves of absences, and early retirements, halting all capital investment in IT projects, and suspending or cancelling routes both internationally and domestically, most recently in Atlantic Canada.

Air Canada's Q3 2020 financial results reveal the unprecedented situation that is being echoed across the globe: Air Canada reported an operating loss of \$785 million, compared to operating income of \$956 million in Q3 2019. Total passenger revenue declined 88% compared to Q3 2019. Capacity was reduced by 81.7% for Q3 2020 and was reduced by 75% capacity for Q4 2020. Throughout Q3 2020, cash burn was approximately \$9 million a day, which is expected to increase to \$12-14 million a day for Q4 2020.

While various countries have recognized the dire need of the aviation industry and provided targeted financial support and relief, Air Canada, Jazz and the other major Canadian carriers have received no sectoral-specific financial aid from the Canadian government. Although many Canadian airlines, including Air Canada and Jazz, received subsidies to cover a portion of their respective employees' wages, the Canada Emergency Wage Subsidy Program was not designed or intended to assist airlines with maintaining adequate liquidity levels. While there are discussions of specific financial aid for the aviation sector, no amount or specific timing has been confirmed.

While the news of the vaccine is encouraging, the impact that the pandemic has had on the aviation industry is far from over, and the recovery is expected to last for many years.

Air Canada and Jazz continue to work diligently on making air travel accessible to all passengers with disabilities. However, while employee and financial resources are so limited, it is unreasonable and unrealistic to impose additional resource and capital-intensive obligations on airlines.

This additional extension request is necessary because when the previous request was made, it was impossible to predict that the dire situation the industry finds itself in would remain largely unchanged. Passenger demand has not recovered at the speed that was initially expected. Key resources continue to be furloughed. Additional cuts in our expenditures are necessary and unavoidable, if our business is to sustain through this crisis.

As such, Air Canada and Jazz request an additional extension of 6 months (from January 1, 2021 to July 1, 2021) for sections 9, 15-23, 58 and 59 of ATPDR, with a possible reassessment at the end of the 6 month period should the circumstances remain as dire as they are today.

- **Sections 15-23 – Training**

- Training materials and methods have had to be cut back or adjusted in light of COVID-19, which has made travel and in-person meetings impossible.
- Air Canada and Jazz have reduced their workforces by 20,000 employees (more than 50%) and just under 3,000 (more than 45%), respectively, due to the imperative to preserve cash and due to the lost revenue. We have also released third-party ground handlers at domestic, international and US stations where service has been suspended (in total, more than 150 stations). Air Canada and Jazz cannot be expected to train staff that are not currently working or otherwise on active duty (but remain Air Canada or Jazz employees) or those of third parties.
- Almost all of Air Canada's employees who manage the training management system have been furloughed. Jazz's corporate training department has reduced its staffing levels by 50%. This will leave both Air Canada and Jazz with greatly reduced technical expertise to manage training delivery. Bringing them back for this purpose would generate significant costs that, at this time, ought to be used to implement the various government-mandated initiatives for enhancing aviation biosafety measures and making air travel safer for all passengers, including those who have disabilities.
- The current climate of layoffs, dramatic re-organization of internal teams and departments, and uncertainty will make change management and employee engagement extremely difficult. This means that new policies and procedures will take longer to be adopted, and compliance will necessarily suffer.
- Air Canada has created a brand-new training program for ATPDR in consultation with persons with disabilities, which is currently being completed by all affected employees and contractors (including Jazz) but the full roll-out will require more time.

- **Sections 9, 58 and 59 – Website Accessibility, Written Confirmation of Services and Retention of Documents**

- Internal IT resources have been greatly reduced.
- Third-party supplier resources have been greatly reduced.
- Capital investment is currently impossible given the present financial reality.
- Air Canada is almost fully compliant but requires more time to iron out certain implementation details as a result of reduced resources.

We would be remiss not to mention the number of competing regulatory initiatives that are happening in 2020-2021 and are also drawing on our airlines' dwindled pool of labour and financial resources. The ATPDR are but one of several new, non-Covid related regulations that the government has recently introduced to federally regulated organizations. Take, for example, the *Work Place Harassment and Violence Prevention Regulations*, which come into force on January 1, 2021, providing employers with less than six months to prepare for the enhanced obligations. Or, the *Flight Crew Member Hours of Work and Rest Regulations*, which come into force tomorrow, December 12, 2020 after months and months of consultation and preparation. In addition, the Canadian government is moving forward with: (i) new pay transparency measures coming into force on January 1, 2021, (ii) the coming into force of the *Pay Equity Act* and its accompanying regulations later in 2021, and (iii) the winter 2021 rollout of a new administrative monetary penalties regime to improve compliance with the *Canada Labour Code*.

This regulatory overhaul is a challenge that airlines simply cannot meet given that we are in the midst of our industry's worst crisis to date. To achieve full compliance in one area would leave us unable to commit resources to another equally important and necessary government initiative. With this context in mind, we urge the Agency to consider our request for flexibility so that we may continue working toward more accessible air transportation service while also giving us time, resources, and energy to continue creating workplaces free from violence, harassment, and inequities.

As mentioned at the Agency's Accessibility Advisory Committee ("AAC") meeting, on December 4<sup>th</sup> 2020, certain advocacy groups may be concerned that the COVID-19 crisis may interfere with their right to accessible transportation. Air Canada and Jazz confirm that this is not our intention: accommodating passengers with disabilities remain at the core of our values, as we pride ourselves on delivering exceptional services with glowing-hearted hospitality. We have made significant progress in our compliance efforts, notwithstanding drastically reduced resources, and will continue to do so in the coming months.

We trust that the Agency recognizes the truly unprecedented and unparalleled circumstances that the aviation industry is experiencing and will grant this necessary temporary relief. Furthermore, as previously requested, Air Canada and Jazz urge the Agency to take these circumstances into account and exercise discretion when considering enforcement action for any issues of non-compliance, in all ATPDR areas, including beyond the scope of the areas targeted by this application.

Sincerely,



Martine De Serres

Cc Olga Young, Legal Counsel, Jazz Aviation LP