

RE: Letter Decision LET-C-A-72-2020 Inquiry Consultation Responses

(Case – 20-01590)

1. How much detail regarding the reason for a flight disruption should be provided by carriers to passengers pursuant to paragraph 13(1)(a) of the APPR, including in situations that evolve, resulting in multiple reasons for delay over time?

From a customer service perspective, open and transparent communications with our customers is key to delivering quality customer service. That being said, consideration on the level of detail must include when and where and at what point in the travel journey the information is being communicated. Technology limitations and language barriers are some examples that complicate the messaging to passengers. As an example, SMS driven flight alerts may be limited to a maximum number of characters. In some locations email and SMS messaging may be very costly for passengers to receive or connectivity is challenging. Where English or French is not the ground staffs' first language we may be required to provide very rudimentary announcements for them to deliver so as not to create confusion with passengers that are language driven. Approaching this question from a purely customers service perspective we want to provide the passenger with as much plain language, concise and timely information as we can as soon as possible.

This transparency however can be interpreted by some passengers as a changing narrative and not an evolving sequence of events from a precipitating first or causative event. Additionally, the technical and regulatory complexities of an airlines operation are not necessarily easily understood by people who are not well versed in the industry. Therefore, as contemplated in the APPR legislation simple, clear and concise language should and must govern.

2. If a carrier refuses to pay compensation on the basis that a flight disruption was required for safety or was outside its control, how much detail regarding the reason for the flight disruption should be included in the explanation given to the passenger pursuant to subsection 19(4) of the APPR? Should carriers have to explain multiple reasons for a delay when more than one exists?

Where compensation is not payable, the APPR speaks to providing passengers with an explanation as to why. The explanation should be of the causative factor of the delay. Any further delays that occur from that precipitating event may add additional time to the delay but not change the cause or classification of that cause, therefore any additional information is irrelevant. If a further delay reason occurred that was not driven by said original cause and potentially created a compensation applicability decision, then that delay reason should be communicated to the passenger as an explanation if compensation is denied.

3. What criteria should be applied to determine the appropriate categorization of a flight disruption with multiple reasons for delay?

The root cause or original causative factor of the flight disruption as initially categorized is the key determining factor of categorisation until such time as a subsequent delay can not be categorized as flowing from that original causative event.

4. What criteria should be applied to determine the appropriate categorization of a flight disruption caused by a crew shortage? When, if ever, would a crew shortage be considered a safety-related reason for a flight disruption, rather than a matter within the carrier's control?

Many reasons may lead to a crew shortage including whether the crew is operating from a crew base or not and what caused the crew shortage i.e. sickness, injury, weather, knock on delay, flight diversions, positioning delays on third party carriers and various other reasons.

Any delay affecting the departure of an aircraft may mean an extended delay due to crew unable to complete the flight within the prescribed duty day or the subsequent flight being delayed at destination.

The following regulation contained in the Canadian Aviation Regulations enacted under the *Aeronautics Act* (Canada) affects the ability to staff flights when delays beyond the control of the Airline are encountered.

CAR 702.94 – Unforeseen Operational Circumstances - The total flight time referred to in subsection 702.28 and the maximum flight duty period referred to in subsection 702.93(1) (maximum 14 hours) may be exceeded if the pilot-in-command, after consulting with the other flight crew members, considers it safe to exceed the total flight time and maximum flight duty period. The Airline is unable to predict the fatigue levels of crews and may be unable to extend the duty period if the crew deems they are fatigued.

Quite Frankly other than having not assigned a crew to a particular flight or assigning consecutive duties too closely together (which the new crew duty rest and fatigue regulations protect against) many crew delays occur either for causes outside the carriers control or in the carriers control but for safety.

The definition of a crew shortage needs additional clarity and parameters more in line with the day to day operational realities and regulations of the industry.

5. What criteria should be applied to determine the appropriate categorization of a flight disruption caused by a computer issue or network outage? - 5 - LET-C-A-72-2020

If the computer issue/network outage is caused by a third party not directly contracted by the carrier or where a communications provider or government infrastructure requirement has a broad outage. These would constitute issues outside a carriers control.

6. How should flight disruptions be categorized when a passenger experiences flight disruptions on multiple flights on their way to their ticketed destination? Should events affecting replacement flights affect the categorization of a flight disruption? For example, should the flight disruption be categorized based on the reason for the initial flight disruption or the reason for the longest delay?

