

Submission of

The Canadian Union of Public Employees

To

Canadian Transportation Agency

regarding the consultation document

**Phase II – Consultation on the *Accessible
Transportation for Persons with Disabilities
Regulations (ATPDR)***

Specifically

Emotional Support Animals (“ESA”) and Service
Animals Other than Dogs

Introduction

The Canadian Union of Public Employees (CUPE) welcomes this opportunity to present our comments and recommendations on **Phase II of the Consultation on the Accessible Transportation for Persons with Disabilities Regulations (ATPDR), Specifically, Emotional Support Animals and Service Animals Other than Dogs** (consultation document).

CUPE is Canada's largest union, representing over 700,000 members across the country. Our federally regulated members work in communications, energy and transportation including airlines, light rail and ports. The work they do exposes them to numerous hazards at their workplaces, including the potential exposure to violence.

CUPE is committed to occupational health and safety, supported by a National Health and Safety Branch and regional Health and Safety Representatives. We believe the prevention of injuries is the paramount consideration in both improving the quality of working conditions and lowering workers' compensation costs.

In response to the questions of the consultation paper, CUPE will provide our views related to emotional support animals (**ESA**) **as they relate to airline travel**. While we are not commenting on other modes of travel such as train or bus, many of the concerns expressed here would also apply therein.

We have answered the specific questions posed in the discussion paper below, but in summary, CUPE does not believe airlines should be required to accommodate untrained ESA beyond the current requirements for pets generally. This includes all animals, on all size airplanes. This is due to the health and safety issues ESA raise for staff and other passengers.

Existing Pet Allowances and Rules

All airlines have requirements for the transportation of pets which have taken health and safety issues into consideration. For example, the Air Transat rules for animal carriers are as follows:

Passengers must place the animal carrier under the seat in front of them. As a result, the dimensions of the cage cannot exceed 21.5 (height) x 40 (width) x 45 cm (length) (8.5 x 16 x 17.5 in).

The carrier must be leak-proof, well ventilated and soft-sided. A hard-sided carrier or any other type of bag is not permitted.

The pet carrier must be big enough to allow the animal to stand, turn or lie down safely and comfortably. No part of the animal may extend outside of the carrier during the flight. The animal may be denied for transport if the carrier is too small.

Should those conditions not be met, the pet's transport may be refused. The fees would be non-refundable.

In addition, CUPE proposes that passengers with carriers should be assigned to designated seating areas to ensure that the presence of the animal carrier presents the least possible threat to an evacuation. CUPE believes these policies and practices are adequate for the transportation of ESA as well. The ESA must comply with the rules for animal carriers in order to be on board the plane.

A Health and Safety Hazard

At present, the ATPDR require transportation providers in all modes to accept service dogs and permit them to accompany persons with disabilities. CUPE fully endorses and supports without question, the use of a *single trained service dog* to facilitate travel for passengers with disabilities. These animals are trained to provide a specific service to help people overcome specific aspects of their disability.

While CUPE would like to express empathy for those who experience increases in stress or distress while travelling. Additionally, CUPE is not providing commentary toward the overall therapeutic value of ESA. CUPE does however believe the potential benefits of travelling with a ESA are greatly outweighed by the need to ensure the overall safety and security of workers and the general traveling public. We have countless reports from CUPE represented flight attendants of how untrained ESA have wreaked havoc on board an aircraft. As the discussion paper notes, travel can be stressful; stressful not just for people, but also for animals.

An untrained ESA may react unpredictably to the conditions of being carried into a confined space amongst strangers and then to experience pressure changes and potential turbulence which occur during a flight. As such, CUPE cannot support untrained ESA of any species onboard an aircraft in any way which differs from the current pet policy of the airlines.

CUPE members are not trained for animal control. Airlines would have to provide additional health and safety training and possibly equipment to ensure workers could operate on a flight in a safe manner, in the event our recommendations are ignored, and ESA are permitted on a plane without compliance with the current animal carrier rules.

The Employer's Duty

Section 124 of the *Canada Labour Code* requires that “*Every employer shall ensure that the health and safety at work of every person employed by the employer is protected.*”

CUPE believes it would be a violation of this provision to allow untrained ESA on board a plane without compliance with the current animal carrier rules.

