Excellence in Flight
KOREAN AIR
900 Wilshire Blvd., Suite 2900, Los Angeles, CA 90017
Tel: (213)484-5700 Fax: (213)599-2099
Web Site: www.koreanair.com

I. INTRODUCTION

Korean Air Lines Co. Ltd., (hereinafter "Korean Air," "we," "us," and/or "company") submits this feedback in response to the CTA's consultation regarding its air travel complaints fee proposal. Korean Air's primary concern with the current proposal is that it shifts the financial responsibility of resolving passengers' claims to airlines, even in situations where the airlines are demonstrably not at fault. While we acknowledge the Agency's efforts to protect passengers and promote transparency, we are deeply concerned that the current draft of the proposal introduces inequitable burdens and significant risks of exploitation, both of which could have detrimental consequences for the aviation industry and passengers alike.

II. IMPOSITION OF UNWARRANTED LIABILITY ON AIRLINES

The primary issue with the proposal is its imposition of financial liabilities on airlines for claims, irrespective of fault. This effectively undermines the foundational principle of liability law, which is that fault or negligence must be established before responsibility is assigned. It is neither fair nor reasonable to hold airlines accountable in situations where they bear no fault. For instance, the current proposal requires airlines to pay a fixed fee of $790 per eligible closed complaint by an RO. Here, "closed complaint" could easily equate to a situation where delays or cancellations result from conditions that are outside of the airline's control or for safety reasons. Thereby, under such circumstances, it is highly probable that airlines will be faced with paying $790 per complaint despite performing all required obligations laid out in APPR.

The Budget Implementation Act of 2023 ("BIA") requires the CTA to establish fees to help recover the costs of processing air travel complaints. Yet, BIA does not require nor mandate CTA to impose a disproportional and unilateral complaint processing fee of $790 on airlines, regardless of its merit.

Airlines already operate under strict regulations. Additional burdens, especially where fault cannot be attributed to the airline, could disrupt the balance of responsibility between service providers and consumers. Forcing airlines to bear costs in these cases creates a regulatory landscape that unfairly penalizes businesses without ensuring accountability on the part of the claimants.

In essence, the current proposal penalizes airlines, even where they are not at fault, under the guise of facilitating the complaint process. Rather than serving as a neutral cost recovery mechanism, this fee scheme appears to be the Agency's attempt to recoup its own operational expenses by placing financial responsibility on airlines, shifting the costs of passenger protection disproportionately onto the aviation industry. In addition, the imposition of a $790 fee on airlines, regardless of fault, increases the possibility that passengers who are dissatisfied with the steps taken by airlines to resolve their complaints will file unmeritorious complaints simply to impose this cost on airlines.

III. SUBJECTIVITY AND INEFFECTIVENESS OF THE ELIGIBILITY REVIEW STAGE

While we understand that the proposal provides a stage where officers may reject ineligible complaints, we are deeply concerned about the subjective nature of these assessments and the lack of opportunity to appeal eligibility determinations. While subsections 85.04(1) and 85.04(2) of the Canada Transportation Act provide complaints eligibility criteria, satisfying this standard is relatively easy and nearly automatic, making it virtually the same as having no hurdle, and effectively ensuring that airlines will have to pay the proposed fee for each submitted complaints.

In practice, most complaints pass through this eligibility review stage. While the requirements of Subsections 85.04(1)—whether "a carrier failed to apply a fare, rate, charge or term or condition of carriage," "the person is adversely affected by the failure," and "a request was not resolved within 30 days"—may appear to be, on its face, a hurdle that requires a detailed, case-specific analysis; minimal allegations by passengers often results in clearing this "hurdle" as it, in practice, requires a determination of fact and law. Thus, under the current proposal, once a passenger's complaint clears this "hurdle", airlines are required, with no other option, to assume full responsibility for resolving the claim, regardless of its merits.

Thereby, this eligibility review process cannot merely serve as a superficial filter to summarily dismiss potentially eligible complaints. Each case involves nuanced determinations of fact and law that demand in-depth consideration.

Moreover, the term "eligibility review" can create a false notion that only a minimal number of complaints will be mediated or determined by the officer. Nonetheless, as shown in "Table 1: Breakdown of total costs and Portion to be recovered," it can be safely assumed that most, if not all, of the filed complaints, fall under the category which would eventually require airlines to pay a $790 fee for each complaint. Accordingly, this eligibility review stage should not be interpreted as a tool that will reduce the volume of complaints, which will impose a $790 fee per complaint to airlines.