Given that multiple flights to their ticketed destination are scheduled to operate after subsequent legs, a delay that occurred on the first sector would cause a knock-on delay to the next sector on their way to their ticketed destination. The root cause of the delay would determine the delay category unless a subsequent delay that did not result from the initial delay is longer in duration thus putting the delay over 3 hours or changing the flight delay categorization.

7. What should or should not be considered to be “further to scheduled maintenance” as defined in subsection 1(1) of the APPR? Should a new issue identified during the repair of another issue be considered to be found further to scheduled maintenance? Do post-flight maintenance or pre-flight maintenance checks constitute scheduled maintenance?

Pre-departure and post arrival maintenance checks are not an actual planned maintenance event but rather at their core a walk around for safety activity. In general terms discoveries during this walk around can not be

foreseen and likely lead to some level of delay depending on the specific findings and rectification required. Any delays arising from a maintenance finding in this pre or post flight phase by virtue of the purpose of this walk around are clearly “for safety” related reasons.

Scheduled maintenance checks are driven by things such as flight hours, cycles, OEM specifications, air worthiness directives and service bulletins. These checks are planned in advance and time allocated is inclusive of the OEMs recommended time to do the check and time to correct defects typically expected to be found in these situations. It is impossible to foresee all of the possible findings that may be discovered during this phase and the time to rectify these findings. The more extensive the time required for each level of the check the more buffered time is planned into the

scheduled maintenance event to allow for defect rectification. If a finding during these checks is unrelated to the scope of the planned check and the required rectification drives a delay, then those supplemental maintenance actions should not be considered “further to scheduled maintenance” these supplemental unrelated findings are then “for safety” related reasons.

8. In situations where a flight disruption is the result of a knock-on effect from a previous flight disruption, what factors should the Agency consider when considering whether the carrier took all reasonable measures to mitigate the impact of the initial disruption as required by subsections 10(2) and 11(2) of the APPR? For example, should the Agency consider:

- a. remoteness of the location;**
- b. the location being outside Canada;**
- c. other factors that may affect the carrier’s ability to locate timely replacement aircraft;**
- d. if the original flight disruption occurred more than one flight earlier in a chain of flight disruptions.**

The agency should consider all those factors in its assessing whether a carrier took all appropriate measures to mitigate the impact of the initial disruption and more. There is a myriad of sub reasons in each of the four core areas identified in this question. Further still the agency should consider issues such as geopolitical issues, industry wide events and even Canadian and regional restrictions and regulations; some examples include hurricanes, political uprisings, pandemics, airport restrictions (NOTAMS, Curfews) or an order to ground a specific aircraft type.

Specific to point d, The geographical size of Canada and the limited number of carriers as well as regulatory limitations makes it difficult at times to easily recover flight disruptions within their own fleet or to bring in substitute carriers. The various dynamics in play can easily effect irregular operation recovery for many days. While carriers may endeavour to have some spare aircraft or slot capacity the probability of having an immediate replacement solution where you need when you need it is not likely. When you factor in all the logistics and operating details that go into sending a recovery aircraft or parts and maintenance support this could lead to a 12 to 24 hour delay, even if you had a spare aircraft in play. Based on this one can imagine this type of recovery or knock on effect would run for many days. Carriers can try to mitigate this with strategies such as spreading delays over several flights lesser time but still those resulting delays are still attributable to a previous flights knock on effect.

As an example, in 2019, Sunwing operated [40] aircraft from [36] Canadian airports to [40] international destinations. It is not possible to have spare aircraft and crew at each of these airports to cover operational issues. If a knock-on effect were to be considered controllable, many smaller airports would have services eliminated.

Comment on Inquiry Officer's Preliminary Observations Relating to Sunwing's Lack of a Flight Alerts System

As noted in highlighted issue 1 under findings on communications Sunwing did not have a fully evolved flight alert system in place specifically for the operational window (departure time -24hours) at the time of the inquiry. We subsequently have enhanced our flight alerts tools all passengers must provide contact information prior to being issued a boarding card. Passengers are now sent flight alerts including the cause of delay and estimated time of departure immediately as updated in our airline operating system. All subsequent time changes are sent within 5 minutes of our OCC updating the airline operating system. OCC initiates the delay and is responsible to determine the reason for the delay. OCC send a delay notice to airport teams so they can make the appropriate announcement as provided by OCC. From the delay notice, said notice and the flight alerts have consistent language.

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Kind Regards,

Edwin T. Nobbs, Q.C.
Professional Corporation
Barrister and Solicitor
181 University Avenue
Suite 2200
Toronto, ON, M5H 3M7

Tel: 416-601-6761

Fax: 416-363-7875

Email: ted@nobbslaw.com