



January 19, 2016

Submitted via email:
consultations@otc-cta.gc.ca

Canadian Transportation Agency
15 Eddy Street
Gatineau, Quebec J8X 4B3

Re: Consultation on the requirement to hold a licence

Dear Sirs:

1263343 Alberta Inc.(dba Enerjet) has been asked to participate in a consultation process regarding Indirect Air Service Providers vying for access to the Canadian air travel market. The Canadian Transportation Agency has posed a list of questions and is looking for comments from each Canadian Air Carrier. We have listed each of CTA's questions along with our viewpoints.

- **Whether Indirect Air Service Providers should be required to hold a license to sell their services directly to the public, in their own right. Provide a clear explanation for your position;**

We believe all providers of Indirect Air Services selling directly to the public should be required to hold a license. This assures a level playing field for all participants accessing this market and does not hold aircraft operators to a higher standard than non-licensed sellers. We also believe allowing seats to be sold by parties not required to meet the CTA's licensing requirements will encourage operators to circumvent the requirements set out for licensed carriers and will result in an erosion in the level of protection accorded to passengers.

We believe that allowing unlicensed Indirect Air Service Providers to sell their services directly to the public would create an opportunity for the foreign ownership restrictions included within the Canada Transportation Act to be circumvented – a non-Canadian unlicensed seller of seats could potentially assert control over those factors traditionally considered indicative of operating an airline – by virtue of their control of the schedule, sale of seats, selection of routes... This Company could be majority-owned and controlled by foreign entities – a situation that is considered untenable under the Canada Transportation

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Act. In this case the actual Air Carrier who is presently restricted by the ownership rules in the Canadian Transportation Act could simply be a shell corporation which is majority Canadian owned - operating at, or below cost. In this scenario all the profits would be retained by the seller of the seats and this entity would enjoy greater access to capital from foreign markets than those of us who are required to be licensed and compliant with the Canada Transportation Act.

- **What criteria the Agency should consider in determining whether an Indirect Air Service Provider is holding itself out as an air carrier, and therefore, should be required to hold the license;**

We contend that a reasonable criteria should involve determining who is taking the financial risk on the flight. The party who takes the financial risk, should, in all circumstances, be fully-licensed. If it is the carrier who is accepting the financial risk associated with the flight (accepting all the funds generated from fares sold and merely paying the seller a commission on seats sold) then this situation should be considered acceptable. Anytime there is no requirement on the part of the air operator to sell seats and individual seats are being sold by the reseller and the reseller is taking the risk on unsold seats then a license should be required for the reseller.

- **What regulatory amendments, if any, should be contemplated to clarify who is operating an air service and is required, as such, to hold a license?**

Anytime a person or company "wet" leases an entire aircraft and then resells seats on an individual basis, a license should be required with the same standards applicable to licensed air carriers.

Thank you for your consideration of these suggestions. Please do not hesitate to contact us directly on this significant matter.

Sincerely,

1263343 Alberta Inc. (dba Enerjet)



Thomas Morgan
President & CEO