

Calm Air Submission

Introduction

The Canadian Transportation Agency (CTA) is Canada's longest-standing independent, expert tribunal and regulator. One of the CTA's three core mandates is the protection of the fundamental right of persons with disabilities to accessible transportation services.

The *Canada Transportation Act (Act)* gives the CTA the responsibility of ensuring that persons with disabilities have equal access to federal transportation services and that barriers to accessibility are removed. One way the CTA achieves this goal is by developing and administering accessibility guidelines, codes of practice, and regulations that apply to the transportation network under federal jurisdiction.

On July 10, 2019, the *Accessible Transportation for Persons with Disabilities Regulations (ATPDR)* were finalized and published in the Canada Gazette, Part II. The ATPDR establish legally binding requirements on services, technical standards for equipment, communications, training, and security and border screening. Most provisions of the regulations will come into effect on June 25, 2020.

The ATPDR build on two regulations (the *Personnel Training Regulations* and Part VII of the *Air Transportation Regulations*) that had not been updated since the 1990s, and six voluntary codes of practice which could not be enforced. The ATPDR represent an important step forward in accessible transportation, as they are up-to-date and enforceable through Administrative Monetary Penalties (AMPs) of up to \$250,000 per violation.

With some exceptions, the ATPDR cover large airlines, passenger railway companies, marine carriers (ferries), and bus operators in the federal transportation network (see [Annex A](#)), as well as the terminals in Canada that serve them. Together, these are referred to as "large transportation providers." Some provisions of the ATPDR – such as those on security, border screening, communications, training, and signage – also apply to the Canada Border Services Agency (CBSA) and the Canadian Air Transport Security Authority (CATSA).

The CTA is now consulting on **Phase II of the *Accessible Transportation for Persons with Disabilities Regulations (Phase II ATPDR)***. This phase has four objectives:

1. Apply ATPDR provisions to small transportation providers as much as possible – with adjustments, as necessary, to reflect their unique operating realities;

2. Determine whether or not to apply the One Person, One Fare (1p1f) requirement to international travel and to small transportation providers;
3. Determine what, if anything, to require of transportation providers with respect to Emotional Support Animals and service animals other than dogs; and
4. Establish planning and reporting obligations for transportation providers, pursuant to the *Accessible Canada Act* (ACA), which came into force on July 11, 2019

Consultation Process

These matters are complex, and the CTA is interested in broad input from its Accessibility Advisory Committee, disability community organizations, the transportation industry, members of the public, and other interested stakeholders.

You are invited to submit written feedback to this Consultation Paper by February 7, 2020, at consultations@otc-cta.gc.ca

Please note that all submissions will be considered public documents and will be posted on the CTA's website in the official language in which they were received, along with the name of the individual or organization that submitted them.

If your submission contains information that you believe should be treated as confidential, two versions of your documents must be filed:

1. A public version of the document from which the confidential information has been redacted; and
2. A confidential version of the document in which:
 - each page is marked “contains confidential information” at the top; and
 - the confidential information that was redacted from the public version is identified on each page by highlighting or other means.

All submissions are subject to the *Access to Information Act* and *Privacy Act*. Provisions of these Acts may or may not allow for the information claimed as confidential to be kept out of the public domain if a request for its release is filed.

In addition, the CTA will accept American Sign Language or Quebec Sign Language submissions by video. Please send an email to consultations@otc-cta.gc.ca with the subject line "Video". We will contact you to coordinate your submission, including any submissions that are confidential.

Next Steps

Proposed regulations will be prepared when the consultations have been completed and all input has been considered. They will be subject to approval by both the CTA and Cabinet.

There will be an opportunity to review and comment on draft regulations before they are finalized.

The CTA's goal is to have the final Phase II ATPDR published by summer 2021

1. Small Transportation Providers

Context

The ATPDR establish binding, enforceable requirements for large transportation providers with respect to services, technical standards, training, and communications. Some [key provisions of the ATPDR](#) include assistance with baggage retrieval; technical standards for on-board washrooms to accommodate wheelchairs; alternate formats for communication; and training programs for staff.

Because they apply to large transportation providers (see [Annex A – Affected Transportation Providers](#)), the ATPDR cover a sizeable portion of travel to, from, and within Canada. For example, the airlines covered by the service requirements fly more than 9 out of 10 Canadian travellers. The major Canadian passenger railway company that is covered by services, technical, communications, and training requirements – VIA Rail – accounts for over 97 percent of inter-city rail traffic in Canada.

However, small transportation providers in Canada's federal transportation network are not covered by the current ATPDR. For the purpose of this consultation, "small transportation providers" are those in all modes of transport – air, rail, bus, and marine (ferry) – that are under the CTA's jurisdiction but because of their size are not presently covered by the ATPDR (See [Annex B – Small Transportation Providers](#)). They include smaller airlines, tourist railway companies, smaller bus and ferry operators, and the terminals that serve them. This leaves a gap in accessible transportation regulations, particularly for remote and northern areas.

Accessible transportation is a human right which is essential to achieving equality, inclusion, and dignity for Canadians with disabilities. It is important that the ATPDR cover as much of Canada's federal transportation network as possible.

Current Environment

Many of Canada's small transportation providers have shown a commitment to accessible transportation, offering services such as curbside assistance, accessible safety briefings, and

extra seating for travelers with disabilities. Some provide critical transportation services to Canadians in remote areas who need to travel to larger centers for health care, many of whom are travelers with disabilities.

