

**BEFORE THE
CANADIAN TRANSPORTATION AGENCY**

IN THE MATTER OF

Notice of Consultation on Proposal for Air Travel Complaints Fee

Tom Oommen

Director General, Analysis & Outreach
Canadian Transportation Agency

Allan Burnside

Senior Director, Analysis & Regulatory Affairs
Canadian Transportation Agency

Submitted via the online Web Form

**COMMENTS OF DEUTSCHE LUFTHANSA AG, AS PARENT
COMPANY TO THE LUFTHANSA GROUP**

Communications with respect to this document should be sent to:

Deutsche Lufthansa AG
1400 RXR Plaza, West Tower
Uniondale, New York USA 11556

Arthur Molins
General Counsel The Americas

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**COMMENTS OF DEUTSCHE LUFTHANSA AG, AS PARENT COMPANY TO
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Deutsche Lufthansa AG (“Lufthansa”) as parent company and on behalf of the entire Lufthansa Group (comprised of Lufthansa German Airlines, Swiss International Air Lines, Austrian Airlines, Brussels Airlines and Discover Airlines, herein referred to as the “Lufthansa Group”) respectfully submits these comments on behalf of the Lufthansa Group carriers, in response to the Notice of Consultation of Proposal for Air Travel Complaints Fee.

Lufthansa supports and is in full agreement with the comments submitted by the International Air Transport Association (“IATA”) on this matter. Additionally, Lufthansa submits the following comments:

Lufthansa is concerned that the proposed imposition of a sixty (60%) share of the cost of processing complaints filed with the Canadian Transportation Agency (“CTA”) negates the impartiality that defined the Canadian Transport Agency (“CTA”) in the past. As air carriers will now be required to financially fund the majority of CTA’s services, impartial review of the cases- as there is now a financial incentive to issue a decision- cannot be guaranteed.

Lufthansa also has concerns on the eligibility criteria defined in Subsections of 85.04(1) and 85.04(2) of the *Canada Transport Act*. The eligibility criteria are currently not being equally reviewed and applied by all Resolution Officers (“ROs”). Cases are deemed

eligible and taken to a decision, when the carrier has not been contacted in writing by the passenger and provided the thirty (30) days to resolve. Cases are not being deemed ineligible when the passenger is clearly forum shopping and has filed multiple cases in other jurisdictions and courts.


The guidance documents as released do little to answer the many questions carriers have on when the fee will apply. How will second start notices be billed? Will both the carrier that was contacted in the Portal and the second notice carrier be billed for the same case? And how will cases where the passenger has clearly filed against the incorrect air carrier be handled?

In addition to the above questions, there is currently no communication between carriers and the CTA on how the system works. Based on the inconsistencies in decisions received by the Lufthansa Group carriers, such as discounting evidence due to a lack of comprehension by the ROs, significant liberties with interpretations of legal obligations and RO inadequate familiarity of common industry resources such as the reservation record (“HPNR”), it is apparent that the ROs have a varied scope of knowledge, understanding and/or training on the issues they are adjudicating. The airlines have not been provided with standardized guidelines from the CTA or the RO staff on what is accepted as evidentiary proof (for example, weather documents from Canadian weather channels are accepted, but documentation from European weather authorities are not). Penalizing air carriers without informing them of acceptable sources of proof, and then charging the air carriers for this service is further evidence of bias against the air carriers. While carriers are encouraged to file administrative appeals to address these inconsistencies, the CTA is not taking into consideration that the administrative process is time-consuming, burdensome and adds additional costs to the carriers. Meaningful discussions and ways to contest incorrect rulings by an RO should be a part of this process if the carriers are to be funding the majority of the system. With the current fee structure, and no voice in how the process works, Lufthansa believes that this fee will ultimately negatively impact the travelling public of Canada, as carriers will need to increase ticket prices in order to offset the cost of doing business with the Canadian Transportation Agency.

Lufthansa urges the CTA to speak to the individual carriers that service the travelling public of Canada regarding the additional burdens that this fee will place on carriers, and ultimately the travelling public.

Respectfully submitted,

Deutsche Lufthansa AG on behalf of the Lufthansa Group

/s/ 

Arthur Molins
General Counsel The Americas