



**NACC**  
National Airlines  
Council of Canada



September 21, 2020

**Mr. Scott Streiner**

Chair and CEO

Canadian Transportation Agency

15 Eddy Street, 17th Floor

Gatineau, Quebec J8X 4B3

Via Email: [Scott.Streiner@otc-cta.gc.ca](mailto:Scott.Streiner@otc-cta.gc.ca)

Dear Mr. Streiner:

**RE: Temporary Exemptions from Certain Air Passenger Protection Regulations Provisions**

The following is a joint submission by the National Airlines Council of Canada (NACC) and the International Air Transport Association (IATA) seeking temporary exemptions from certain provisions of the *Air Passenger Protection Regulations (APPR)*.

Specifically, we are seeking temporary exemptions from provisions that require carriers to offer alternative travel arrangements that include flights on other air carriers and the requirements to provide compensation for inconvenience to passengers who were informed of a flight delay or a flight cancellation within carrier's control less than 14 days prior to their original scheduled departure. In our view, this reflects the CTA's original guidance to only apply this in instances where passengers were informed less than 72 hours prior to their original scheduled departure.

NACC carriers have reduced capacity by approximately 85%, as schedules are drastically reduced and/or service is eliminated as carriers attempt to calibrate their schedules and operations due to the unprecedented demand destruction and uncertainty as to when various government imposed travel restrictions and border measures may be alleviated. For example, the US border closure alone has been extended several times since March 2020 with only 1-7 days' notice. After anxiously awaiting formal government decision and notice as to whether the current Emergency Order in Council (OIC), [OIC 21 - Minimizing the Risk of Exposure to COVID-19 in Canada Order \(Prohibition of Entry into Canada from the United States\)](#) effective until Monday September 21, 2020 would be renewed or not; we only received notice on Friday September 18, 2020, that the government was re-extending the border closure to non-essential travel until October 21, 2020.

Cancellations for low demand during COVID-19 are outside the carrier's control, and further, due to various influences remain unpredictable; various mandated country, state and provincial borders are in a state of flux with reopening, delayed reopening, reclosing, changing requirements for entry – and all with little or

no notice. The pace of the various travel advisories and border restrictions spanning the globe are ever changing thus making it impossible for our member airlines to comply with these timelines.

Further, our members' networks rely on both connecting domestic traffic and traffic from other countries transiting through Canada. Currently it is near impossible to predict, assess or anticipate how the market or passenger demand will react to the changing mandated conditions set by various governments globally. The ongoing changes and uncertainty in travel restrictions is making the overall market highly volatile and our members must retain the ability to make flight schedule changes rapidly in response to these unpredictable fluctuations; with no precedent or historic trends to serve as a guide.

Added to this is the fact that travel restrictions often vary. Many countries are only issuing visas on an exceptional basis. In fact, the Government of Canada is not issuing passports for regular travel, and Canadians can only obtain passport or travel document services in Canada if they have a valid reason to travel urgently. It is explicitly stated that the loss of airfare or other travel expenses is not a valid reason for urgent travel. As a result, airline customers who require a passport or visa for travel are cancelling their travel plans at the last minute, if they cannot demonstrate they are seeking to travel for medical reasons (serious illness, serious illness or death of someone they have a relationship with), financial problems due to the loss of a job or business, supporting an essential service, or humanitarian reasons.

Accordingly, NACC and IATA request:

- An order from the Agency that the exemptions granted by Determination No. A-2020-42 be renewed from their original date of expiry on June 30, until December 31, 2020, and in particular, an extension of the exemption from:
  - the requirements of subparagraphs 17(1)(a)(i) and 18(1)(a)(i) of the APPR that carriers offer alternative travel arrangements that include flights on other air carriers, other than those with which they have a commercial agreement; and
  - the requirements to provide compensation for inconvenience to passengers who were informed of a flight delay or a flight cancellation within carrier's control less than 14 days before their original scheduled departure, so that the requirement applies only if passengers were informed less than 72 hours before their original scheduled departure. Even though cancellations due COVID-19 should be considered fully outside carrier's control, such a reduction in the notification timeline will provide regulatory relief and certainty regarding compensation obligations, and align passenger expectations; and
- An expansion of the exemption from the obligation, under paragraphs 17(1)(a)(ii), 17(1)(a)(iii), and 18(1)(a)(ii) of the APPR to provide a confirmed reservation on a flight operated by a carrier with which the carrier does not have any commercial agreement, so that this exemption also applies to the obligation, under paragraphs 17(1)(a)(i) and 18(1)(a)(i) of the APPR to provide a confirmed reservation on a flight operated by a carrier with which the original carrier has a commercial agreement.