Like all transportation providers, small transportation providers are subject to the obligation, under Part V of the Act, to accommodate the disability-related needs of travelers up to the point of undue hardship. Persons with disabilities may bring complaints to the CTA if they think this obligation has not been met and that there are accessibility issues with a transportation provider's services, facilities, or equipment. The CTA can resolve such complaints through facilitation, mediation, or formal adjudication. When a complaint is adjudicated and found to have merit, the CTA can order corrective measures and, sometimes, compensation.

Some small transportation providers are also covered by existing regulations: the *Air Transportation Regulations* and the *Personnel Training Regulations*. They are also encouraged to follow the [CTA's voluntary codes of practice](#).

However, in contrast to these older regulations and codes, the ATPDR deal with all aspects of the traveller's transportation experience and are up-to-date with best practices and address emerging issues. The expectation has always been that smaller as well as larger transportation providers will be covered by the ATPDR once any operating realities unique to small providers have been considered and regulatory requirements adjusted as appropriate.

Unique Characteristics of Small Transportation Providers

Some of the operating realities of small transportation providers that may need to be considered are:

- They often operate smaller airplanes, buses, trains, and ferries. The doors, washrooms, and cargo holds may be too small for some wheelchairs and other mobility aids. The aisles may be too narrow for onboard wheelchairs and there might be insufficient space for larger service dogs at the feet of their owners.
- Their equipment may be relatively old, manufactured at a time when there were fewer, or different, technical standards for accessibility.
- They have fewer or no staff on the ground or in transit (for example, an aircraft in Canada's North may have a pilot but no flight attendants), which can affect their ability to offer certain services.
- In the North, they face the economic and logistical challenges of serving small numbers of people across a vast territory and, often, serious infrastructure constraints and harsh weather conditions.
- In the air sector, runways in northern and remote areas may be short and unpaved, limiting the size and weight of planes that can land. There may be unreliable internet access, limiting the information that airlines and airports can give to travellers.

Many provisions of the ATPDR – such as assistance with check in, boarding, and baggage retrieval – may be straightforward for small transportation providers to implement. Other provisions may not be relevant. For example, self-service kiosks may not exist in some airports in remote locations. The requirement to upgrade self-service kiosks is not applicable to airports that do not have this technology.

Some provisions may require adjustments or may simply not be possible due to the operating context. For example, the ATPDR require airlines, in some circumstances, to offer alternative flights if they are unable to transport a mobility aid. Small airlines flying out of a remote area often have a very limited fleet and may not be able to offer alternatives.

Another issue is whether, and to what extent, the One Person, One Fare (1p1f) requirement in the ATPDR should apply to small transportation providers. This is discussed in the next section of this paper.

It is also possible that some provisions of the current ATPDR do not go far enough to address accessibility challenges unique to Canada's remote and northern areas.

Questions

1. In extending the ATPDR to small transportation providers, what modifications to regulatory requirements, if any, are needed?
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?
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?

Answers

1. Ensure that realistic expectations are being applied to small carriers, as they face challenges which large carriers do not – such as not having the same infrastructure in place with respect to available resources. Some areas where modifications should be considered are:
 - a. Third party bookings making up a very high percentage of reservations, such as medical authorities, corporate booking departments, travel agencies, etc. These booking parties often do not provide direct customer contact information or outline special services the customer may require.

- b. Reservation systems are less robust than those of major carriers, and do not have the capability to store or attach medical documentation to customer reservations/profiles. Managing a record keeping system for medical documents may not be feasible, as the sheer volume may not be manageable based on the high volume of medical travel.
- c. Websites and similar technologies (apps and booking tools), are generally managed in-house. Larger carriers have dedicated staff, departments or 3rd party management to handle changes/updates to communication requirements. These technologies may not even be accessible or of use in many remote locations served by smaller carriers due to limited cellular and internet services.
- d. Small carriers may have smaller aircraft that cannot comfortably and appropriately accommodate larger service and emotional support animals per proposed seating.
- e. It may be more difficult to guarantee appropriate space between customers with allergies and the allergen due to greatly reduced space capacity of smaller aircraft.
- f. Allowing a passenger's escort/personal attendant to travel free of charge would greatly and negatively impact small carriers financially. A large number of passengers traveling from remote locations small carriers service, are traveling for medical purposes and often travel with a personal attendant/escort/companion. It would be difficult to verify and substantiate whether or not an individual should be eligible to travel as a personal attendant free of charge, as small carriers do not have the same resources as large carriers to employ medical departments that would be required to receive, verify and process such applications. As many customers travel with "companions" for medical purposes, it would be difficult to prevent the abuse of such a program, ensuring that eligible personal attendants are indeed able to care for the needs of the passenger. Having to implement infrastructure to accommodate the one person one fare rule would certainly drive ticket price increases to be able to cover the costs associated with applying this regulation.
- g. Small carriers may not look at offering more product enhancements to customers such as onboard entertainment due to the high cost associated with proposed ATPDR compliance. The requirement for compliance with electronic applications such as kiosks, display boards, etc., may result in smaller carriers not pursuing these new and convenient features in some of their locations due to the complexity of managing compliance with the ATPDR. Historically, small carriers have often assisted airports with the implementation of such services in remote locations, but this added cost will certainly deter that continued development.
- h. Regulations need to be reflective of limitations to resources in remote locations – many of which are serviced by smaller carriers. It is not feasible to expect that a specialized mobility aid will be able to be immediately provided (as a loaner) in the event of loss or

damage. Such items are not readily available, and timelines for repair/replacement will need to reflect the challenges of transporting such items out of community if needed.

