

Submitted by email to the Canadian Transportation Agency

Subject: Consultation on new refund requirements

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RE: [EXT]-Reminder: Development of new airline refund requirements / Rappel: Établissement de nouvelles exigences de remboursement pour les compagnies aériennes

Good morning,

Please see our responses hereunder to the questions of the online consultation in the order that they were posed:

1. 72 or more after the issue or event outside of the air carrier's control that caused the disruption is resolved or comes to an end and air services are able to operate without impediment thereafter.
2. In context of an event causing the delay being outside of the carrier's control, a "lengthy delay" should be defined as being not be less than 24 hours in duration.
3. The refund should cover any unused portion of the fare paid for the itinerary, as well as any unused ancillary services and/or product ex. extra baggage allowance, advance seat selection, etc.
4. The mandated refund should use the same method / form of payment that was used to originally purchase the ticket.
5. Subject to our response to question 6 hereunder, in "normal" extraordinary circumstances, the carrier should have a minimum of 45 days to process the claim and refund monies from the date a passenger submits a refund request.
6. Given the events of the past 12 months that went far beyond affecting a single or a few airlines and were completely unprecedented and **never** contemplated or envisaged in the drafting of the APPR or in any list of extraordinary circumstances previously published, for example, by the EU and UK, a separate category of rules in the event of a *catastrophic* and *prolonged* national and/or international global air transport system disruption should be introduced and integrated into the APPR along with the proposed new refund rules. The parameters for defining such a catastrophic event can be informed and guided by reference to the disastrous consequences of the current pandemic, particularly in terms of the thousands of flights that were forcibly cancelled as a direct

consequence of the various travel, border and quarantine restrictions resulting therefrom, and the subsequent collapse in flight schedules and networks. IATA has compiled extensive global statistics regarding the collapse in the number of flights and capacity in this respect. On this basis, we would propose defining *catastrophic circumstances* as an event or combined events resulting in at least a precipitous **50%** reduction of commercial airline system capacity versus the six month preceding reference period. The disruption in question should be a minimum 60-day duration. Where the conditions for such a system disruption are met, we propose that airlines have the option of offering a cash refund OR deferring such payment in the form of travel credits or vouchers subject to minimum conditions ex. minimum length of validity, transferability, minimum face value, no re-booking fees, etc., as was informally recognized and endorsed by the CTA last April in its voucher statement.

7. It is incorrect to infer that airline decisions regarding capacity / schedule management undertaken in the context of closed or highly restricted borders, governments actively advising against non-essential travel, overlapping testing requirements and mandatory hotel quarantine stays costing thousands of dollars, etc., are within their control. Flight cancellations resulting therefrom should be considered per above and should under no circumstances be subject to mandatory compensation requirements or rerouting on other carriers.
8. The only thing we should use from the EU are its lists of "extraordinary circumstances" in the context of applying EU261. These lists contain what have always been considered as conventional disruptions beyond the control of airlines pre-pandemic and can be used as guidelines for dealing with such disruptions of local or scope to one or a few number of airlines. While both the EU and US refused to recognize the validity of deferred refunds in the form of travel credits or vouchers at the onset of the first wave of the pandemic last year (note: (the EU allowed it as an option only for the consumer as long as a full refund was also offered), it should be clearly remembered that these jurisdictions have offered to date a combined \$45-\$50 billion US in financial aid to their respective airline industries, a portion of which were normally expected to be earmarked for consumer refunds. That has *not* been the case to date in Canada although this may or may not change in the near future. In any event, Canada's more flexible, albeit informal approach to date regarding refunds in the context of the current crisis is one of the primary reasons that Air Transat continues to survive to date and still actively employs over 2000 people across the country (down from 5500 pre-pandemic). We trust that this **balanced** Canadian approach will be codified in the APPR.

I trust the above is helpful. Should you have any questions or require further information in this respect, please do not hesitate to contact the undersigned.

Thank you again and kind regards.

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