

Submitted to the Canadian Transportation Agency (Form submission)

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

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Please see my response attached.

Attachment:

Definitions

ATC- Air Traffic Control

CATSA - Canadian Air Transport Security Authority

IATA – International Air Transport Association

CARs – Canadian Aviation Regulations and Standards

FA- Flight Attendant

CA- Captain

FO- First Officer

IROP – Irregular Operations (anything outside of the schedule departure or arrival of an aircraft)

Reserve – crew (FA/CA/FO) that is scheduled to be on call and report within a certain timeframe if called into work.

HUB Airports- Typically Canada’s busiest airports – YYZ/YVR/YYC/YUL/YEG/YHZ (each airline has their own “HUB” airports – based on their busiest routes)

Codeshare - an arrangement between two airlines, where one airline sells transportation services (passenger seats or cargo space) under its own code and licence on a flight operated by the other airline.

Interline - allows passengers to book through itineraries on two (or more) airlines with less hassle than booking each one separately.

References

Delay Codes - chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://ansperformance.eu/library/iata-delay-codes.pdf

CARs - <https://tc.canada.ca/en/corporate-services/acts-regulations/list-regulations/canadian-aviation-regulations-sor-96-433>

Code sharing - <https://otc-cta.gc.ca/eng/publication/code-share-arrangements-a-guide>

Large and small airline - <https://rppa-appr.ca/eng/large-and-small-airlines>

1. Identifying the exceptional circumstances

Identifying exceptional circumstances is not a simple task, there are many factors that come in to play to determine what is “exceptional”. We need to be looking at this more in depth and not just blaming the airlines when flights are cancelled or delayed. There are many parties involved to make the aviation sector run, including but not limited too; ATC, CATSA and airport facilities. If any of these companies are short staffed and cause a cancellation or delay it is considered outside of carrier control, and the passenger receive no compensation or standards of care. When the airline is short staffed, it is the exact opposite. Each party involved in the arrival and departure of an aircraft have the same information to plan for staffing levels, so why are the airlines the only party held accountable for not having proper staffing? Passengers can also be the reason for a delay, diversion, or cancellation. For example, during the pandemic many passengers became irate and caused a disturbance before and during flights because they refused to wear a mask. If a flight was to divert because of a passenger being irate and becoming a safety concern, shouldn't they be held responsible for the cost of standards of care and compensation to the other passengers?

When a flight is cancelled or delayed due to CREW it usually does not mean the airlines simply did not plan to have crew working the flight. There are several factors going into scheduling for crew, including CARs which are government regulations. If a pilot was delayed the day before, there are legal guidelines that will determine when/if they can operate the following day. Most airlines have reserve crew (FA/CA/FO) stationed in HUB airports which is the contingency plan for sick calls/delays etc. Every airline has their own algorithm on how they determine how many reserves are needed, it's typically based on historical data. To make all crew cancellations within carrier control (removing the required for safety) would not be fair. If there are 50 sick calls, we cannot expect airlines to have an extra 50 people in various airports on the off chance they might need to go to work. The airlines cannot control the volume of book offs, they can however control having a reasonable contingency plan. If the airline can prove due diligence was done to prevent cancellations, then they should not be held responsible for compensation.

Canadian airlines use IATA delay codes when delaying flights, however each airline choses which ones they use, and the process they use when determining the delay code. For example, one airline could use the code RA (93) for late arrival of aircraft with no explanation of why it was delayed, and another airline could use WI (75) which is the actual reason the aircraft was late inbound. With each airline having the freedom to interpret the codes in their own way it makes the industry inconsistent. If all airlines are to follow the same guidelines and laws under APPR and if the CTA is expecting a black and white industry, then the CTA needs to provide the exact codes to use and the training to the airlines to ensure consistency.

2.Booking and refunds

While I understand the frustrations that come with delays and cancellations, I think allowing refunds after 3hrs will cause multiple issues including but not limited to:

- Airport agents do not have time and in some airlines are not trained to provide refunds. Even with the training it would result in longer lines for other passengers that are not involved in the cancellation. If passengers had to call in to request this refund it would result in higher call volumes meaning longer wait times.
- Airlines typically use a tool to rebook an entire flight all at once (with some exceptions to codeshare/interline bookings) if people are trying to get a refund in the middle of the tool running it could cause issues when rebooking other passengers.
- If anyone regardless the fare can get a refund during an IROP then why bother offering a basic fare? Airlines might change the way they price their tickets and market the different fares.