2. Due to the financial costs associated with technology system upgrades, development of entire training programs and the number of resources that smaller carriers will need to bring on to comply with proposed regulations, they should be given a more reasonable time frame- of 2-3 years.
3. Challenges for small carries are referenced within question #1. Some solutions may include, but are not limited to:
 - Allow small carriers to collect applicable passenger documentation at the time of reservations and/or travel instead of being required to keep this on file for multiple uses.
 - Allow small carriers to accommodate service animals based on appropriate seating for the size of aircraft.
 - Consider more reasonable seating options with respect to a passenger with an allergy and the allergen when in a smaller aircraft where seating options due to size of aircraft are limited.
 - Provide small carriers an additional 2 – 3 years to appropriately comply with technology and training requirements.

2. One Person, One Fare for International Travel and Small Transportation Providers

Context

The ATPDR make it clear that, in situations where a person with a disability requires more than one passenger seat for travel within Canada due to a disability-related need, transportation providers have a responsibility to provide additional, adjacent passenger seating at no extra cost. In particular, they must provide this seating:

- For a support person (also known as an attendant) for a person with a disability who can demonstrate that they are non-self-reliant; that is, someone who requires services in transit that the transportation provider's staff cannot provide;
- For a large service dog that may require additional floor space in order to be located beside the person with the disability that they are trained to assist; or

- Because of the nature of the person's disability, such as a fused leg, leg braces, or because the person is disabled by obesity.

This is referred to as the One Person, One Fare (1p1f) requirement. It was first set out for the domestic operations of a number of Canadian airlines in a 2008 CTA adjudicative decision ([Decision No. 6-AT-A-2008](#)). It is grounded in key human rights principles, including that persons with disabilities have a right to equal access to transportation; are entitled to be treated in the same manner regardless of the underlying reason for their disability; and should not be placed at an economic disadvantage as a result of their disabilities, including having to pay more for their transportation services than travellers who do not have disabilities.

The 1p1f concept is world-leading. The ATPDR extend it to all modes of travel within Canada covered by the regulations – air, rail, marine and bus. For international travel, transportation providers are required to provide additional space to accommodate a person's disability, but are permitted to charge for that service.

Considerations – International Travel

For domestic travel, the CTA has the ability to establish 1p1f rules for transportation providers. When it comes to international travel, setting new rules is more complex. Many rules around air travel are established through multilateral work under the International Civil Aviation Organization (ICAO), as well as bilateral agreements between jurisdictions.

Canada, in taking steps to improve accessible air travel, must work closely with the international community. Canada has already demonstrated a leadership role in organizations such as ICAO to raise the profile of accessible air travel. This is an important first step in making sure that rules and standards for accessibility are up-to-date and consistent across different jurisdictions.

International air treaties typically prohibit interference in the pricing choices of airlines from other countries. When the current ATPDR were being developed, non-Canadian transportation providers raised concerns that extending the 1p1f requirement to international travel would restrict airlines' ability to set prices and therefore, be contrary to those treaties. At the same time, Canadian airlines that operate internationally said that if the 1p1f obligation were to be applied to their international flights but not to the competing flights of foreign airlines, it would put them at an unfair disadvantage.

On the other hand, given the human rights implications and the fact that the community of persons with disabilities has expressed frustration about being charged for this accommodation when travelling by air internationally, the issue of 1p1f for international travel requires attention. For example, persons with disabilities have questioned how airlines flying to or from Canada can be permitted to charge them for space for a large service dog or support person, when such a charge would be banned within Canada. It has also been suggested that international air agreements should be applied in a way that allows jurisdictions to fulfill their obligations under the United Nations Convention on the Rights of Persons with Disabilities,

which recognizes the obligation to ensure that persons with disabilities have equal access to transportation.

Considerations – Small Transportation Providers

A related issue is whether, and to what extent, 1p1f requirements should be extended to small transportation providers operating within Canada. During consultations on the ATPDR, many small providers suggested they would be significantly affected financially by a 1p1f requirement, given their traveller demographics. For example, some indicate they serve many elderly clientele, or travellers flying for critical medical services, who require a support person in transit.

Questions

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

Answers

1. As a domestic carrier, we do not have an opinion on international travel.
2. As a domestic carrier, we do not have an opinion on international travel.
3. We feel that 1p1f should not apply to small carriers without very strict guidelines provided by the CTA within regulations to assist with verifying who is appropriately eligible to travel as a personal attendant. It should not be left to airline staff to permit or deny travel based on an assessment of a passenger with a disability, without a clearly defined set of guidelines to follow. The application of 1p1f would have great financial impact on small carriers due to the high volume of medical passengers transported and the reduced seat inventory in comparison with large carriers.

3. Emotional Support Animals and Service Animals Other than Dogs

Context

The ATPDR require transportation providers in all modes – air, rail, marine, and bus – to accept service dogs for transport and permit them to accompany a person with a disability on board. A service dog is defined as “a dog that has been individually trained by an organization or person specializing in service dog training to perform a task to assist a person with a disability with a need that is related to their disability”. Common types of service dogs include guide dogs, hearing dogs, and dogs for post-traumatic stress disorder.

In recent years, a growing number of people have sought to travel with emotional support animals (ESAs), whose simple presence may offer therapeutic value. That value can be particularly important during travel, which can be stressful. Some persons with psychiatric, emotional, or other disabilities report that they are unable to travel without emotional support from their animal. A key distinction between ESAs and service dogs, as the term is used in the ATPDR, is that service dogs have been professionally trained to perform clear, specific tasks related to their handlers’ disability, while ESAs have not.

