



MCC Submission

Accessible Transportation Regulatory Modernization

Introduction

Motor Coach Canada (MCC) appreciates the opportunity to provide anticipatory comments related to proposed modernization of regulations respecting accessible transportation.

The intercity coach industry is fully supportive of the need to ensure that all Canadians have access to the transportation services they require and we strongly support measure to ensure that our industry is as accessible as possible. That is why MCC members are currently fully supportive of and embrace the policies outlined in Transport Canada's Intercity Bus Code of Practice which provides guidelines for the provision of accessible transportation to customers. By adhering closely to the voluntary Code of Practice, MCC members ensure that all needs for accessible transportation are accommodated.

One of the challenges in responding to this initiative is the lack of clarity around the scope of the discussion. Scheduled service and charter service are two fundamentally different businesses with very different ridership demographics, operating conditions, and challenges. While both types of service use motor coaches primarily (though both also use other kinds of vehicles) they are in fact two different modes of transportation in many ways and different responses to the question of how best to provide accessible transportation arise depending on whether we are talking about charter as well as line run. Our comments will tend to assume that the government means both types of coach service.

Lack of Demonstrated Need for Regulation/ MCC Supports Evidence Based Decision Making

As far as we able to discern the current voluntary environment in which motor coach operators provide service meet the needs for accessible transportation is so effective that incidents of any motor coach operator being unable to accommodate is virtually non-existent. MCC and our members therefore maintain that the current environment where motor coach operators accommodate accessible transportation needs is more than sufficient to meet both current and future demands of this population segment.

MCC calls upon the federal government to closely examine the actual need, as opposed to perceived need or ideologically based desire, to create regulations where there is little to evidence to justify a regulatory regime. We support the avowed position of the federal government that public policy should be based on "evidence based decision making". Given that there is a distinct lack of evidence to substantiate the need for regulation, we have to question why a regulation is under consideration. Again, the current needs of those seeking accessible transportation via motor coach are met with high service standards without the imposition of stringent, prohibitive or costly requirements to industry. Regulation seems to be the proverbial solution in search of a problem.

Regulation vs Co-operation- Regulation is not Modernization, Its an Outdated Approach

A regulatory approach has a distinct disadvantage in the modern world. As the pace of change in technology, expectations, and culture accelerates, governments have not been able to keep pace as the regulations they create are rendered redundant almost as fast as they are passed.

Government needs to find a better way to achieve public policy goals, such as ensuring that transportation services are accessible, than the old regulate and enforce paradigm.

Approaches such as voluntary codes have several advantages.

They are more flexible and can be modified more quickly. As technology changes and new solutions become available, regulations quickly fall behind as they take years to change while voluntary codes can more easily be modified and embrace changing circumstances.

Further, by engaging industry in becoming part of the solution and taking ownership of the issue, the voluntary code approach creates a less adversarial and more co-operative public policy tool. The risk of legal action often does more to undermine co-operation than to make it happen. Everyone just manages to the letter of the law rather than seek out co-operative solutions. Lawyer chill often prevents people from doing the right thing for fear of admitting a liability that will hurt them in future legal actions. Co-operation is always preferable to enforcement. Particularly when there is no evidence that there is a lack of co-operation as in this case.

While we appreciate the argument that a regulation is enforceable by legal means while a voluntary code is only enforced through moral suasion, there is no evidence that the voluntary approach has failed to deliver accessible bus transportation or that there is a need for the more confrontational, legalistic, approach of regulation and enforcement. If there were instances of operators failing to abide by the code we would accept that as a cause for regulation, but in the absence of any such cases there is nothing to be actually gained except the possibility for nuisance lawsuits that do little other than to help enrich lawyers.

Negative Impacts of Regulation On:

Other Travelers -Before proceeding to impose a new regulation, MCC encourages the federal government to consider that the voluntary Code of Practice not only works well for those seeking accessible transportation but also other travellers who rely on cost effective bus transportation.

The very nature of motor coach travel is founded on being an affordable option and any requirements over and above the existing voluntary Code of Practice will result in increased cost to industry that will be passed on to the consumer. Reduced affordability will result in decreased ridership as a whole from both those requiring accessible transportation and the travelling public. The demographic that most travels by motor coach is generally those with reduced income such as middle to lower class income families, students, and the elderly. As ticket prices increase to offset the cost accrued by industry to comply with what MCC will maintain are unnecessary regulatory burdens. This is counter to the intent of regulatory modernization.

Smaller Operators -With any new regulatory burden there is increased risk that small and medium sized enterprises that may operate with tight margins are simply not able to comply due to a cost prohibitive nature. In the current environment where the voluntary Code of Practice is the industry standard, there are options for smaller operators that enable compliance with the need to accommodate without having to accrue burdensome costs, largely through sharing accessible equipment with other operators when needed.

US Experience Shows Increased Regulation Does Not Increase Use

One final note, MCC encourages the government of Canada to examine the US experience in which Federal Motor Carrier Safety Administration (FMCSA) introduced requirements for motor coach operators to equip all new vehicles with accessible technology, as well as the retrofit of older vehicles.

According to reports from American Bus Association members this has resulted in an excess of accessibility equipped vehicles that are grossly underutilized. In the US, the need for accessible transportation did not increase commensurate with the increased availability provided by industry. It is reasonable to expect the results would be similar in Canada, particularly given the demonstrated low volumes of requests for accessible transportation despite the wide spread availability throughout Canada.

Conclusion

MCC and its members welcome the opportunity to continue to be a part of the consultative discussions and looks forward to working closely with federal government and its agencies to identify the best way forward for both those with needs and industry. As we said at the outset, we are fully supportive of ensuring that everyone has access to the transportation services they need. But we strongly believe that any changes to the current voluntary code system are evidence based rather than ideological and take into account best practices in modern public policy development and implementation.

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