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**Via Email :** [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca)

Secretary  
Canadian Transportation Agency  
15 Eddy Street  
17th Floor, Mailroom  
Gatineau, Québec J8X 4B3

**Re: In the matter of the preliminary Decision of the Canadian Transport Agency in  
Decision LET-AT-55-2022 regarding Emotional Support Animals ("ESA") in Case #  
22-41428**

Dear Madam, Dear Sir,

VIA Rail Canada Inc. ("**VIA**") wishes to provide its position and comments following the reception of various submissions both from parties and interested persons in response to the Agency's preliminary findings in case 22-41428.

VIA is committed being one of the most accessible mobility options for Canadians and strives to be Canada's most accessible national and intercity mode of transportation.

First and foremost, VIA welcomes the preliminary Decision and would support its conversion to a final decision as rendered.

VIA believes that the Agency has found the right balance between the absolute denial of accommodating ESA's, as recently adopted by the USDOT, and the demands of the most liberal ESA proponents advocating for the complete absence of limitations with regards to the size, species or qualification of ESA's.

VIA submits that it disagrees with the submissions of the Arch Disability Law Centre ("**ARCH**") and the Canadian Human Rights Commission ("**CHRC**") and their predilection to see each request for an ESA accommodation analyzed for undue hardship criteria and dealt with on a case-by-case basis. Paradoxically, each submission also calls for certainty and clarity for persons with disabilities in relation to accommodation for ESA's by federally regulated carriers.

It is respectfully submitted that such an approach of case-by-case analysis is, in and of itself, would indeed represent an undue hardship for VIA, Canada's national passenger rail service provider, that operates 427 trains over a 12,500-kilometre rail network which includes the Québec City-Windsor corridor, long-distance routes in the east and west, and regional routes that access remote communities. Frontline staff cannot possibly be expected to individually analyze a wide

series of often complex circumstances to determine, whether each and every ESA accommodation request is acceptable.

VIA subscribes to all of the reasons in support of limiting access for ESA's as described in the submissions of:

- Blair Smiley on behalf of Kandi Smiley
- Edwina Brooks
- Kerianne Wilson – Air Canada
- Jared Mikoch-Gerke – WestJet
- Hunter Troup
- Reesa Lerner – Dreamcatcher Nature-Assisted Therapy
- Eileen Bona M. Ed. - Dreamcatcher Nature-Assisted Therapy
- Cara Stone - Dreamcatcher Nature-Assisted Therapy
- Canadian Airports Council (CAC) Accessibility Working Group
- Canadian Foundation for Animal-Assister Support Services
- Canadian Human Rights commission (CHRC)
- American Airlines (AA)
- Assistance Dogs International
- Arch Disability Law Centre
- International Air Transport Association (IATA), the National Airlines Council of Canada (NACC) and Airlines for American (A4A)
- Amber Pye
- National Coalition of People Who use Guide and Service Dogs in Canada (HOOH) Council of Canadians with Disabilities (CCD), Canadian Council of the Blind (CCB) Barrier Free Canada (BFC) Guide Dog Users of Canada (GDUC)

The fact that many of the parties disagree with any accommodation of ESA's, which goes beyond VIA's position and that of the Agency's preliminary Decision, does not distract from the validity of their evidence and arguments regarding the fraudulent presentation of pets as ESA's, the danger ESA's represent for trained service dogs, the potential danger for staff members or passengers, sanitary and hygienic issues, allergic reactions, nuisance, prejudice to the acceptability of service dogs and the wide variety of medical certificates supporting the requests for ESA's. VIA adopts each of these as its own.

In the absence of any direction from the *Accessible Transportation for Persons with Disabilities Regulations* ("ATPDR") for the accommodation of ESAs, VIA's staff, in the application of its own policy, are continually forced to respond to often hostile customers who demand accommodation for their unqualified ESAs. The importance of having clear criteria and rules that provide certainty for all of the parties in this regard, cannot be overstated.

Legitimate service dogs may be required for psychological reasons, as stated by the Canadian Foundation for Animal-Assisted Support Service in their submission, and in such cases, a legitimate psychological need may be accommodated by the use of a fully trained and certified service dog.

The need for clear criteria applicable to ESAs, is in the combined interest of carriers and the travelling public, such that all may know what to expect and how to obtain an accommodation that will ensure safe travel for all.

In these circumstances, VIA respectfully submits that it is in the interest of all parties that the Agency's preliminary Decision be issued as a final decision.

Respectfully submitted.

**McCarthy Tétrault LLP**



David F. Blair C.M., Ad. E.

C.c. VIA Rail Canada inc.