Carriers cannot sustain the operation of flights if demand does not justify it, or if demand subsequently evaporates within days of departure as a result of the effects of the ongoing pandemic and government decisions; which are entirely outside of the carrier's control. Our members are being as flexible as possible with their customers concerning their respective refund policies. This includes offering flexibility as per their respective voucher policies; which is testament that airlines are truly committed to passenger service

despite having to continue to grapple with the effects of the pandemic on their businesses. This level of flexibility offers value and options to customers so that they can travel as soon as restrictions are lifted. Carriers are handling these customer requests with a severe reduction in staffing resources. The catastrophic impacts of this crisis on the airline industry have resulted in unforeseen and unprecedented job reductions impacting between 50% and 70% of their respective workforces.

NACC members have already implemented the numerous bio-safety measures outlined in ICAO's *Takeoff: Guidance for Air Travel through the COVID-19 Public Health Crisis* and in Transport Canada's report entitled *Canada's Flight Plan for Navigating COVID-19*. This stands as strong testimony to the bio-safety measures adopted by Canadian carriers who have made multi-million dollar investments in new operational procedures, cleaning and disinfecting of aircraft due to the rapid implementation of ongoing government regulations.

Despite the extensive work undertaken by industry and government to adopt global best practices and despite the decision by other countries to safely re-open borders and commercial aviation, Canada remains at Stage Zero; the various travel, border and quarantine measures implemented in the earliest days of the pandemic are still in effect, with no time frame on when this will change.

To be able to serve the travelling public, Canada needs to move forward from Stage Zero, based on the clearly established work of ICAO and the Canadian federal government itself, and begin targeted reopening of international service with jurisdictions such as the European Union that are successfully addressing the pandemic, and establish a consistent approach within Canada on travel restrictions by working with provincial authorities to eliminate quarantine requirements for domestic travel between provinces.

To help further all of these objectives, NACC carriers support the implementation of COVID-19 testing for inbound passengers to Canada, combined with the consistent application of contact tracing by Canadian public health authorities. NACC carriers are working with Canadian airports and public health officials to drive forward select pilot projects on passenger testing and this must be an area of high engagement by the federal government.

This crisis continues to impose a devastating impact on the economies of many States and the lives of their citizens. It is also disrupting many industries, and unfortunately the aviation industry is far from immune. IATA estimates that airlines could lose around USD 84 billion in 2020 and that global passenger traffic will not return to pre-COVID-19 levels until 2024. Our industry was the first to begin feeling the negative impact of COVID-19 and aviation will be among the last sectors to recover.

The strict application of the APPR's, which were determined prior to the pandemic, is hindering the rebuilding of the aviation industry and in turn Canada's economy which will take years to recover. The application "as is" is deemed disconnected from the reality of the catastrophic impact on the global aviation industry caused by COVID-19. Given the current instability and uncertainty it will remain precarious to conduct airline operations until such time as travel restrictions are lifted worldwide, and at a minimum within and into Canada.

The objectives of section 5 of the [Canada Transportation Act](#) (the "Act"), cannot be met in an environment in which airlines are being penalized for attempting to provide a service and restore their network to ultimately to serve their passengers. As such, in our view, our member airlines cannot be expected to give more than 72 hours' notice of a delay or cancellation.

We welcome the opportunity to provide this coordinated submission identifying common concerns as applicable to the effects of COVID-19 on our member airlines respective airline operations.

Thank you for taking the time to review these concerns. We remain available to discuss further.

Yours truly,



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National Airlines Council of Canada



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Member and External Relations, North America  
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