Certain transportation providers refuse to accept animals that are not service dogs, such as ESAs and pets. Some accept them only in a travel carrier (although larger ESAs may not fit into a travel carrier) and do not permit the traveller to remove the animal to stroke it for therapeutic purposes. Some people who rely on the emotional support of an animal to travel believe such restrictions create an undue barrier to their mobility and suggest that there should not be a distinction between trained service dogs and ESAs. In their view, transportation providers should only be permitted to ask for documentation that establishes that the traveller has a disability and that their animal assists them with a disability-related need. They consider any additional requirements – for instance, proof of training – to be intrusive and burdensome.

Concerns about ESAs

Other members of the community of persons with disabilities – largely, users of trained service dogs – have expressed concerns about untrained ESAs.

During the consultations on the ATPDR, some service dog users reported incidents where their dog was threatened or attacked by an untrained dog or other animal. Others service dog users indicated that they are increasingly questioned by transportation providers about the use of their service dog, which may be due to some travellers presenting untrained dogs as service dogs.

Transportation providers also raise concerns, including about safety and hygiene issues related to ESAs. During ATPDR consultations, they described situations of untrained animals biting and behaving aggressively towards staff, travellers, and trained service dogs. They also noted untrained animals often relieve themselves inappropriately in transit.

Transportation providers have also expressed concerns about fraud. They indicate that some travellers may present medical documentation to misrepresent household pets as ESAs, including documentation obtained online that is not based on any actual assessment of the traveller or the animal.

In addition, transportation providers have questioned how they could accommodate both travellers with ESAs and travellers with severe allergies to animal dander, or travellers seeking accommodation for multiple animals in one trip despite limited space on-board. Finally, they expressed concern about providing extra seating for ESAs at no additional charge as a result of a 1p1f requirement.

Service Animals Other than Dogs

The ATPDR require transportation providers in all modes of transport to accept service dogs who have completed task-based training. Other animals can, however, be trained to perform specific tasks related to their handlers' disability. These include miniature horses and capuchin monkeys. To date, the CTA has received very limited feedback on this topic and has little information on how often travelers use trained service animals other than dogs.

Transportation providers have indicated that there may be challenges accommodating certain animal types due to their size. Further, they have suggested that monkeys can be unpredictable and pose a risk of violence to travelers and staff.

Other Countries

As the transportation of ESAs, and service animals other than dogs, is an emerging issue globally, it may be useful to look at rules in other countries.

Subject to specific conditions, domestic airlines in the United States must permit travelers to be accompanied by a service animal. A service animal is considered to be any animal that is individually trained or able to provide assistance to a person with a disability, or any animal that assists persons with disabilities by providing emotional support. This definition of service animal includes both trained animals – such as trained psychiatric service animals (PSAs) for conditions such as post-traumatic stress disorder – and ESAs. The current policy only permits carriers to refuse to transport a limited number of species as service animals, including snakes, other reptiles, ferrets, rodents, and spiders.

On a case by case basis, airlines may also exclude animals that: are too large or heavy to be accommodated in the cabin; would pose a direct threat to the health or safety of others (based on the airline staff's observation of the animal); would cause a significant disruption of cabin service (based on the airline staff's observation of the animal); or are prohibited from entering a foreign country.

Airlines can also require that travelers with ESAs or PSAs provide documentation from a licensed medical professional attesting to the traveler's need for the animal in transit or at the destination. Further, for flights over 8 hours, they can require documentation from the traveler attesting that the animal will not relieve itself inappropriately during transit.

Despite these provisions, media reports and public submissions to the United States Department of Transportation (U.S. DOT) indicate that airlines have experienced a range of issues with ESAs and PSAs. These include aggressive behavior, including the biting of staff, travelers, and trained service animals; fraud; and travelers with exotic or unusual species.

The U.S. DOT recently consulted the public and stakeholders on possible species restrictions, which may limit the ESAs and PSAs that air carriers are obliged to transport to dogs, cats, and rabbits. As part of this process, the U.S. DOT is also considering whether to introduce other restrictions, such as containment of ESAs or PSAs in carriers and/or a limit on the number of animals per traveler.

In the interim, the U.S. DOT has recently issued a statement of enforcement priorities regarding service animals. This statement indicates that at present, its enforcement officers will focus available resources to ensure that dogs, cats, and miniature horses – the most commonly used trained service animals – are accepted for transport, while cautioning that it may still take enforcement action against carriers for categorically failing to transport other species of service animals.

In comparison, European Union (EU) air regulations indicate that all reasonable efforts should be made to enable a traveler to take a flight, including by accepting "recognized" assistance dogs in the cabin of an aircraft, subject to national regulations.

Questions

1. What do you think about a potential requirement for transportation providers to accept ESAs? What conditions, if any, should apply?
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)?
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 behaviour, that pose a high allergen risk, or do not fit in a travel carrier or on the floor at a traveler's feet.
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?
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?
6. In the United States, enforcement action is not taken if an airline refuses to transport more than three service animals for one traveler, 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?

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 traveler 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:
 - that the traveler requires the animal to travel, for medical reasons, as indicated by a health care practitioner who is treating the traveler and confirms that the traveler has a disability and needs the animal to travel for disability-related reasons;
 - that the animal will not need to relieve itself during transportation, and will not bark, growl, or act aggressively.
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?
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 travelers from using ESAs therapeutically?
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?

Answers

- 1 For small carriers to accept ESA's we believe at the very least the following should apply:
 - Only dogs should be accepted to a maximum of 20lbs
 - They must be providing support for a mental or emotional disability and be able to provide appropriate documentation to support this.

