

**BEFORE THE
CANADIAN TRANSPORTATION AGENCY**

In the matter of:

Air Travel Complaints Fee Proposal

COMMENTS OF CATHAY PACIFIC AIRWAYS LIMITED

On behalf of Cathay Pacific Airways Limited (Cathay Pacific), we appreciate the opportunity to respond to the Canadian Transportation Agency (CTA) regarding the Air Travel Complaints Fee Proposal on recovering costs for processing eligible air travel complaints.

Pre-pandemic, Cathay Pacific operated 1,400 pairs of international passenger flights from Hong Kong to the following destinations in Canada in 2019: Vancouver (YVR) and Toronto (YYZ), including tag flights HKG – YVR -JFK and HKG-JFK-YVR.

Post-pandemic, Cathay Pacific operated 876 pairs of international passenger flights from Hong Kong to the following destinations in Canada in 2023: Vancouver (YVR) and Toronto (YYZ).

As such, we have a substantial interest in the outcome of this Fee Proposal.

Cathay Pacific is an airline based and registered in Hong Kong SAR, China, which operates international schedules passenger and all air-cargo air services.

Cathay Pacific generally endorses the comments submitted by the International Air Transport Association (IATA) on this Fee Proposal, particularly their remarks and concerns regarding: (1) the scale of costs (2) procedural fairness and natural justice for airlines which the Fee Proposal might coerce the airlines into settling claims regardless of merit rather than contesting them (3) the origin of current CTA backlog of claims and (4) the lack of independent or external oversight of the proposed fee or any incentives for efficiency and oversight of the fee or incentives for efficiency.

Cathay Pacific would like to take this opportunity to raise four further points in support of IATA's comments by highlighting some aspects specific to Cathay Pacific's previously handled complaints via the new process:

1. As per Air Passenger Protection Regulations (SOR/2019-150)19(3) "To receive the minimum compensation referred to in paragraph (1) or (2), a passenger must file a request for compensation with the carrier before the first anniversary of the day on which the flight delay or flight cancellation occurred.". We have been receiving cases dating back to 2022 due to the CTA backlog, and these complaints should not be included nor should any complaints made to the CTA before 30 September 2023, as the Fee Proposal has not been in public consultation nor been effective. Any applicable fee should only refer to complaints after such effective date.
2. To maintain procedural fairness and natural justice, the proposed fee should be charged and payable by the losing party.
3. An appeal or counterclaim mechanism should also be available for airlines or consumers, which is not included in the current resolution process. (<https://otc-cta.gc.ca/eng/air-travel-complaints-resolution-process>)
4. Further to point two above, there are occasions where the airlines make an offer to the passenger to settle the matter without involving the CTA and the passenger refuses to accept such an offer. In such a circumstance and when the ultimate compensation is less than the airline's offer, the passenger should be liable to pay the fees and charges instead of the carrier. Furthermore, the passenger should also be liable to pay the fees and charges if CTA refuses the complaint under 85.04(2).

Cathay Pacific appreciates the opportunity to submit these comments.