



## AIR NORTH RESPONSE TO CONSULTATION PAPER: PHASE II OF THE ACCESSIBLE TRANSPORTATION FOR PERSONS WITH DISABILITIES REGULATIONS

### Unique Characteristics of Small Transportation Providers

#### Questions

1. In extending the ATPDR to small transportation providers, what modifications to regulatory requirements, if any, are needed?
  - a. The ATPDR needs to consider several issues:
    - i. The costs for smaller operators and smaller airports may be burdensome. As examples, the cost of making a website WCAG compliant or purchasing “special equipment” may be beyond the budget of these smaller entities.
    - ii. Demand for services – in some locations, the demand for accessibility services may be too low to justify applying all aspects of the regulations. In these cases, Carriers or Airports should have some leniency and the ability to apply for and receive authorization to provide equivalent standards through an alternate method of compliance.
    - iii. Changes to regulation mandating improvements or additions to infrastructure should carefully consider the implementation time frames. Timelines can be affected by access to capital, environment and supply chain challenges.
    - iv. For some air carrier and facility operators for whom access to capital is limited, the Government needs to consider alternate funding models, including but not limited to grants, low cost loans and tax credits.
2. What would be the appropriate time frame for small transportation providers to come into compliance with requirements (e.g., 1, 2, or 3 years)? Do any requirements in particular require more time?

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- a. The time line for smaller operators should be dependent on the individual organizations ability to change manage using the available resources. Should the burden be too great, there is the hazard of operators withdrawing from the market, leaving a situation whereby in trying to improve accessibility, access is removed entirely.
3. Are there any special accessibility-related challenges with small operators in any mode of travel in the federal network (airlines, tourist railway companies, bus operators, ferry operators) and the terminals that serve them, particularly in remote or northern areas of Canada? What solutions would help address these challenges?
    - a. Carriers and Airports serving the North face unique challenges. Many operators are serving communities of less than 1000 residents on a schedule basis, recognizing within their fare structures that significant increases in capital expenses, both as a whole or on specific routes could reduce the viability of continued service. In the North, supply chain issues dominate and are exacerbated by environmental factors. Many communities suffer reduced service in winter now due to infrastructure that is insufficient.
    - b. Improving the Northern Airports infrastructure would not only benefit passengers facing accessibility challenges, but all passengers and the facilities in the communities in which they live.

### **One Person, One Fare for International Travel and Small Transportation Providers**

1. Should the 1p1f requirement apply to transportation to and from Canada? If so, should it apply to both Canadian and international transportation providers?

It should apply to Large Carriers. It should apply to both, though extra-territorial regulation would be difficult to regulate and enforce.

2. Achieving consistent approaches to accessibility for international air travel requires discussions and cooperation among many jurisdictions. Given this, it may not be possible to achieve the goal of completely barrier-free international travel through the CTA's regulations. What strategies -- as a complement or an alternative to changes to CTA regulations -- could be pursued to help remove barriers to Canadians with disabilities when they fly to or from other countries?



Enshrinement of accessibility standards and regulations into a new ICAO International convention

3. Should I apply to small transportation providers?

The issue for small operators is the potential loss of revenue in markets that may be marginal already.

### **Emotional Support Animals and Service Animals Other than Dogs**

1. What do you think about a potential requirement for transportation providers to accept ESAs? What conditions, if any, should apply?

On January 22, 2020, the US DOT released a notice of proposed rulemaking on ESAs (DOT-OST-2018-0068-4724) to modify the rules or institute a potential ban.

Transportation providers should not be forced to accept ESAs. There are several issues supporting this position:

- a. Behavior and training attestation – there are no specific training standards currently applied to ESAs. Passengers are permitted to self-certify an animal for travel which provides no measure of assurance to the transportation provider as to the expected conduct of the animal.
  - b. Large animals and/or species – certain types and sizes of ESAs can present challenges for carriage
  - c. Safety & Security – ESAs, not having the same level of training as Service Animals, have exhibited such behaviors as the biting of crew and other passengers, defecation and unrestrained movement within the transportation vessel.
  - d. Fraudulent certification – some passengers certify their pets as ESAs for several reasons, including the avoidance of additional charges for the carriage of pets.
2. Should transportation providers be required only to accept certain species/animal types as ESAs (e.g., dogs, cats, and rabbits)? Or should transportation providers be required to accept all species excluding a few (e.g., insects and snakes)?



- a. Transportation providers should be allowed to determine if and of what type, ESAs are carried, and the criteria for their carriage based on the Carrier and aircraft capabilities, most notably for safety.
3. As an alternative to a species-based approach, would it be preferable to have a criteria-based approach for the acceptance of ESAs? The criteria for carriers to accept or refuse to transport an animal could include habits of the species, age, size, or the potential allergy trigger to that the animal may create. For example, they could refuse to accept animals that gnaw, whose young age is likely to result in unacceptable behavior, that pose a high allergen risk, or do not fit in a travel carrier or on the floor at a traveler's feet.
  - a. Transportation providers should be allowed to determine if and of what type, ESAs are carried, and the criteria for their carriage based on the Carrier and aircraft capabilities, most notably for safety.
4. Should all transportation providers be required to accept the same types of ESAs or should there be differences based on the mode of transportation (air, rail, marine, or bus)? If you think there should be differences based on mode, what differences?
  - a. No. Transportation providers should be allowed to determine if and of what type, ESAs are carried, and the criteria for their carriage based on the Carrier and aircraft capabilities, most notably for safety.
5. Should the same requirements for ESAs apply to large and small transportation providers? Should consideration be given to the size or seating capacity of aircraft, rail car, bus, or ferry?
  - a. No. Transportation providers should be allowed to determine if and of what type, ESAs are carried, and the criteria for their carriage based on the Carrier and aircraft capabilities, most notably for safety.
6. In the United States, enforcement action is not taken if an airline refuses to transport more than three service animals for one traveller, including ESAs. In Canada, should there be a limit on the number of service dogs and/or ESAs that persons with disabilities can travel with on-board? If so, what limit?
  - a. These regulations are currently under review and may not be in effect at the time the Canadian Regulations are ready to go into the Gazette.
  - b. The limit of service animals should be set by the carrier.
7. Under the ATPDR, transportation providers can require a person with a disability travelling with a service dog to provide documentation issued by an organization or person specializing in service dog training. The documentation