- Only one emotional support dog should be permitted per passenger
 - The dog must be seated on the passenger's lap leashed and/or harnessed, for all phases of flight, or travel under the seat in front of the passenger (if space permits) in an appropriate kennel.
 - The dog must behave in such a manner that it will not run freely, bark, bite or show any kind of aggression. If such signs are displayed, the animal should be removed and banned from future travel.
2. Yes, carriers should be able to define what ESA's are acceptable based on their aircraft, space and operations. No, we should not be required to accept all species, keeping passenger comfort and safety in mind.
 3. No - this would be too subjective. The air carrier and pet owner may not have the same opinion on "habits" of the animal which could pose safety issues. Criteria should include species, size, weight and behaviors.
 4. It would not be unreasonable to consider allowing different criteria for different transportation providers.
 5. There should be consideration to the differences in size and seating capacity when it comes to large versus small carriers. Inconsistencies with requirements may pose a risk to passengers transferring from one carrier to the next, but the regulations need to be reflective of limitations onboard many different type of aircraft, sizes, seating and configurations.
 6. Yes, we believe there should be no more than 1 per passenger.
 7. Carriers should be able to request documentation from a mental health professional identifying the requirement for the passenger to travel with the ESA. Verification should also be able to be provided attesting to the training and/or behavior of the animal.
 8. We believe the same rules of notice should apply whether it is a Service Animal or an ESA traveling.
 9. Yes- Small Carriers should be able to require that ESA's be tethered, leashed and/or harnessed for the safety of the passenger, ESA, as well as the other passengers on board.
 - 10 No, we believe that ESA's should be limited to dogs only.
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4. Planning and Reporting Obligations under the Accessible Canada Act

The *Accessible Canada Act* (ACA) came into effect on July 11, 2019. Its purpose, set out in section 5, is to "benefit all persons, especially persons with disabilities, through the realization, within the purview of matters coming within the legislative authority of Parliament, of a Canada without barriers, on or before January 1, 2040, particularly by the identification and removal of barriers, and the prevention of new barriers", including in transportation.

Under the ACA, regulated entities – including transportation providers – must comply with three new planning and reporting requirements related to accessibility. These are:

1. Accessibility Plans;
2. Feedback Processes; and
3. Progress Reports.

The ACA sets out a general framework for these three planning and reporting obligations. However, the CTA must make more specific regulations in order to put these obligations in place for transportation providers. The CTA's regulations will prescribe some details, such as the timing of the first (initial) accessibility plan.

The general framework of the ACA's planning and reporting obligations – which will shape the CTA's regulations in this area – is set out below.

ACA Framework

Guiding Principles

The requirements of the ACA – including accessibility plans, feedback processes, and progress reports – are to be carried out in recognition of, and in accordance with, the following principles provided in section 6:

- a. all persons must be treated with dignity regardless of their disabilities;
- b. all persons must have the same opportunity to make for themselves the lives that they are able and wish to have regardless of their disabilities;
- c. all persons must have barrier-free access to full and equal participation in society, regardless of their disabilities;
- d. all persons must have meaningful options and be free to make their own choices, with support if they desire, regardless of their disabilities;
- e. laws, policies, programs, services, and structures must take into account the disabilities of persons, the different ways that persons interact with their environments, and the multiple and intersecting forms of marginalization and discrimination faced by persons;

- f. persons with disabilities must be involved in the development and design of laws, policies, programs, services, and structures; and
- g. the development and revision of accessibility standards and the making of regulations must be done with the objective of achieving the highest level of accessibility for persons with disabilities.

Accessibility Plans

The ACA requires each transportation provider to develop and publish an initial accessibility plan, in consultation with persons with disabilities. The plan must address their policies, programs, practices, and services in relation to the identification and removal of barriers, and the prevention of new barriers, in the following areas:

1. Information and communication technologies;
2. The procurement of goods, services, and facilities (e.g., to ensure that equipment and terminals are accessible);
3. The design and delivery of programs and services;
4. Transportation;
5. The built environment, to the extent that the built environment is a passenger aircraft, passenger train, passenger bus, passenger vessel, aerodrome passenger terminal, railway passenger station, bus passenger station, or marine passenger terminal; and
6. Communication, other than information and communication technologies, related to items 1-5, above.

Plans must also identify any provisions of regulations made under subsection 170(1) of the *Canada Transportation Act* that apply to the transportation provider (e.g., the ATPDR). Further, transportation providers must take into account the principles of the ACA in developing their plans.

Feedback Processes

Transportation providers must establish a process for receiving and responding to feedback on their accessibility plans, the implementation of their accessibility plans, and the barriers encountered by persons that deal with them. They must also publish a description of the feedback process.

Progress Reports

Transportation providers must prepare and publish a progress report on how they are implementing their accessibility plans.

In preparing progress reports, transportation providers must consult persons with disabilities and explain how they did so in their report. Furthermore, progress reports must set out the feedback received and how it was considered.

Enforcement

The CTA will be responsible for enforcing the planning and reporting requirements that fall within the CTA's jurisdiction, once the regulations are in force. As with all accessibility-related obligations enforced by the CTA, transportation providers that fail to comply with the requirements are subject to AMPs of up to \$250,000 per violation.

Other Accessibility-Related Matters

Under the ACA, transportation providers are also required to comply with planning and reporting obligations on other accessibility-related matters, such as employment. The Department of Employment and Social Development Canada (ESDC) is responsible for developing and implementing regulations related to these planning and reporting requirements.

a) Accessibility Plans

In preparing their accessibility plans, transportation providers must describe their policies, programs, practices, and services in relation to the identification and removal of barriers, and the prevention of new barriers, taking into account the [principles of the ACA](#).

