

Submitted to the Canadian Transportation Agency (Form submission)

Subject: Consultation on proposed changes to strengthen the Air Passenger Protection Regulations

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Feedback is provided in the attached Word document.

A general summary comment is:

Wonderful! Changes to Canadian regulations are extremely overdue and most welcome, to prevent reoccurrence of shockingly poor standards, improve travel for all passengers on Canadian airlines, the industry, and the impression and image everyone has of Canada.

Thank you.

Submission:

July 11, 2023

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

Dear Canadian Transportation Agency

I welcome efforts to clarify guidelines and expectations, for airline carriers and passengers, on how to comply with the *Canada Transportation Act*.

Summary comments to the proposed changes to the APPR are as follows:

1. Identifying the exceptional circumstances

Emphasis on airlines assuming some responsibility for costs incurred by passengers due to short notice (less than 14 days) notifications of delays and cancellations unless for "exceptional circumstances" is reasonable.

However, the proposed changes still seem subject to too much room for interpretation.

For example:

- What could be defined as “inherent to the normal exercise of the activities of the airline”?
- Could airlines independently assess what are considered reasonable measures?
- How would airlines’ ample knowledge of upcoming labour negotiations and job action, especially if the airlines decided to take pre-emptive actions be considered in terms of determining if an event (i.e. flight cancellations) was avoidable or not?

This is particularly important to clearly address since collective agreements are re-negotiated regularly.

Exceptional circumstances should be **limited to unforeseen and unavoidable situations caused by external factors**, such as inclement weather, emergency situations impacting safety at an airport terminal, etc.

2. Airlines’ responsibilities regarding claims for compensation

Proposed changes to the list of circumstance that would not be considered exceptional look good.

Explicitly identifying that flight crew unavailability and staff shortages would not be included as exceptional circumstances is also good.

However, if flight crew and staff shortages are related to periods of negotiations for collective agreements, I am concerned that airlines will argue any staff shortages, or actions taken by airline management based on expected or possible staffing availability, is attributable to labour disruptions and therefore the airlines will take advantage of interpreting such situations as included as exceptional circumstances.

3. Rebooking and refunds

Refunds:

Proposed changes are wonderful! The proposal that passengers would have a **right to choose a refund** if the offered rebooking is **more than 3 hours from the original departure time or a flight is cancelled** is very welcomed.

A fundamental core service value required when one purchases a flight is delivering timely transportation from one point to another.

Delays can have an incredibly significant negative impact (financial, emotional, and physical). Gaining the CTA’s support to have these passenger rights clearly defined and the ability for passengers to have more control on determining decisions and actions in a timely manner that can mitigate negative situations would be a great improvement.

Re-booking:

The responsibility for large airlines to re-book passengers, including with other airlines if they are unable to provide an alternate flight themselves, seemed to be clear in the existing APPR. However, it seems airlines are not complying or, in my personal experience, even make any efforts to do so.

Highlighting and emphasizing that large airlines must rebook the passenger on their own or a partner airline's next available flight within 9 hours will be very helpful.

The proposed clarification that *“as soon as airlines know they cannot offer a flight on their own or a partner airline within the relevant 9/24 hour time frame, airlines should promptly rebook the passenger on another airline”* will prevent airlines' indifferent attention and lack of responsiveness to stranded passengers.

Nine hours is a long time and, although airlines may face a large volume of passengers requiring re-booking, is more than reasonable time for a large airline to identify alternate flight options available. Once again, in my personal experience with Westjet this May, the airline made no effort to provide information or rebook alternate arrangements for cancelled WJ flights.

4. Assistance

No comment on this section's proposed changes.

5. Communications

The proposed changes are sound and should help improve keeping passengers (and perhaps also airline staff) informed about the status of delayed flights. There are various means to communicate timely updates, as noted in the proposed changes, so no acceptable reason why regular updates cannot be delivered.

General broadcast information of delays as well as flight specific updates should be sent to individuals affected by delays (such as updates by utilizing text messaging or emails to contact information provided when flights are booked, or when contact information has been updated). Including but de-emphasizing entitlements such as food until after a specified length of time occurs is fine.

Highlighted and prominent in communications should be details for requirements to offer applicable refunds and rebooking. This should be included for individual passengers affected by delays or cancellations. Capturing individuals' phone and email contact information for flight updates already exists so there is no reasonable excuse why more timely and informative updates can not be pushed out when significant delays occur.

6. Chain reactions (knock-on effects)

Proposed changes are fine, no comments.

