



The Travel Health Insurance Association of Canada

Thursday, January 28, 2021

Canadian Transportation Agency
Ottawa, Ontario,
K1A 0N9

Submitted via consultation portal

RE: Airline Refund Consultation

Dear Sir/Madam;

The Travel Health Insurance Association of Canada (THiA) is recognized as the leading voice of the Travel Insurance Industry in Canada, and represents over 80 Canadian travel insurance participants, including both life and health and property and casualty insurance companies, intermediaries, administrators, and medical providers and professionals.

I am writing to you today in response to the CTA's Air Line Refund Consultation, requesting input on air passenger protection issues brought to light by the COVID-19 pandemic. As an association acting on behalf of the Canadian travel insurance industry, we feel it most pertinent to address the issues and circumstances brought to light by the pandemic. In addition, we have opined on the eight specific questions posed in the consultation paper.

Following the unprecedented travel disruption during this pandemic, it's become clear that consumers are not satisfied with receiving a travel credit for future travel but rather expect to receive full refund. Concerns from an insurance perspective are as follows:

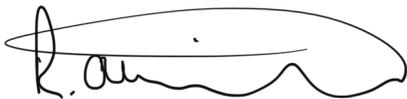
- Millions of dollars in insurance claims have been paid because airlines have not provided refunds, which has left insurance companies at a financial disadvantage.
- Airlines have criteria that need to be met in order to receive a refund, yet it appears the criteria has not been applied consistently to all consumers. In general, airlines have treated consumers without travel insurance differently than those with travel insurance or coverage benefits.
- The lack of consistent rules across the airline industry has made it very difficult for insurers to process claims; for example, there are many different refund requirements and future travel credits with varying expiration dates.
- Future travel credits that airlines had initially issued have expired during the course of the pandemic, which has resulted in insurers issuing payment for these claims. Since the government travel advisory to avoid all non-essential travel is still in effect and consumers are not comfortable travelling at this time, we believe the airlines should continue to honour the travel credits by extending the expiration dates or removing them altogether.

- As time has progressed during the pandemic, airlines have changed their rules so that some consumers that initially received a future travel credit are now entitled to a full refund from the airline. In many cases, insurers have already issued claim payments to consumers that were unable to use their future travel credit. Now that a full refund has been issued by the airline, the result is double indemnity for the consumer. As the purpose of insurance to make the consumer whole, insurance companies have an obligation to recover the initial insurance payment, which is difficult and time consuming.
- Airlines have changed the non-refundable penalties from what is stated in their published terms and conditions. In some cases, consumers are now underinsured (i.e. consumers typically purchase trip cancellation insurance for the amount of the trip cost that is non-refundable by the airline).
- At present, the Canadian Government has not offered financial assistance to airlines, which has impacted the airlines ability to issue refunds to the consumers. In the event that financial assistance is offered and consumers are provided full refunds, insurers will bear the burden of collecting the overpayments as described above.
- Based on IATA's mission statement, its main purpose is to serve the needs of the airline industry. At the beginning of the pandemic, IATA suspended the function to refund airline tickets purchased through agencies for fear of mass refunds and the lack of cash flow, which affected many consumers and ultimately, this decision impacted insurance companies. THiA believes that notice should be provided prior to implementing changes and that we would benefit from an avenue to express concerns prior any changes going into effect.

At present, the Canadian Government is contemplating the implementation and enforcement of stricter restrictions on air travel. In the event further restrictions are imposed, the impact to insurance companies will be even greater if the airlines do not compensate consumers.

Please find below our feedback with respect to the specific questions posed for consultation. We would be happy to discuss these concerns and solutions in greater detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Ollier', with a large, sweeping flourish underneath.

Richard Ollier
President
The Travel Health Insurance Association of Canada

CTA Airline Refund Consultation

IATA's mission is to represent, lead, and serve the airline industry. We improve understanding of the air transport industry among decision makers and increase awareness of the benefits that aviation brings to national and global economies. Advocating for the interests of airlines across the globe, we challenge unreasonable rules and charges, hold regulators and governments to account, and strive for sensible regulation.

