



September 4, 2017

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Via email: Karen.Plourde@otc-cta.gc.ca

Northern Air Transport Association (NATA) Submission- Canadian Transportation Agency Modernization Initiative Phase 2

Dear Karen Plourde;

We welcome this opportunity to provide a northern Canadian perspective on the Canadian Transportation Agency Modernization Initiative- Phase Two.

NATA membership is representative of all aspects of northern and remote air operations including 705-704 scheduled passenger service, mainline cargo carriers, 703 air carriers, helicopters and specialized operations including internationally renowned medivac capabilities. Our operators are committed to the highest possible standards and cooperating with all government agencies to achieve this standard with rules and recommended practices that make sense and support the Canadian aviation industry. NATA supports legislation that protects established northern Canadian operators that are providing long term, reliable and essential service to northern and remote communities from unfair competition due to relaxation of current standards.

We would like to take this opportunity to thank the agency and the staff for including NATA, representing Northern and Remote operations all over Canada in these important consultations. There has been a genuine effort by the Agency to understand the unique issues associated with northern and remote aviation. NATA members have concerns of the CTA review underway and any liberalization of rules that undermine the Canadian aviation industry or put unrealistic demands on passenger service delivery. Northern air operations are very different from the traditional southern airline business model and this needs to be recognized because one regulatory standard does not suit all aspects of Canadian air travel.

The NATA Conference is being held in Whitehorse April 23-27, 2018 and we are planning a session on the CTA Modernization Initiative that we hope Mr. Scott Streiner, Chair and CEO of the Canadian Transportation Agency will be able to address the concerns of the northern aviation community as to the new direction and regulatory scope of the CTA.

In summary while we appreciate the guidance material, and self-help tools the agency has developed, NATA members are very concerned at any increase in regulatory burden and costs without commensurate proof that any change is required. Many of the CTA proposed changes will increase costs to the travelling public which will increase the overall cost of living in the north.

Following are NATA specific comments on the areas listed in the modernization initiative that requested comment.

Sincerely,

A handwritten signature in black ink that reads "Glenn Priestley".

Glenn Priestley
Executive Director

Item 1: Charters and advance payment protection

- 1. To what extent does the existing regulatory regime for charters continue to serve public policy goals?**
- 2. Has charter activity evolved to encompass a broader scope of activities?**
- 3. How could the ATR, as they relate to charters and advance payment protection, be updated to reflect today's reality? What value would these changes bring?**

NATA believes the present regulatory regime is adequate for oversight of charter flights. It is reasonable for the fare paying passenger to expect the fare details need to be clear and transparent as to what both parties should expect. Public issues such as the adding of additional stops after a fare has been purchased need to be addressed.

Item 2: Licensing

A. Code-sharing and wet-leasing

- 1. Should the ATR be amended with regard to code-sharing and wet-leasing, and if so, how?**

This is a sensitive issue to NATA and its membership and needs also to be managed with the same degree of sensitivity by the Agency and regulator as it is a joint exemption to section 55 of the Canada Transportation Act and section 700.02(1) of the CARS that provides Canadian operators that have invested in their community a certain protection.

In 2017, NATA was discomfited with CTA/TC decisions that allowed foreign owned ex-military aircraft to operate in Canada for a period of years in support of the environmental protection and cleanup of Canada's waterways in the event of an oil spill. We understand the establishment of safe guards, we still do not understand the process that allowed the exemption.

NATA believes any form of creative interpretation of the regulations that would allow greater liberalization and access by foreign owned organizations need to be carefully considered and there needs to be better consultative time frame with industry and community stakeholders.

B. Air insurance

- 1. What changes to the ATR might be considered to improve the air insurance regime and ensure that air insurance requirements continue to be appropriate over time?**
- 2. What would constitute an adequate amount of passenger liability and public liability coverage and why?**
- 3. What amendments, if any, could be made to: the allowed standard exclusion clauses; the certificate of insurance form; the certificate of endorsement; and the annual filing requirements?**

NATA's position is that the minimum is not the issue and NATA does not support any arbitrary raise from the present listed amounts as it increases costs. What is important is that the operator and their insurer do an annual risk assessment as part of the initial and subsequent renewals in order for air carrier to assure due diligence was exercised regarding liability.