7. Refunds for changes to Government Travel Advisories

It would be good to include a timeline or window during which passengers may cancel a flight after a government advisory is issued.

It's not reasonable to expect an airline to absorb potentially waves of last minute passenger cancellations because the passengers deferred contacting the airline.

General comments:

It was noted in the Canadian Transportation Agency (“CTA”) website that a lack of clarity and differing interpretations has existed. This has resulted in incredibly large numbers of passengers over a lengthy period being forced to endure a great deal of suffering.

It is evident, from news stories and the ample cases of individuals’ experiences and also personal experience, that unfortunately Canada’s large airlines have taken advantage of standing firmly on their interpretation of the APPR to avoid reasonable responsibilities and accountability.

In my opinion, this is an extreme understatement. I will add that although enforcement may have been difficult, in many cases the repeated demonstration of unconscionable behaviour from airlines could have been mitigated if the CTA had previously issued clear formal guidance on its interpretation and expectations of the APPR.

I have an example from personal first-hand experience, based on regulations applicable effective September 8, 2022, that Canada’s airlines do not seem to be at all concerned with the CTA or satisfying the APPR’s guidelines or intent. In May 2023, during Westjet’s negotiations with its pilots, as you know the airline pre-emptively cancelled several flights on short notice.

As your CTA site summarizes, existing regulations effective September 8, 2022 included:

- Require airlines to provide a passenger affected by a cancellation or a lengthy delay due to a situation outside the airline’s control with a confirmed reservation on the next available flight that is operated by them or a partner airline, leaving within 48 hours of the departure time indicated on the passenger’s original ticket.
- If the airline cannot provide a confirmed reservation within this 48-hour period, it is required to provide, at the passenger’s choice, a refund or re-booking

However, Westjet **very confidently** justifies having no financial responsibility even though the airline’s agents were contacted (following cancellations by the airline less than 24 hours before departure of a return flight home) but instead of assisting with efforts to provide information and to arrange alternate reservations, simply told me to contact a third party for help.

Per the proposed changes #4 and #5, Assistance and Communications, my experience shockingly demonstrated a need to adopt the proposed APPR changes. There is a clear need to explicitly define how and when airlines should provide updates and communication to affected passengers. In my experience with Westjet, I tried overnight to reach a Westjet agent and find information on how to arrange a return flight home. Chat agents were available after a delayed wait but then also did not have basic knowledge or ability to provide help. My goodness, an agent had no idea what AC (Air Canada) was. When finally able to speak to a phone agent at 5:30 am local time (after staying awake all night in search of

help), as mentioned previously, no assistance was offered at all despite being approximately 18 hours before the scheduled departure.

Subsequently, I was unable to obtain any assistance. Westjet agents could not be reached and no new useful information was provided. For affected passengers, making details available through a service centre phone number, their website (perhaps create a unique link for a given event, for affected passengers, or by affected flights), text messages, or better yet having live agents available that are knowledgeable and empowered to assist, would be a great and needed improvement.

Subsequently, when an alternate flight was booked with another carrier, how is it Westjet has no concern or doubt that they can refuse covering additional costs incurred by passengers when they could not and would not even try to offer information on alternate arrangements?

Proposed regulatory changes to the APPR?

Yes. Clear, concise, and simple wording to outline the required and expected actions by airlines for its passengers affected by a delay or cancellation is very much needed. Unfortunately, some responsibilities and accountability need to be more clearly defined.

The contents posted on the CTA website describing the proposed changes to the APPR will finally and thankfully, going forward, significantly reduce the unreasonable hardship and loss falling solely upon passengers' shoulders. There must also be a very significant amount of resources spent by various areas (including the CTA) caused by dealing with problems stemming from the poor interpretation, application, and lack of adherence to the APPR or its intended rules. As passengers, we are at the total mercy of the airlines with whom we have booked flights to fulfill their services as agreed upon and expected when a ticket is purchased.

The impact on the industry may be difficult to absorb as operational changes will be necessary. However, operational improvements in the industry are clearly needed to maintain reasonable standards that should be provided by all airlines. I believe tightening up room for interpretation of the applicable sections of the APPR, as proposed, will also help improve the industry overall.

A fundamental core component required when one purchases a flight is timely transportation from one point to another.

It seems the declining quality of air travel has been self-fulfilling to some degree, meaning when problems or deterioration of services occur, they are used as ammunition to justify further degrading of standards. The changes to the Canadian Transportation Act and the anticipated revisions to the APPR are incredibly needed and most welcome.

Sincerely,

Heather Kim