



Submission to the Canadian Transportation Agency in response to the Public Consultation on the Development of New Airline Refund Requirements

Canadian Life and Health Insurance Association

March 1, 2021

The Canadian Life and Health Insurance Association (CLHIA) is pleased to provide comments to the Canadian Transportation Agency (CTA) in response to its consultation on requests for temporary adjustments to the Air Passenger Protection Regulations (APPR) in the context of the COVID-19 pandemic.

The CLHIA is a voluntary trade association with member companies that account for 99 percent of Canada's life and health insurance business. Life and health insurers are a significant social and economic contributor in Canada, providing 26 million Canadians with extended health care, dental and disability coverage and making \$38 billion in health benefits payments in 2019, including \$1 billion for all travel-related expenses including medical services and trip cancellation.



Protecting 29 million Canadians

26 million with drug, dental and other health benefits

22 million with life insurance averaging \$222,000 per insured

12 million with disability income protection



\$103 billion in payments to Canadians

\$53 billion in annuities

\$38 billion in health and disability claims

\$12 billion in life insurance policies



\$8.3 billion in tax contributions

\$1.5 billion in corporate income tax

\$1.3 billion in payroll and other taxes

\$1.6 billion in premium tax

\$3.9 billion in retail sales and payroll taxes collected



Investing in Canada

\$950 billion in total invested assets

92% held in long-term investments

Canadians are experiencing unusual and difficult times from both a health and economic perspective as a result of the COVID-19 pandemic. Canada's life and health insurers have been proud to work with all levels of government to help protect Canadians through health benefit plans, travel insurance and other financial security products.

For example, the life and health insurance industry has provided support in a number of areas, including:

1. Helping Canadians return home

- Assisted an unprecedented number of Canadians to activate travel insurance to get home following the Government of Canada's global travel order in March 2020
- Worked closely with Global Affairs Canada to encourage Canadians overseas, including "snowbirds" with travel medical insurance in the southern United States, to return home

2. Supporting Canadian employers, workers and their families

- Many insurers have proactively provided premium reductions and other forms of relief, including premium deferrals to reduce costs for employers to help them and their employees get through this unprecedented economic crisis
- Waived the standard waiting period to qualify for short-term disability benefits so that COVID-19 patients could access needed income supports from day one
- Made it as easy as possible for patients to access their benefits – waiving requirements for doctor’s notes and lab tests in favour of self-declarations

3. Protecting essential services

- Introduced new measures so commercial truckers can count on continued medical coverage in the United States
- Worked with pharmacists to prevent prescription drug shortages
- Worked with governments to have life and health insurers designated an essential service so that benefits and benefit support could continue to flow without interruption to Canadians

Our industry will continue to work closely with all levels of government to offer assistance to all Canadians.

SETTING THE CONTEXT: GAPS IN THE FLIGHT DISRUPTION PROVISIONS OF THE APPR

The COVID-19 pandemic is unprecedented and has caused incomparable confusion and loss to the broader tourism industry as well as to Canadian passengers. As insurers who provide travel insurance products, our industry has been heavily impacted from the perspective of the trip cancellation product, which is closely linked to the topic of airline refunds.

Trip cancellation insurance provides a benefit only towards the non-refundable portions of unused airline tickets, that are forfeited when an insured traveller is unable to travel as planned. When it is the travel supplier (for example airline, cruiseship line, tour operator) that cancels planned travel arrangements, the onus must be on the supplier to reimburse their customers for services not delivered.

In the case of the pandemic, benefits in most cancellation insurance policies were triggered with the increase in the Travel Advisory Level issued by Global Affairs Canada – specifically, the issuance of a global Level 3 ‘avoid all non-essential travel’ travel advisory on March 13, 2020. Given this was no longer an “unexpected emergency”, insurers began to identify COVID-19 as a ‘known event’ – excluding coverage from new sales.

The decision by airlines to issue vouchers as a means of refund, does not translate into a loss to be covered by trip cancellation insurance. Despite this fact, our experience is the refusal to refund has forced dissatisfied travelers, as well as others within the tourism industry, to mistakenly turn to trip cancellation insurance. The fact that valid claims are refunded and the

APPR as it stands today seems to have created a reliance on the industry that trip cancellation insurance would be a way to obtain full monetary compensation. It is not the role of travel insurers to backstop the refund obligations of travel suppliers. Our recommendations in this submission are given with this in mind.

The APPR as it stands today has allowed Canadian airlines to issue vouchers or credit in lieu of monetary refunds, creating significant consumer dissatisfaction and hardship at a time when a monetary refund may be more needed or where the passenger does not expect to fly in the near future. As an added complication, some vouchers have expiry dates that may not make much sense in the context of the pandemic timeframe and may ultimately leave Canadians out-of-pocket due to circumstances beyond their control.

Our industry wrote to the Canadian Transportation Agency early in the pandemic when voucher issuance became an issue. The submission can be found [here](#).