Additionally, in cases where there are conflicts between the *Canada Labour Code* and other federal regulations, Section 123(1) of the *Canada Labour Code* makes it clear the *Canada Labour Code* takes precedence.

123 (1) Notwithstanding any other Act of Parliament or any regulations thereunder, this Part applies to and in respect of employment (a) on or in connection with the operation of any federal work, undertaking or business... [abridged for brevity]

As such, it is incompatible with the requirements of the *Canada Labour Code* to allow untrained ESA to be uncaged within the cabin of an airplane.

Workload, Harassment and Stress

While trained service animals are almost universally accepted by passengers, the same cannot be said for the presence of an ESA. This often causes many problems for the onboard crew who are now required to deal with the conflict between irate passengers. Fellow passengers, while willing to deal with allergies from a service dog are not so

accommodating for others who are (rightly or not) often seen as taking advantage of a policy. This increases the likelihood of violence, causes additional undue stress and extra work for already low crew levels who have a multitude of duties both before takeoff and during flight.

Right to Refuse Dangerous Work

Workers covered under the *Canada Labour Code* have a right to refuse dangerous work when “a condition exists in the place which constitutes a danger to the employee”. Depending on the animal and the worker, there are many untrained animals which might constitute a danger to workers. Allowing untrained ESA on board an airplane may lead to a “right to refuse dangerous work” request which results in a grounded and delayed plane.

Lack of Standard ‘Certification’

Our research indicates people can get a ‘certificate’ for an ESA very easily from the internet (a three-minute survey¹), with little or no controls. One of the selling points of these websites is that “*you can travel by airplane, bus, train, or taxi without all the additional pet-related fees.*” CUPE submits that formal certification for ESA is not currently possible, as it is an entirely unregulated field. No documentation standards exist. For this reason, CUPE cannot support allowing untrained ESA onboard an airplane outside of the existing rules for the transport of pets. Unlike for service animals, there is no training and certification process which will guarantee how an animal will react in a stressful situation or under stressful conditions such as those found on an airplane.

Further, if the Canadian Transportation Agency is contemplating service animals (not ESA) other than dogs, strict regulatory oversight must be developed for the training and certification of these animals.

Small Animals

While small animals may seem safer, they may have unforeseen hazards. For example, if they are separated from their owner, they may gnaw on items. The on-board presence of gnawing animals - small rodents in particular- should be banned due to the potential risk to the aircraft if they gnaw at wiring, which could cause electrical issues or even a fire.

The on-board presence of any animal with incapacitating qualities (of any magnitude), including but not limited to spontaneous release of hair/particulate (spiders), venom (via bite, sting or spray), or suffocation is inappropriate.

¹ <https://certifytherapydog.org/>

Biological Hazard

Service dogs have been trained to reduce mess when eliminating waste. ESA have most likely not been or cannot be trained to do so. This further increases the likelihood of exposure to a harmful biological organisms.

Additionally, certain species of animals are known for transmitting diseases (ex salmonella). As aircraft surfaces may only receive a deep clean/sanitization once a month, this may present health risks to customers and crew. An example would be cross-contamination from an emotional support turtle which is allowed to sit on a tray table, contacting service items which then contact the flight attendant's hands and consequently other galley surfaces.

Exceptions

If all regular rules of pet carriage can be followed, and it is simply a matter of cost to the passenger for ESA, then the passenger travelling with the ESA should be obliged to provide proof they are medically fit to travel without requiring the removal of their ESA from its carrier.

The passenger would then be obliged to obtain a "cleanup kit" from the airline that they must purchase and pick up at the gate. Failure to have such a kit would result in being denied boarding. The customer should be required to acknowledge that they are responsible for; and must clean up any messes as a result of the presence of their ESA on board the flight.

Any forms (and any other relevant paperwork) must be provided in such a way as to demonstrate that the passenger has been confirmed to comply with all requirements well before they board the plane. Flight attendants are not in a position to evaluate the accuracy of claims made by a passenger at the time of boarding, and should not be expected to. Any concern over the safety or behaviour of an ESA would lead to the gate agent or flight attendant preventing the passenger from boarding.

Limitations

Whether service animals or ESA, airlines are obliged to conduct hazard assessments, including evacuation demonstrations, demonstrating that the presence of such animals won't interfere with safety procedures in the event of an emergency. A maximum number of allowable pets per aircraft type should be derived from this and enforced.