In regard to Question #3, operators and insurers have reported struggles in the past with inflexibility on the part of the CTA staff who receive and approve the documentation that is provided to them. Previously, their first action was to suspend the Licence when there was a query or error on the documents submitted. This has improved over the past 2 years, but we do not want to see a return to previous service levels by introduction of increased regulatory oversight that is not needed.

There is also a requirement to file two documents for each insurance renewal that essentially state the same thing. While these two documents are not particularly onerous, it does seem redundant to us that two documents must be filed for the same purpose.

As far as additional coverages and exclusions go, these are fluid and subject to negotiation and customization for each renewal. However, with a looming passenger bill of rights, new coverages may be offered to cover increased costs associated with mandated passenger compensation incidents. NATA does not support the setting of minimum compensation as this will increase the cost to the travelling public with no appreciable gain in improvement of the travelling experience, specifically in regard to air operations serving northern and remote Canada.

C. New business models and industry tools

- 1. Do the regulations need to be amended to proactively keep pace with changing air service business models? If so, how?**

No. Aviation is extremely over regulated already by an assortment of authorities including Transport Canada Civil Aviation, Transportation of Dangerous Goods Directorate, Occupational Health and Safety, Environmental regulations along with similar and unique provincial and territorial regulations.

NATA believes the CTA Modernization Initiative should be creating and implementing tools that help operators make an already good transportation experience, better. This can be achieved without creating more rules and another Transport Canada styled regulatory authority.

D. Excluded services

- 1. Are there changes required to the current list of excluded air services? What is the rationale for any additions to or deletions from the list?**
- 2. Do the cited categories within the ATR remain relevant?**

BILL C-49, An Act to amend the Canada Transportation Act and other Acts respecting transportation and to make related and consequential amendments to other Acts is now before the TRAN committee and includes 16 Subsection 56(2) of the Act is replaced by the following: Specialty service exclusion:

(2) This Part does not apply to the operation of specialty services provided by aircraft, including firefighting, flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, helicopter-lift for logging and construction, airborne agricultural, industrial and inspection services or any other prescribed service **provided by aircraft.**

NATA is concerned by the use of the general term “aircraft” as that includes all objects that fly. Combine this exclusion with other exemptions proposed in the Phase 2 Modernization initiative, will this allow for foreign owned remotely operated air vehicles (UAV/Drones) or developing heavy lift airship technology to operate in Canada?

Arguments could be made that the lack of financial accountability has caused many consumer issues particularly in the area of training but we understand that specialty services are not “transportation” in the sense of passenger carrying or cargo. NATA appreciates any liberalization or relaxation of rules that improve the efficiency of Canadian operators but hopes that the regulator develops strategies to provide sufficient oversight on any operation that is exempted.

E. Canadian ownership and control

- 1. What changes should the Agency make to the current approach outlined in the interpretation notes?**
- 2. What approaches are used by other jurisdictions to determine control in fact that the Agency could consider adopting? Why are these approaches suitable and appropriate reforms to the Agency's existing approach and what, if any, unintended consequences could they present?**
- 3. Under what circumstances should the Agency make public its determination on control in fact? What would be the benefits of adopting such an approach: for the industry, for licence applicants and for licence holders, and for Canadians more broadly? What would be the risks and how might they be mitigated?**

NATA believes the rule is simple. Protection of the Canadian aviation industry, especially the services required by northern and remote communities.

As stated- The determination of where control in fact lies is a question of fact and so can only be evaluated on a case-by-case basis. Each case is unique and therefore all managerial, financial and operational air carrier relationships, or proposed relationships, must be considered before making a determination. Ownership structures with little or no involvement from non-Canadians do not normally necessitate extensive analysis.

Item 3: Monitoring, compliance and enforcement

- 1. How should the Agency's monitoring, compliance, and enforcement regime be updated? Are there improvements that could be considered to further support effective Agency action?**
- 2. Do the Agency's communications and guidance materials and tools support the achievement of ongoing compliance with Agency decisions, determinations and regulatory requirements?**

NATA believes the most efficient approach is in the development of guidelines and tools that help operators. NATA members already have considerable challenges working with an under resourced regulatory agency and suggests the CTA is best to invest in processes that provide due diligence through the thorough review of initial license applications and providing online tools to assist operators.