Instead of offering a refund after 3hrs I would suggest allowing the airlines to rebook passengers to their destination and if they are unable to do so within a 24hr window then the passenger has the option for a refund. If a 3-hour delay is a make or break for the passenger, then they should be purchasing a fare that allows for more flexibility or travelling earlier for events. No one should be booking a ticket with that little room for error, things happen all the time that cause delays.

When it comes to rebooking on another airline after the 48 hours, it is not fair to ask the small airlines (most of them are the ultra low-cost carriers) to purchase on another airline. If this is implemented, it would probably cause flight prices to rise.

Example (priced on July 18, 2023):

Flair Airlines (small airline) ticket from YHZ-YYZ August 12 is \$139.00

WestJet (large airline) ticket from YHZ-YYZ August 12 is \$649.89

If Flair had to purchase a ticket for every passenger that was disrupted because they were not able to accommodate within the 48hrs the difference based on the fares above would be \$510.89 per person. A flair flight 737-8 seats 189 passengers if the flight was sold out that is \$96,558.21 for one flight. That could quickly put an airline out of business.

3. Assistance

The proposed changes do not work, yes in the eyes of the average passenger of course they will agree because they get more. If airlines are responsible for standard of treatment regardless of the delay it will cost airlines millions of dollars every year. We live in Canada, weather is one of the main reasons for delays and cancellations, this is not always something that can be predicted 12 hours ahead of time. If these changes are implemented, you will see more flights being delayed or cancelled prior to the 12-hour mark even if there is a chance that the flight could have departed on time. Weather is ever changing and can change in an instant; airlines will be more proactive to try to mitigate compensation. If people need the peace of mind when

travelling that regardless the delay or cancellation they are covered, then they should be purchasing travel insurance.

4. Communications

The proposed changes are not far off what most airlines are already doing, the biggest issue with having the proper contact information in the airlines system stems from how the passenger booked the ticket. For example, a third-party company typically does not add a person's email on their airline ticketing profile; when the ticket is purchased, the passenger gives the company their email and phone number, but it is not transferred to the airline. When a flight is delayed or cancelled there is a mass email/text sent out to all the passengers using the contact information the airline has. If the airline is never given the proper contact information, then the ONUS should not be on them. Travel agents often put their own contact information instead of their customer, meaning if something happens, they get the notification and not the person travelling. There needs to be ownership put back on the customer and not only on the airline.

My biggest concern with the proposed changes is that airlines are required to provide specific entitlements including rights to compensation. This sounds easy enough however, the reason for a delay or cancellation can change after further investigation or the most significant reason could be an exceptional circumstance. For example, if the first delay occurred due to weather and delayed the inbound flight by 3 hours; once the plane landed and the pilot did the walk around, they notice a maintenance issue which further delays the flight by another 4 hours. The information the passengers receive regarding right to compensation would change and could lead to confusion of what they are entitled to.

5. Chain reactions (Knock-on effects)

While I understand there needs to be some sort of limitations or guidelines around knock-on effects, I strongly disagree with the limit being one. Instead of setting a limit maybe there should be clear guidelines in place to determine what can be classified as a knock-on effect.

Let's look at a common occurrence in Canada – A flight from YYT-YYZ cancels due to weather in YYT, that aircraft and crew are now stuck in YYT. If the storm lasts the entire day, the entire line of flying for both the crew and the aircraft could potentially need to be cancelled. If the limit on a knock-on effect is one, then what would the other flights be cancelled to? The reason there is no plane or no crew is initially weather.

I would also ask the question that if a flight is cancelled due to ATC staffing shortages which causes multiple downline flights to be cancelled, who pays the compensation? If only one flight can be considered a "knock-on" who is held accountable for the other delays or cancellations. This is technically outside of carrier control so why is it fair for them to have to pay compensation?

Each situation is unique and there are so many ways to interrupt delay and cancellation codes, which brings me back to my point earlier about CTA needing to be the ones providing training to all airlines with set delay and cancellation codes to ensure consistency in the industry. If all these changes are implemented the airlines will need to recoup the cost, which could result in higher ticket prices and stricter fare rules, maybe even less options on how you fly. We need to be thinking bigger picture, airlines are not always the only company that play a part in a

delayed or cancelled flight. APPR should hold all parties involved accountable including but not limited to ATC, CATSA, Airports and passengers.