

ATAC COMMENTS ON PROPOSED AIR PASSENGER PROTECT REGULATIONS

Transport Canada and the CTA appear to be modelling the foundation of the Canadian Passenger Protect regulations on the European regulation which has many shortcomings. Airlines 4 Europe's experience with the EU Regulation, itself under review, reveals that the European regulation has resulted in a sharp escalate in the cost of passenger claims to airlines. Passenger Protect claims are now the second largest operating expenses on the balance sheet of European airlines.

Airlines are one significant element in the air travelers' ecosystem and there are many players and factors impacting flights. They include the weather, airport authorities, security, customs, air navigation services, and extraordinary circumstances. The regulations need to reflect this complex system and not solely penalize airlines for disruptions attributable to other or multiple factors.

The proposed "passenger protect regulations" need to define the broad categories of large and small carriers using a threshold appropriate to the markets served, number of legs flown, and the gauge of the aircraft used. The regulator needs to consider different metrics in making the distinction between large and small carriers, as this can be a game changer in the viability of some sectors of the industry, particularly small carriers, low-cost carriers, charter operators, and northern and remote airlines.

The distinction between large and small carriers must go beyond simply the level of compensation.

- Standards of treatment: the requirement to provide wi-fi, food and drink for delays exceeding 2 hours. What are the consequences if the airport does not have

these capabilities?

- There must be an exemption for northern and remote operations as those operators face operational and environmental challenges hugely different to operators in the south.
- Regulation is silent on cascading delays. For example, the late arrival of inbound aircraft due to earlier delays outside of the carriers' control. This is of high importance for regional carriers whose routes are often made up of multiple legs.
- The non-availability of substitute equipment (gravel equipped) and smaller gauge aircraft in the case of snags or other mechanical malfunctions in remote and northern regions.

ATAC has yet to succeed in convincing the Government that the North must be offered a cut out from this regulation. However, that remains a viable solution to address the unique conditions of the North.

There are clear irritants that must be addressed by passenger protect regulations:

- The list of events that affect compensation to passengers and are considered under the "control of the air operator". ATAC requests that a working group be formed to define the events that are "under the control of the air operator" using the SMEs working in the air industry.
- We need a clear definition of the exemption from paying compensation under circumstances ruled "extraordinary" circumstances.
- Need a clear definition of the compensation differences between identifying delays caused by snags resulting from maintenance vs during scheduled flights as it relates to safety.
- Seating requirements for the family

members in the various age categories travelling together on the same flight. There needs to be a distinction between large and small carriers for this requirement.

- Compensation should not exceed the value of the original ticket. Particularly, if the operator is obligated to fly the passenger on a later flight that is not part of a code-share agreement.
- Are compensation levels being attached to the price of the ticket, with business and first-class passengers receiving more as they paid more for the original ticket?
- Clarification on the policies that airlines must establish regarding the transportation of musical instruments. The regulations must allow the option for airlines to state in their tariff that they do not carry musical instruments.
- Third party representation: There is no language in draft regulation prohibiting third parties from representing passengers in the claims process. Our members support a system where an airline has the opportunity to work directly with the traveler to ensure that the appropriate compensation is applied as well as to create goodwill for future business with the client.
- The Implementation Period for the new regulation and data collection is unreasonably short, unrealistic and impractical.
- There is no mention of exemptions as it relates to new crew fatigue rules or new labour laws, which may cancel a flight due to delays.

We understand that the Government wants a win before the fall elections but clearly a lot of work still remains to be done. Rushing these regulations through could turn out to be a short-term gain for the Government but a long-term pain for everyone.

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Air Transport Association of Canada