must identify the person with the disability. It must also attest that the service dog has been individually trained by a specialized organization or person to perform a task to assist that traveller with a need related to their disability.

What documentation, if any, should transportation providers be able to request with respect to travel with ESAs with the aim of mitigating health, safety, or fraud concerns? For instance:

- i. that the traveller requires the animal to travel, for medical reasons, as indicated by a health care practitioner who is treating the traveller and confirms that the traveller has a disability and needs the animal to travel for disability-related reasons;
    - ii. that the animal will not need to relieve itself during transportation, and will not bark, growl, or act aggressively.
  - a. If permitted, ESAs should have to meet the same requirements as for service animals with the additional requirement of a time-limited practitioner document.
8. The ATPDR allow transportation providers to require that persons with disabilities provide 48 hours' advance notice prior to departure for most services, including travelling with service dogs. In some situations, they may request up to 96 hours' notice to verify that documentation is in order and authorize an animal for travel. However, they must still make reasonable efforts to provide the service, even if notice is not given.

How much notice would be appropriate with regard to ESAs?

- a. Transportation providers should be allowed to determine if and of what type, ESAs are carried, and the criteria for their carriage, including notification times
9. Should transportation providers be permitted to require that ESAs be tethered, leashed, harnessed, and/or enclosed within a travel carrier? Would any of these requirements prevent travellers from using ESAs therapeutically?
- a. Yes. Transportation providers should be allowed to determine if and of what type, ESAs are carried, and the criteria for their carriage based on the Carrier and aircraft capabilities, most notably for safety. Any

unrestrained item in the cabin of an aircraft, has the potential to become a safety hazard during an emergency.

10. Apart from the issue of ESAs, should transportation providers be obligated to accept service animals other than service dogs? If so, should any restrictions apply?
  - a. Service animals, properly trained and documented should be considered as long as the carrier is able to safely carry them and validate the qualifications of the animal. Some species/breeds may be inappropriate as service animals.

### **Planning and Reporting Obligations under the Accessible Canada Act**

1. How much time should transportation providers be given to prepare their initial plans once the regulations are finalized (e.g., 12, 18, or 24 months)?
  - a. A minimum of 24 months
2. Should the timing of publication be consistent with that required under any other federal laws, such as the *Employment Equity Act*?
  - a. Timing of these regulations should be coordinated and staggered with the implementation time lines of other legislation as to not create an undue burden.
3. What steps should a feedback process include to help ensure that members of the disability community have an opportunity to provide transportation providers with meaningful feedback on their accessibility plans and on the barriers they have encountered?
  - a. Provide the information on how to provide feedback to directly organizations that provide accessibility services so they can engage individuals who use their services.
4. Should the publication date of the feedback process be the same as for the initial accessibility plan?
  - a. Yes
5. What should the publication requirements be?
  - a. Should the initial and updated accessibility plans – as well as their feedback processes and progress reports – be published in a prominent location, such as a website, mobile website, or mobile application?
    - a. Yes
  - b. Should specific accessibility standards be met when posting the content, as provided [in the ATPDR](#) ?
    - a. Yes

- c. Should a telephone number, email address, and a third party's telephone number for telephone relay or video relay service be provided – which is also consistent with requirements [in the ATPDR](#) – to enable persons with disabilities to contact transportation providers regarding these publications?
        - a. Yes
6. When should transportation providers be required to notify the CTA? Should it be on the same day they are published, by providing the URL and link?
  - a. [When the information becomes available to the general public](#)
7. Some small transportation providers may not have a website. Given this, what would be an acceptable alternative to publishing a document?
  - a. [Publish in whatever capacity they have without a requirement that would increase their compliance costs](#)
8. What, if any, rules should apply to how a person with a disability can request that a document be provided in an alternate format? How much time should a transportation provider be allowed to provide it?
  - a. [Rules should take into account the size of the document and the format requested to reflect the time and complexity of the conversion.](#)
9. The communications provisions of the ATPDR include requirements for transportation providers to make information available on request in audio and visual formats; in large print, Braille or an electronic format; and in a format that is compatible with adaptive technology that is intended to assist persons with disabilities. Which alternative formats, regarding the accessibility plans and the progress reports, should transportation providers make available to persons with disabilities?
  - a. [Unaware of any alternative formats, however if new formats become available, they should be reviewed against their general use and acceptance before mandating their inclusion.](#)
10. What modifications, if any, would be appropriate for small transportation providers? For example, additional time for preparing required documents may be appropriate.
  - a. [Requirements for small providers should be measured against use, cost and complexity.](#)
11. Is the draft guidance material on the feedback process useful?
  - a. Yes.

12. What CTA guidance material, if any, would be helpful in implementing planning and reporting obligations and ensuring documents are relevant for persons with disabilities?

a. [A full cost benefit analysis](#)