

Submitted to the Canadian Transportation Agency (Form submission)

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

Name: Lufthansa Group

Organization: Industry

Date: 2023-08-09

attached are the comments of the Lufthansa Group.

the process in understood.

Attachment:

BEFORE THE CANADIAN TRANSPORTATION AGENCY

IN THE MATTER OF

**Notice of Proposed Amendments to the Air Passenger Protection Regulations (APPR)
under the changes to the Canada Transportation Act (2023)**

Tom Oommen

Director General, Analysis & Outreach
Canadian Transportation Agency

Allan Burnside

Senior Director, Analysis & Regulatory Affairs
Canadian Transportation Agency

Submitted via the online Web Form

**COMMENTS OF DEUTSCHE LUFTHANSA AG, ON BEHALF OF
THE LUFTHANSA GROUP**

Communications with respect to this document should be sent to:

Deutsche Lufthansa AG
1400 RXR Plaza, West Tower
Uniondale, New York USA 11556

Arthur Molins
Robin McDougall
Office of the General Counsel the Americas

August 10, 2023

**BEFORE THE
CANADIAN TRANSPORTATION AGENCY**

IN THE MATTER OF

**Notice of Proposed Amendments to the Air Passenger Protection Regulations (APPR)
under the changes to the Canada Transportation Act (2023)**

**COMMENTS OF DEUTSCHE LUFTHANSA AG,
ON BEHALF OF THE LUFTHANSA GROUP**

Deutsche Lufthansa AG on behalf of the Lufthansa Group of airlines comprised of Lufthansa German Airlines, Swiss International Air Lines, Austrian Airlines, Brussels Airlines and Discover (referred to collectively as the “Lufthansa Group”) respectfully submits these comments in response to the Notice of Proposed Amendments to the Air Passenger Protection Regulations.

The Lufthansa Group supports and endorses the comments submitted by the International Air Transport Association (“IATA”) regarding this matter. Additionally, the Lufthansa Group submits the following comments:

The proposed amendments not only place excessive burdens on the air carrier and result in higher costs for airlines and ultimately for passengers. They also call in to question the impartiality that defined the Canadian Transport Agency (“CTA”) in the past. As noted in IATA’s commentary regarding the language in the consultation paper, “if ultimately reflected in regulation, will result in unprecedented passenger claims for compensation for airlines for situations well beyond their ability to control, avoid, or mitigate”.

In tandem with this new fee structure, carriers will now be faced with a thirty (30) day window to file what is the equivalent of a legal defense with the burden of proof shifted from the passenger to airlines. This thirty (30) day time frame for a substantive response is unrealistic and unreasonable, a full thirty (30) days less than the time allotted by the US Department of Transportation (“DOT”), which is only imposed when the case has been taken on by the DOT. Currently the DOT requires an acknowledgement of the claim within thirty (30) days and a substantive response (no exhibits needed) within sixty (60) days. Taking the complexity of the aviation industry into account and the numerous events that impact airline operations which to a great extent are caused by forces or events beyond the control of the carriers, the 30 deadline is unrealistic and will likely lead to unfair and unnecessary punitive results impacting carriers. The timelines for airline responses must be more reasonable.

Although Lufthansa appreciates the motivation behind the proposed amendments to provide closure for the passengers in the fastest time possible, this places an immense and unnecessary burden on air carriers. Since the end of the Coronavirus pandemic in early 2022, the aviation industry as a whole has struggled to return to prior staffing levels. The fact that a substantial response to passenger complaint is now due within 30 days of receipt, and must contain all defenses including exhibits, will cause increased costs and burdens upon carriers. In order to be compliant by September 30, 2023, airlines must take various actions including substantial training, addition or reallocation of staff, and the involvement of various departments that were not previously involved in the facilitation process, a virtually impossible task to complete before that stated date.

The CTA must clarify how it will be handling cases where multiple airlines are involved, where the passengers have previously filed for compensation under a different passenger protection regime as well as cases that have been sold by the passenger to APPR

collection agencies. These aforementioned cases involve various complexities that impact or impede handling.

The CTA is encouraged to review the information and studies referenced in the IATA comments, based on the issues that the European Union has experienced in regards to the EU261 passenger protection regulations. Vague language in any regulation causes confusion for both the passengers and the air carriers. One of the most important clarifications that the CTA will need to make is in regards to the exceptional circumstances exemption list as passengers and carriers will be relying on this list for clarity. Currently the exemptions in regards to safety, as set out in the IATA comments, are faulty and need to be expanded. Examples include technical issues that are not on the standard maintenance checklist, determinations made by air traffic control or the airport authority, as well as decisions made by the pilot in command.

The CTA is urged to engage with IATA and other airline representative groups as well as the individual carriers that service Canada with respect the undue burdens that these amendments will have on the airline industry.

Respectfully submitted,

Deutsche Lufthansa AG on behalf of the Lufthansa Group

/s/

Arthur J. Molins