Transportation providers must publish their first (initial) plans within one year of the date set by the CTA in the regulations.

They must prepare and publish updated accessibility plans at least every three years, (a) starting from the date the plans were published or (b) a shorter time set by the CTA in the regulations. Regular updates of plans will allow transportation providers to take account of changes in the operating environment, new technologies, lessons learned, and so forth

Questions

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)?

To provide INITIAL plans, 12 months should be enough

2. Should the timing of publication be consistent with that required under any other federal laws, such as the *Employment Equity Act*?

?

b) Feedback Process

Transportation providers must establish a process for receiving and responding to feedback about:

1. The manner in which they are implementing their accessibility plans; and
2. The barriers that may have been encountered by persons who use their services.

This process will provide transportation providers with important information regarding on-the-ground realities, allowing them to course-correct as needed. Transportation providers must also use this information to prepare their [progress reports](#).

For example, a required feedback process could potentially include the following elements:

- The method(s) the transportation provider offers for providing feedback, such as in-person discussions, written submissions, and/or audio submissions;
- The timing for the submission of feedback; and
- Alternative formats for documents related to the feedback process.

Questions

1. 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?
2. Should the publication date of the feedback process be the same as for the initial accessibility plan?

Answers

1. The CTA could publish an accessibility survey pertaining to small transportation carriers. The carriers could publish this survey on their websites and collect data over a period of time.
3. The date for the feedback process should be later to allow comments and progress on the initial accessibility.

c) Progress Reports

Transportation providers must prepare a progress report on the implementation of their accessibility plans. They must consult persons with disabilities in preparing the report, and explain how they did so in the report. As well, the progress report must set out information

concerning the feedback they received through their feedback process and how that feedback was taken into consideration.

The CTA's regulations will establish when first progress reports have to be published and how often transportation providers are required to report on progress moving forward.

Transportation providers will need time to implement their accessibility plan; collect, assess, and apply feedback received in the feedback process; and consult with the community of persons with disabilities in preparing progress reports. That said, they should provide reports frequently enough to allow for a timely assessment of the progress being made in removing barriers to persons with disabilities.

Questions

1. When should first progress reports related to the Accessibility Plan be due?
2. How frequently should progress reports be required thereafter (e.g., every year or every two years)?

Answers

1. The first progress report should be due twelve months from the implementation of the program
3. Progress reports should be required to be given on a yearly basis.

d) Publishing and Providing Documents

Given that the CTA is responsible for monitoring and enforcing the planning and reporting requirements, transportation providers must, by law, notify the CTA when the above documents are published.

In addition to publication, transportation providers must, by law, make their accessibility plans and progress reports available upon request to a person with a disability in an accessible format. For example, transportation providers could be required to make plans available in braille or audio. The ACA requires the CTA to make regulations that prescribe the form and manner of a request made by a person with a disability, as well as what formats must be made available to them.

Questions

1. What should the publication requirements be?
 - 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?
 - Should specific accessibility standards be met when posting the content, as provided [in the ATPDR](#) ?

- 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?
2. 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?
 3. Some small transportation providers may not have a website. Given this, what would be an acceptable alternative to publishing a document?
 4. 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?

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?

Answers

1. Air Carriers should have their accessibility plan published on their website with their Tariff.
2. Carriers should be required to provide the CTA with a copy via email (URL) on date of publication.
3. If a website is not available, a copy of the documents should be available at all arrival/departure locations.
4. A person with a disability should be able to request a copy of the documents by way of written correspondence and/or email to the carrier stating the format they are requesting.

The carrier should be permitted 4-6 weeks to provide the document, depending on the format requested.

5. Carriers should be able to provide audio, visual, large print and braille documents, keeping in mind that small carriers will have greater financial constraints with respect to producing Braille copies.

e) Variations in Regulatory Application

The regulations will apply broadly to transportation providers across Canada's federal transportation network: airlines; passenger railway companies, marine carriers (ferries), and inter-city bus companies; the terminals that serve them; CATSA; and CBSA.

Some differences in approach may be appropriate based on considerations such as the size of the transportation service provider. For example, a small regional airline with 10 employees might need more time to prepare and update their accessibility plans than a large airline with a staff of 20,000.

Question

1. What modifications, if any, would be appropriate for small transportation providers? For example, additional time for preparing required documents may be appropriate

Answer

6. In consideration of the limited resources a small carrier may have compared to larger ones, additional time should be given. Also, consideration should be given to the additional costs small carriers may need to incur to prepare such documents, and the fact that small carriers operated within limited budgets.

f) Minimizing Duplication

Under separate regulations developed by ESDC, transportation providers will also need to comply with planning and reporting obligations on other accessibility-related matters (employment, for example).

Transportation providers must fully consider and address every aspect related to accessibility that is required under the ACA. However, duplicative reporting can create unnecessary burdens, as well as confusion for the general public.

Questions

1. There might be a few differences between what is required under ESDC's regulations and the CTA's regulations, given the nature of what is regulated (for example, employment versus transportation). With this in mind, Annexes [C](#) and [D](#) provide templates for the accessibility plans and progress reports related to transportation. These show what sections the CTA could require plans and reports to have, by regulation. [Annex E](#) on the feedback process also includes elements that could be required by regulation, as well as ideas for future guidance (discussed below). Please provide comments on the sample templates and feedback elements.
2. Would the same publishing deadlines facilitate reporting with CTA and ESDC?

