

August 10, 2023

Canadian Transportation Agency

Consultation: Proposed changes to clarify, simplify and strengthen the Air Passenger Protection Regulations

Canadian Transportation Agency,

On behalf of the Canadian Airports Council's (CAC) 60 members across the country, representing 100 Canadian airports, we offer the following comment in your consultation on "*Proposed changes to clarify, simplify and strengthen the Air Passenger Protection Regulations*" (APPR). While airports are not specifically captured under the APPR, which is appropriate, the impact of the enhanced regulatory regime will have broad impacts across the aviation ecosystem. As such we recommend the Canadian Transportation Agency (CTA) be sensitive to the potential consequences of introducing new regulations that go above and beyond other regulatory regimes making our sector less competitive globally.

In 2023, the aviation eco-system is still playing catch-up. Canada's air sector remains challenged and is still recovering from the prescriptive pandemic related regulations that reduced air traffic longer than any other G7 country. The restrictions and strict health and testing measures weakened the resilience of the aviation sector.

The CAC urges the CTA to carefully reflect on the impacts that penalties, cost recovery mechanisms and other protections could have on the overall cost of travel for Canadians. We support measures that will address passenger confidence and improve their overall travel experience. The aviation industry operates in a globally dynamic and competitive marketplace where cost, connectivity, and service dictate success and failure. As such, the Canadian regime should not put exceptional responsibilities or requirements on air carriers beyond those established in the Montreal Convention.

As a new regulatory regime injects new risks and costs into the aviation marketplace, these must be accounted for in the ticket price by air carriers. As such, it is important that Canada's Air Passenger Protection Regulations strike the right balance to incent high service standards and protect travellers, while not increasing costs to travellers, reducing connectivity, and impacting the competitiveness of the entire Canadian sector.

It is especially important to look south of the border where Canadian air carriers and airports compete against a much larger marketplace with different rules and greater government

subsidization. Any APPR should not tip the scales to make Canadian air carriers and consequently airports less competitive in the aviation marketplace. In the United States there are no federal laws requiring airlines to provide passengers with money or other compensation when their flights are delayed or cancelled.

In 2019, Canada was the largest international air travel market for the U.S. air carriers. However, this is no longer the case. Though more complicated than one singular factor, Canada's increasingly complex and expensive regulatory system is contributing to this trend and further shrinking of the Canadian market by U.S. carriers is expected. In fact, in the last decade U.S. air carriers have decreased their number of flights by 45% and their seat capacity by 29%. U.S. carriers have reduced service from 24 points in Canada to only 11 today. Adding additional regulatory and cost burden in the Canadian market does not promote competition.

Lessons from Europe, which has had a strong passenger protection regime in place for a number of years, shed some light on what works and what does not as it relates to passenger protection. In particular, there are several measures in which proposed changes far exceeds regulatory requirements to compensate passengers as listed below:

Europe	Canada
EUR 200 for two hours or more in the case of flights of 1500 kilometres or less	\$400, if the arrival of the passenger's flight at the destination is delayed by three hours or more
EUR 400 for three hours or more in the case of all other flights between 1500 and 3500 kilometres	\$700, if the arrival of the passenger's flight at the destination is delayed by six hours or more, but less than nine hours
EUR 600 for four hours or more in the case of all flights over 3500 kilometres	\$1,000, if the arrival of the passenger's flight at the destination is delayed by nine hours or more

Under the European model, air carriers may reduce the compensation owed by 50% if passengers are offered re-routing to their final destination on an alternative flight that arrives within set timeframes of the original scheduled arrival time.

The CTA must also examine the potential negative impacts on regional air connectivity. Smaller markets are already struggling to gain and maintain service. These challenges are only exacerbated by air carrier fleet changes, the pilot and aircraft mechanic shortages, and thin margins. Injecting increased risk and costs into these precarious routes has the potential to reduce regional connectivity while increasing the cost of travel further for Canadians at a time when the market is recovering.

Finally, the CAC endorses the need to have an appropriate list of "exceptional circumstance" that will limit the situations for which airlines would not be required to pay this compensation. Absent from the list proposed by the CTA in draft regulations is an exception for safety-related matters. Safety is the top priority for the entire aviation industry and creating a financial disincentive for

adhering to safety regulations is logically inconsistent for a regulator and fundamentally inappropriate. In addition, we are concerned to see that the knock-on impact for a disruption only extends to one subsequent flight. This is not consistent with the realities of air travel. We encourage the CTA to take more time to assess the impact these changes will have and find the right balance for Canadian travellers.

Thank you for considering our comments.

A handwritten signature in black ink, appearing to read "M. Pasher". The signature is written in a cursive, slightly slanted style.

Monette Pasher
President