The issues that we brought forward at the time were as follows:

- Temporary order allowed airlines to issue vouchers instead of monetary payment
- Happened at a time of great stress and worry for many Canadians
- Many sought reimbursement through trip cancellation insurance, of which they were not eligible

For Canadians who bought tickets directly through the airlines, the situation has been relatively clear, although still unsatisfactory. It has been more complicated when purchase was made through some travel agencies, including group travel arrangements such as student and senior tour packages. Some refunds travel suppliers provide on these aggregated packages are not always being passed on to the passenger. We would recommend that these types of situations be taken into consideration in the revised APPR. Additionally, some travel agencies, being required to return commissions to airlines have withheld or reduced refunds to passengers thereby complicating the situation.

We would also bring to your attention that many Canadians cancelled flights based on guidance provided by the Federal Government who recommended against non-essential travel, and are in the same situation with respect to vouchers as those Canadians who had their flights cancelled by the airline.

RECOMMENDATIONS FOR NEW AND/OR CHANGES TO REGULATIONS

1. DEFINITION OF 'REASONABLE TIME' TO COMPLETE PASSENGER ITINERARY

See answer below.

2. DEFINITION OF 'LENGTHY DELAY'

Questions 1 and 2 are linked. Passengers travel for different reasons including business and personal vacation and may consider a delay differently depending on the purpose of their travel. When considering whether a 'lengthy delay' should also trigger the requirement to provide a monetary refund, this decision should be tied to the 1st question around 'reasonable time'. Our suggestion is that any delay that requires a hotel stay or stays, should be eligible to elicit a

monetary refund on request by the passenger. As with any refund, customer service should be top of mind so that refunds are in a timely fashion and without creating undue hardship on consumers.

3. DEFINITION OF 'REFUND'

The definition of 'refund' in the context of travel that did not yet start would be the full value of the ticket, including any additional add-ons such as seat selection, meal, checked baggage, etc. We would also suggest that this be the definition in cases where the trip has been interrupted and cannot be completed. The definition should not be amended to the 'unused portion' as, in this type of case, the entire trip would be rendered void.

4. REFUND FORMAT

Most businesses follow the principle that the refund format should be the same as the original payment method, typically credit card. All forms of payment must constitute the full value of the ticket.

Here again we bring up the subject of travel agencies, group travel and return of commissions noted in the opening. Revisions to the APPR should remedy situations where the passenger is caught in the middle between airlines and the travel agency.

5. REASONABLE TIMEFRAME FOR REFUND

Passengers who have had their air travel cancelled should receive a refund for the full value of the ticket, and in the format that they wish, within one to four weeks of cancellation. We suggest that Canada align with the US and EU timeframe as this will reduce confusion for consumers who travel internationally. As Canadian airlines already must align with this timeframe for flights into the US and UK, processes should already be in place.

Revisions to the APPR should apply equally when the ticket sale is direct to the consumer and where there is an intermediary.

6. ALLOWABLE FLEXIBILITY

There may be many reasons to provide airlines with flexibility over these requirements such as for national and security reasons (small carrier routes to more remote areas, keeping national supply lines open, etc.) that the federal government should take into account when developing regulations.

However, we would recommend that the focus be on passenger protection and treating all customers equally and fairly. While flexibility is likely needed at certain times and given certain conditions, fair treatment and transparency is the expectation.

Flexibility should also be considered in the context of the issuance by the Federal Government of a travel advisory with a level 3 or 4 warning. Airlines/travel suppliers should be required to provide flexibility with respect to exchange or refund, especially on non-refundable and non-changeable tickets.

7. EVENTS WITHIN AND OUTSIDE OF AIRLINE'S CONTROL

We agree with your assessment of events within and outside the airline's control.

8. OTHER LEGAL FRAMEWORKS (EXAMPLES: US, EU)

Given the pandemic, we recommend a review of the 'denied boarding' legislation to ensure that it accurately reflects denial of boarding consequences when denial is due to inadequate government-required documentation. Efforts should be made to make Canada's regulations in this area very similar to, or the same as, other legal frameworks so that travellers have consistency.

9. RECOMMENDATIONS TO RESOLVE THE CURRENT SITUATION

Canadians who purchased trip cancellation insurance have been significantly impacted given the decision by some airlines to only offer vouchers for credit rather than refunds. Canadians have made it clear that many of them are not happy with a credit or voucher for future travel. This is especially true at this time where many Canadians have lost their jobs or are experiencing reduced hours. For some, it may be a long time until they are comfortable travelling again.

We recommend that any airline recovery package being considered by the government requires that airlines first provide monetary refunds to Canadians holding vouchers. The current situation needs to be remedied quickly. Passengers who want a refund (and received a credit/voucher instead) should be able to receive one in a timely fashion and without additional steps. Continued delays in action for resolving the current situation will only serve to continue to erode any remaining trust that Canadians may have had for airlines. As Minister Marc Garneau indicated on December 21, 2020, "Air travel is essential to Canada's economic growth and prosperity, and when Canadians buy an airline ticket, they expect airlines to meet their obligations,"

Lastly, as the APPR applies to airline carriers only but the same recommendations made throughout this document could apply to other service providers such as cruise lines, we recommend that the Canadian Transportation Agency consider expanding scope in this area.

CONCLUSION

Thank you for the opportunity to provide the life and health insurance industry's thoughts. We strongly encourage the Canadian Transportation Association to make the recommended changes so that travelling Canadians are protected in future. Should you have any questions or wish to discuss further, please do not hesitate to contact Joan Weir, Director, Health Policy at jweir@clhia.ca or 416-294-9384.



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