



NACC
National Airlines
Council of Canada

CNLA
Conseil national des lignes
aériennes du Canada

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Mr. Scott Streiner
Chair and CEO, Canadian Transportation Agency
15 Eddy Street, 17th Floor
Gatineau, Quebec J8X 4B3

By email: secretariat@otc-cta.gc.ca

Re: Comments in response to the consultation submissions from other Industry and Consumer Organizations pertaining to the Requests for Temporary Adjustments to the Air Passenger Protection Regulations: - Case No. 20-07774

The National Airlines Council of Canada (NACC) and the International Air Transport Association (IATA) are very pleased to have the opportunity to provide input in response to submissions made by other industry and consumer organizations to CTA's Consultation on our request for Temporary Adjustments to the Air Passenger Protection Regulations.

Our response below focuses solely on the suggesting that IATA and NACC do not have standing to make these requests for accommodation.

1. Standing in the Agency's public consultation

IATA is a representative association for 290 member airlines worldwide and for more than 70 international airlines that serve Canada. NACC represents Air Canada, Air Transat, WestJet and Jazz. These airlines are directly affected by the issues at stake in this temporary exemption request.

This is a sufficient interest for the purpose of the standing tests in Canadian law, should the Agency take the view these need to be formally applied in connection with IATA and NACC's request.¹ In any event, IATA understands that the Agency has a broad and flexible discretion in relation to questions of procedure and submits that it is appropriate, practicable and desirable for IATA and NACC to be recognized for these requests. IATA and NACC further note that it is the nature of a public consultation that the Agency hears from all parties who wish to express a view.

IATA and NACC have made similar requests of the Agency in the past and done so on the basis of our representative character and our ability to contribute to the matters under consideration.

¹ Rules of standing are principally applied in court proceedings. Their underlying purpose is to allow a court or tribunal to economize and manage its available resources, so that it can hear contending points of view from parties best placed to raise them. There is nothing to suggest there would be any efficiency interest in refusing recognition to IATA as part of this consultation. The Air Passenger Rights Organization identifies no such efficiency interest in its submissions. Such a refusal would deprive the Agency of viewpoints associated with a significant number of air carriers directly affected by the request. This would not be a beneficial or practical result.



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2. Exemption request is for all carriers

The CTA had previously granted, in Determination A-2020-42, an exemption in relation to "all carriers" and IATA, NACC and the other applicants seek an extension of this Determination in their request. This request is plainly not contentious among carriers in light of the unprecedented industry crisis caused by COVID-19 and the government's response to the same.

IATA and NACC suggest that it should not be required to further identify specific carriers or apply any further formalities in this regard. As with Determination A-2020-42, IATA and NACC would urge the Agency to apply a renewed or modified exemption to "all carriers". These would include carriers serving Canada presently or who may do so in the future during the term of the exemption.

3. New expiry date for exemption to be granted by the Agency

As originally requested, IATA and NACC sought an exemption from certain provisions of the APPRs until 31 December 2020. This time has now passed. For the reasons set forth in our January 29, 2021 letter, we request that the exemption granted by the CTA runs until **31 December 2021**.

We therefore respectfully submit:

- i. any standing test is satisfied for IATA and NACC as representative associations;
- ii. in any event, the Agency should apply its broad and flexible discretion on procedural matters in recognizing IATA, NACC and their submissions;
- iii. IATA and NACC should not be required to name specific carriers in its request or complete further formalities given the prior Determination in respect of "all carriers", IATA and NACC's broad representative character and the fact that this request asks for a renewal of an earlier determination.

Conclusion

We thank you for the opportunity to contribute to this exercise and reiterate our request for the deferment of the exemptions until 31 December 2021.

Yours truly,

Mike McNaney
President and CEO
National Airlines Council of Canada

Douglas Lavin
Vice President, Member & External Relations, North America
International Air Transport Association