



Update on Canada's *Air Passenger Protection Regulations*

Presentation to Canadian Bar Association – BC Branch

May 7th 2024



Objectives



- Overview of current *Air Passenger Protection Regulations (APPR)*
- Background on changes to *Canadian Transportation Act* following the *Budget Implementation Act, 2023, No. 1*
- Overview of proposed changes to APPR and next steps for regulatory amendment



The Canadian Transportation Agency (CTA)



- An independent regulator and quasi-judicial tribunal which contributes to a competitive, economic, efficient and accessible national transportation system
- Has specific powers assigned to it under legislation to act as:
 - An economic regulator of modes of transportation under federal jurisdiction
 - Resolve disputes between transportation service providers and their clients or neighbours
- Responsibilities:
 - Help ensure national transportation system runs efficiently and smoothly in the interests of all Canadians
 - Provide consumer protection for air passengers
 - Protect the human right of persons with disabilities to an accessible transportation network

Current APPR



- Established to ensure clear and consistent passenger rights by establishing minimum requirements and standards that all air carriers must provide to passengers, and were intended to:
 - Be robust, simple and clear
 - Reflect the operational reality of carriers where appropriate
 - Align with international agreements and best practices from other jurisdictions
- Under current regime, carrier obligations (or passenger entitlements) depending on the reason for the flight disruption:
 - Within airline's control
 - Within airline's control, but required for safety
 - Outside airline's control

Current APPR



Refunds and Rebooking

- Airlines must rebook passengers if their flight is cancelled or delayed by 3 hours
- A passenger is entitled to choose a refund once the airline offers them a rebooked flight, and the rebooking does not suit the passenger's travel needs
 - Details of steps an airline must take to rebook a passenger depend on level of control that the airline has over reason for delay or cancellation, as well as size of the airline
- When disruption is due to a reason outside carrier control, rebooking is required but refund not available until flight disruption has lasted 48 hours

Assistance (food and drinks, access to communication; overnight accommodations)

- Must be provided by airlines if delay or cancellation is within airline's control, or within airline's control but required for safety AND passenger has waited at the airport for 2+ hours from scheduled departure time
- No assistance required when disruption is due to a reason outside carrier control

Current APPR – Compensation



- Passenger is entitled to compensation if reason for the flight disruption was within carrier control
- Amount depends on length of delay and size of airline

Delay Length	Large Airlines	Small Airlines
≥ 3 hrs, < 6 hrs	\$400	\$125
≥ 6 hrs, < 9 hrs	\$700	\$250
≥ 9 hrs	\$1000	\$500



Amendments to *Canada Transportation Act*



- June 22, 2023: *Budget Implementation Act* (BIA) was passed, introducing changes to the *Canada Transportation Act* to:
 - Strengthen air passenger protection regime
 - Change CTA's business model for air passenger complaints
 - Implement cost recovery from industry for processing of air complaints
- Modifications to the Act:
 - Eliminate three categories of causes of flight disruption
 - Require airlines to provide compensation for inconvenience to passengers for all flight disruptions, unless there are exceptional circumstances
- CTA must amend the APPR to implement the legislative changes – including identifying these exceptional circumstances

Consultations on proposed APPR Amendments



July 2023: CTA held pre-consultations on a proposal to amend the APPR to implement the legislative changes

Overall goal: Passengers arrive at destination on time with their luggage, or receive compensation for inconvenience, unless situation can be attributed to exceptional circumstances

Principles:

- Clarity and simplicity
- Easy to implement and enforce
- Balance consumers' and air carriers' responsibility

Proposal - Compensation



- Proposed that airlines will have to pay compensation for all flight disruptions unless they can prove disruption was caused by exceptional circumstance
- Regulations would define exceptional circumstances
- Modifications to Act require that when an airline denied a passenger claim for compensation, the onus is on the airlines to prove the situation was due to an exceptional circumstances



Proposal – Rebooking/Refunds & Assistance



Rebooking and Refunds

- Rebooking requirements for small and large carriers be more closely aligned:
 - Small air carriers – would have to rebook passenger on their own or a partner airline's next available flight within 24 hours; if not possible, they would have to book with another airline leaving from that airport
- Passengers would be able to ask for a refund if they cannot complete their itinerary in a reasonable time (no matter reason for flight disruption):
 - For cancellation or denied boarding – passenger could request a refund right away
 - For delays – passenger could request a refund once there has been a delay at departure of 3+ hours

Assistance

- Carrier obligation to provide assistance for all flight disruption lasting over 2 hours
- When a flight disruptions is due by exceptional circumstances, a limit could be placed on how long assistance must be provided

New: Government of Canada Travel Advisories



- Currently, there is no right to a refund if passengers cancel ticket based on Government of Canada travel advisories
- Proposed that passengers would be able to request a refund, when canceling ticket due to a Government of Canada travel advisory, if the advisory:
 - Is for destination or connecting country; and
 - Risk level has increased since ticket purchased to an advisory of "avoid non-essential travel" or "avoid all travel"



Amending APPR – Process & Target Dates



- During consultations, over 300 submissions were received
 - Input being considered in development of draft amendments to regulations
- Canadians, industry and other interested stakeholders will have a chance to comment on draft amendments
 - Pre-publication in *Canada Gazette, Part I* anticipated in Summer 2024
 - 60-day consultation period
- Anticipate final regulations to be published in *Canada Gazette, Part II* during winter 2024