Answers

1. No Comment
2. Yes

g) Guidance Material

As the ACA has introduced new requirements, the CTA is considering what guidance material, if any, would help to ensure that requirements are clear for transportation providers and that planning and reporting documents are meaningful to persons with disabilities. These may include best practices on consulting with persons with disabilities in the preparation of an accessibility plan or progress report; the use of milestones and performance indicators to measure progress; or strategies for identifying barriers.

To provide a clearer idea of the kinds of guides that would be possible, [Annex E](#) sets out ideas for possible guidance on the feedback process

Questions

1. Is the draft guidance material on the feedback process useful?
2. What CTA guidance material, if any, would be helpful in implementing planning and reporting obligations and ensuring documents are relevant for persons with disabilities?

Answers

1. Yes, the guidance material is useful
2. Small carriers could benefit from very clear guidance materials as small carriers will likely not have the financial or human resource means to build or hire a team to help us comply.

Examples of audio and visual documentation requirements could also be useful.

Annex A - Large Transportation Providers

Canada's federal transportation network includes airlines; passenger railway companies and buses that cross a federal or provincial border; ferries that travel from province to province or from Canada to a foreign country; the terminals that serve them; the Canada Border Services Agency; and the Canadian Air Transport Security Authority.

Under Part V of the [Canada Transportation Act](#), transportation providers in the federal transportation network are required to provide accessible services to persons with disabilities up to the point of undue hardship. Compliance with regulations is an important part of this obligation.

The ATPDR apply to the following, with some exceptions:

Air

Large airlines — i.e. an airline that transported a worldwide total of at least 1 million passengers in each of the two preceding calendar years — operating within Canada, from Canada to a destination in a foreign country, or from a destination in a foreign country to Canada;

Rail

VIA Rail and Amtrak (operations in Canada);

Ferries

Ferries weighing at least 1,000 gross tonnes that operate across national, provincial, or territorial borders **and** that offer on-board services for passengers;

Buses

Bus carriers that provide transportation services between two or more provinces and from a point of origin in Canada to a point of destination in a foreign country using a bus that has a carrying capacity of more than 39 passengers (i.e., Greyhound and Megabus operations in Canada); and

Terminals

Airports located in a national, provincial, or territorial capital or that have served more than 200,000 passengers during each of the preceding two calendar years; Canadian transportation terminals used by the above rail, ferry and bus carriers; and Canadian ports used by cruise ships.

In addition, certain requirements related to security screening and border clearance, training, and communication, apply to the CBSA and CATSA.

While the ATPDR apply broadly to all modes of transport, there are some exceptions:

- The service requirements apply to both Canadian and international carriers, but communications, training, and technical requirements apply to Canadian carriers only;
- The technical requirements for Canadian airlines apply only to aircraft with 30 or more passenger seats;
- Only the technical requirements apply to ports in Canada that serve cruise ships (given that services to persons with disabilities are provided by cruise ship personnel); and
- The One Person, One Fare requirement only applies to domestic travel.

Annex B – Small Transportation Providers

Small transportation providers are not currently covered by the ATPDR. For the purpose of this consultation, "small transportation providers" are defined as :

1. Airlines that provide a domestic service or international service for the transportation of passengers and that transported fewer than 1,000,000 passengers during either of the preceding two years.
2. Railway companies that provide passenger rail service between two provinces or from a point of origin in Canada to a point of destination in a foreign country, or from a point of origin in a foreign country to a point of destination in one or two provinces.
3. Marine carriers (ferry operators) that provide service between two provinces or from a point of origin in Canada to a point of destination in a foreign country, if the service is provided on a ferry weighing less than 1,000 gross tonnes and on which on-board services are offered to passengers.
4. Bus operators that provide service either between two provinces or from a point of origin in Canada to a point of destination in a foreign country only, or for a bus that has a carrying capacity of fewer than 40 passengers.
5. Terminal operators – owners, operators, or lease-holders of an airport with less than 200,000 passengers enplaned and deplaned during either of the two preceding calendar years; or
6. A rail, ferry, or bus terminal in Canada serving the above-noted transportation providers.

Annex C – Sample Template for Accessibility Plans

The CTA will be making regulations that tell transportation service providers (providers) how to meet their responsibilities under the *Accessible Canada Act* (ACA). This includes telling providers how to structure the Accessibility Plans they must put in place.

All plans must reflect the ACA principles. One principle is barrier-free access to full and equal participation in society. Providers must look at all the barriers relevant to them and create plans that:

1. say what they will do about each barrier, and
2. take into account consultations with persons with disabilities.

Plans should be detailed enough to show that the provider was thorough when looking for barriers and consulting on the plan.

Below is a template showing the sections a plan could have. Regulations could require providers to include these sections.

Draft template – accessibility plans

Cover page:

- Title;
- The name of the transportation service provider;
- The time period covered by the plan; and
- The publication date.

Plan details (the barriers being addressed)

This section would describe:

- The **types** of barriers the plan covers (service barriers or barriers in a policy, program, or practice);
- The area **where** each barrier is. Transportation generally is one area. Depending on the provider, other relevant areas could include:
 - Services for persons with disabilities (includes design and delivery);
 - Program design and delivery;
 - The built environment (this means terminal buildings and planes, ferries, trains, buses);
 - Procurement (goods, services, facilities);
 - Information and communication technologies (IT and CT); and
 - Communications (not IT or CT, but communications about the above areas).