IV. NECESSITY OF PERTINENT DATA CONCERNING THE RESOLUTION OF COMPLAINTS LODGED AGAINST AIRLINES

The published data (Table 1: Breakdown of total costs and Portion to be recovered) by CTA does not contain one vital piece of information—the proportion of eligible complaints adjudicated in favor of the airlines, which demonstrates airlines' compliance with all applicable legal requirements and standards.

A substantial portion of the complaints submitted by passengers stem from dissatisfaction with the outcome of airline decisions, despite these decisions being made in full accordance with relevant statutory and regulatory frameworks. While the airlines may have adhered strictly to their legal obligations—communicating such compliance effectively to passengers—it appears that a segment of passengers remains disinclined to accept that they were not, under the law, entitled to compensation. In such instances, the submission of complaints to the CTA is not a reflection of non-compliance on the part of the airlines, but rather an unwillingness of some passengers to recognize the limits of their entitlements under existing regulations.

In order to present a transparent and accurate assessment of this dynamic, it is imperative that these data be available for independent review. Such transparency will not only reinforce confidence in the fairness and effectiveness of the CTA's recent fee proposal.

V. RISK OF SYSTEM ABUSE AND EXPLOITATION

Despite airlines' efforts to comply with APPR, passengers frequently find themselves dissatisfied with the outcomes of their claims with airlines related to compensation or entitlements under the regulations, leading to the filing of formal complaints with the CTA. Even when airlines provide reasonable explanations and evidence based on the interpretation of APPR provisions, passengers often feel compelled to escalate the matter to the CTA. This escalation occurs not because the airline failed to meet its obligations, but because of the perceived inadequacy of the offered remedy. Consequently, this process automatically triggers the imposition of the proposed $790 fee on airlines, irrespective of the validity or outcome of the complaint.

This further compounds the risk of abuse and exploitation of the complaints system by passengers. Without robust safeguards and a clear framework for evaluating complaints, passengers may be incentivized to submit frivolous, exaggerated, or fraudulent claims, knowing that airlines are bound to resolve them irrespective of the underlying facts. The absence of clear fault attribution standards makes it easier for these claims to bypass the eligibility review stage and forces airlines to bear the costs of resolution.

The inherent imbalance is evident when considering that passengers, with little at risk, may file complaints opportunistically, knowing the financial burden will fall entirely on the airlines. This increases the likelihood of complaints that may not be based on valid grievances. The current proposal provides little deterrence against such behavior, leaving airlines vulnerable to high volumes of unmeritorious claims that undermine operational efficiency and drain resources.

In addition, the proposed fee could result in passengers being less inclined to accept the compensation mandated under the CTA, as they may believe that airlines will be willing to increase the amount of compensation offered to avoid having to pay the proposed $790 fee (in addition to the high costs associated with responding to a complaint). In short, a fee structure that places all of the costs on airlines may create incentives that undermine the intent and integrity of the passenger protection regime.

VI. NEGATIVE ECONOMIC IMPACT ON AIRLINES AND PASSENGERS

The economic impact of this proposal cannot be overstated. Airlines already operate under thin profit margins and face significant operational costs associated with regulatory compliance and customer service. Imposing additional financial liabilities, especially in cases where the airline is not at fault, will likely lead to increased costs across the industry. The current proposal places an undue financial burden on airlines, who may be forced to absorb significant costs due to the influx of complaints, ultimately driving up prices for passengers.

This, in turn, will have a direct negative impact on consumers. To absorb these additional costs, airlines may be forced to increase ticket prices, reduce services, or scale back on investments. The current proposal, intended to protect passengers, may ironically result in higher fares and diminished service quality outcomes that will ultimately hurt the very consumers it seeks to protect.

The current fee proposal contradicts the intended purpose of the APPR—to ensure a fair and equitable system for both passengers and airlines.

VII. CONCLUSION

While we fully support the Agency's efforts to strengthen consumer protections, we believe the current proposal, in its current form, imposes an unjust and disproportionate burden on airlines. The potential for subjective assessments and the risk of abuse creates significant concerns that must be addressed to ensure a fair, equitable, and balanced regulatory system. We respectfully urge the Agency to reconsider and engage in further consultation with industry stakeholders to develop a more effective and balanced approach that protects consumers without unfairly penalizing airlines.