1. *The entitlement to a refund will apply if the airline cannot complete the passenger's itinerary within a reasonable time. In the context of an event outside of an airline's control - such as a border closure, security incident, or volcanic eruption - what should be considered a "reasonable time" for completing a passenger's itinerary?*

- This would depend on the length of disruption. Passengers should be accommodated and if they cannot continue their itinerary with that airline, passengers should be entitled to a refund in 24 hours
- If all travel to the passenger's destination is suspended (based on examples provided) then a credit should be placed on file for when travel is possible

2. *The entitlement to a refund could potentially apply not just in the context of a flight cancellation, but also a "lengthy delay." What should be considered a "lengthy delay"*

- We would expect the airline to rebook the passenger on a subsequent flight. If the airline cannot accommodate the passenger on another flight within a period of 24 hours from the original departure time, they should issue a refund so the passenger can purchase a flight through another airline or find alternate travel arrangements

3. *What should a refund cover? For example: The unused portion of the passenger's ticket; Any additional services the passenger purchased, but did not use (for example, seat selection or extra baggage); The full cost of the passenger's ticket, if their trip no longer serves a purpose because of the flight disruption*

- ***The unused portion of the passenger's ticket:*** Yes, the unused airfare should be refunded, however the options should be discussed with the passenger. If the passenger chooses to keep the return flight, the airline would only need to refund the outbound portion. If the return is now unusable then the passenger should be entitled to a refund on the return portion as well
- ***Any additional services the passenger purchased:*** Yes, incidental purchases such as baggage, seat selection and in-flight meal costs should always be refunded since these are all unusable if the passenger was unable to take the flight. These would be considered services unrendered and therefore eligible for refund
- ***The full cost of the passenger's ticket, if their trip no longer serves a purpose because of the flight disruption:*** Yes, if the new flight cannot accommodate the passenger for the purpose of their trip, they should be entitled to a refund

4. *How should airlines be required to refund passengers? For example: Using the same method used to buy the ticket; In monetary form (for example cash, cheque, or a bank account deposit); passenger's choice of money or other forms offered by the airline (such as vouchers or rebates)*

- Passengers should always be offered the choice between a monetary refund or a future travel credit
- Monetary refunds should be processed to the same form of payment used to purchase the ticket wherever possible. If a refund to the credit card or a cheque is not acceptable to the passenger, then the airline should refund through secondary means. Payment should be issued directly to the

passenger, unless the airfare was purchased through a travel agency directly; in that case the refund can be issued to the agency and subsequently refunded to the client through the agency

- Client should not have to pursue refunds, airlines should be issuing refunds and ensuring these are processed

5. *How much time should airlines have to provide refunds to passengers under the new requirements? days from flight cancellation*

- Refunds should be processed within 21 - 30 calendar days

6. a) *Should there be greater flexibility in the requirements for certain types of airlines, or in certain situations? For example: Based on airline size (smaller airlines may be, for example, less able to recover quickly after an event outside their control); If an airline provides essential services (for example, to remote, regional or northern communities); If the event is large-scale (as opposed to an isolated event like a collision with wildlife); If the event could threaten an airline's financial viability (for example, one that results in operations being shut down for months)*

- **Should there be greater flexibility in the requirements for certain types of airlines, or in certain situations?:** No, there should not be flexibility, as this causes issues and could allow for false enrichment. The requirements, protocols and procedures should be consistent across the board
- **If an airline provides essential services (for example, to remote, regional or northern communities)?:** No, this is the cost of doing business and any challenges should not burden the passenger
- **If the event could threaten an airline's financial viability?:** No, airlines are running a private enterprise and they should not be more entitled than other businesses during a financial crisis. There are other organizations that respond in the event of insolvency or bankruptcy, i.e. TICO, FICAV

b) *If so, in what areas should flexibility be given? For example, should there be a different:* **N/A**

7. *Events since March have shown that some situations caused by a pandemic are outside of airlines' control, while others may be within airlines' control. An airline's business decision to consolidate flights during a pandemic could sometimes be considered within its control, while government travel restrictions, employee quarantine or self-isolation, and additional hygiene procedures are examples of pandemic-related situations the CTA considers outside airlines' control. Are there other, specific pandemic-related situations that you think should be considered either within or outside airlines' control?*

- Regardless if the situation is considered outside an airlines control, airlines have a corporate responsibility to uphold the service to their consumers or provide adequate compensation. This burden should not fall on the consumer or the insurance company
- Insurance policies are generally intended to provide coverage for events that occur to an insured person that prevent them from taking their trip or isolated incidences. These policies are not intended for complete cessation of worldwide travel.

8. *The CTA will consider the legal frameworks in the European Union (EU) and the United States (US) in developing the new regulation on refunds. What particular aspects of these frameworks should the CTA consider?*

- As we are not very familiar with the EU's or US's framework, we do not have any input to this question