This section of the plan would also describe:

- Any area providers are responsible for under the CTA's regulations on accessible transportation and on personnel training for persons with disabilities, such as:
 - Technical standards for terminals and planes, ferries, trains, buses;
 - Training for workers who assist passengers with disabilities; and
 - Border and security screening (CBSA and CATSA only).

Conclusion

- Where people can find or ask about the plan (contact information, links to the provider's website or social media accounts).
- Links to alternate formats that are accessible to persons with disabilities, or information on ways to request these formats
- Timeframe for providing the alternate formats people request.

Other

The template could come with some instructions for providers. For example, it could tell them to put plans in a font that is large and easy to read.

Note: The CTA will make regulations and also publish guides for providers. The regulations will tell providers what they **must** include in their plans, by law. Guides will tell them what they **could** include, based on best practices. Providers can choose the suggestions that work for their plans.

For example, guides could suggest that providers include an Executive Summary. They could suggest that providers prioritize their barriers and set timeframes for dealing with them. Guides could suggest having indicators of success in the plan and reporting on them in the Progress Report.

Future guides may also suggest adapting this template to cover other Accessibility Plans providers create under the ACA. For example, a guide could explain how to expand the list of barriers to include employment, for the Accessibility Plan on employment also required under the ACA.

Annex D – Sample Template for Progress Reports Reports

The CTA will be making regulations that tell transportation service providers (providers) how to meet their responsibilities under the *Accessible Canada Act* (ACA). This includes telling providers how to structure the Progress Reports they must put in place.

These reports will describe the progress providers are making with their Accessibility Plans. Reports should:

1. Discuss each barrier covered in the plan, and
2. Take into account consultations with persons with disabilities.

Reports should be detailed enough to show that the provider was thorough when addressing barriers and consulting on the report.

Below is a template showing the sections a Progress Report could have. Regulations could require providers to include these sections.

Draft template – progress reports

Cover page:

- Title;
- The name of the transportation service provider;
- A clear reference to the Accessibility Plan being reported on; and

- The publication date.

Section 1: Introduction

- How the provider consulted persons with disabilities;
- The feedback received; and
- How the provider considered the feedback.

Section 2: Progress updates

This section would cover each barrier set out in the provider's Accessibility Plan. It would describe:

- The progress made in identifying, removing, or preventing the barriers.

Conclusion

- Where people can find or ask about the report (contact information, links to the provider's website or social media accounts);
- Links to alternate formats that are accessible to persons with disabilities, or information on how to request these formats; and
- Timeframe for providing the alternate formats people request.

Other

The template could come with some instructions for providers. For example, it could tell them to put reports in a font that is large and easy to read.

The CTA will make regulations and also publish guides for providers. The regulations will tell providers what they **must** include in their Progress Reports, by law. Guides will tell them what they **could** include, based on best practices. Providers can choose the suggestions that work for their reports.

For instance, guides could suggest that providers give reasons in their reports for any unusual successes or setbacks. They could suggest that providers include measures of success.

Annex E – Ideas for the Feedback Process

One of the responsibilities that transportation service providers (providers) have under the *Accessible Canada Act* (ACA) is putting in place a process to receive and respond to feedback. This includes, at minimum, feedback about:

1. The barriers people encounter when using the provider, and
2. How the provider's Accessibility Plan is being implemented.

The CTA will be making regulations, and also publishing guides, about providers' ACA obligations. While regulations will tell providers what, by law, they **must** do, guides will tell them would they **could** do, based on best practices.

Below are some ideas for setting up and managing the Feedback Process. The CTA could develop brief regulations and a comprehensive guide for providers based on these ideas.

Ideas for the feedback process

Information about the process

The ACA requires transportation service providers to publish a description of their Feedback Process. Regulations could tell them to:

- Write the description in plain language; and
- Make the description available in alternate formats (see [Alternate Formats](#), below).

A guide could suggest that they:

- Make the description easy to find through their websites and apps; and
- Make the description available by other means, if the provider has no website or internet access.

Point of contact

Regulations could require providers to:

- Put someone in charge of the Feedback Process (this person would be the point of contact for people who use the process);
- Include the contact's name, email, phone number, and other information in the description of the Feedback Process; and
- Take other steps to make it easy to find the contact's name and information.

Timing

Regulations could require providers to:

- Have their Feedback Process in place by a specific date (for example: the same day they publish their first Accessibility Plan);
- Open the process on a recurring basis to collect comments on the plan (for example: once a year, or once every six months); and
- Make sure the process is always open for people's comments about barriers they find when using the provider's company, terminal, or agency.

Ways to give feedback

A guide could suggest that providers let persons with disabilities give their feedback in one or more of the following ways:

- At meetings with the provider (in-person or by teleconference or videoconference);
- By email;
- Through the provider's website or social media accounts; and
- By mail or phone, especially if the provider has no website or reliable internet.

A guide could recommend that large providers set up Feedback Committees with representatives of the disabilities community. It could suggest how often the Committee should meet (for example, once a year).

Dealing with feedback

The ACA requires transportation service providers to deal with the feedback they receive. A guide could suggest that providers:

- Keep a record of all comments they receive, and retain the record for a certain length of time;
- Keep a record of what they do to address comments;
- Summarize the input that identifies barriers;
- Track also accessibility complaints that come through other means;
- Break down all complaints by number and type; and
- Summarize the input they receive about the Accessibility Plan and how it is being implemented.

Alternate Formats

Regulations could require providers to make any documents for the Feedback Process available in alternate formats like:

- Braille; and
- Videos that give the information in sign language.

Regulations could include putting all documents in a font that is large and easy to read.