

FEDERAL COURT OF APPEAL

BETWEEN:

AIR PASSENGER RIGHTS

Applicant

- and -

THE ATTORNEY GENERAL OF CANADA

Respondent

- and -

THE CANADIAN TRANSPORTATION AGENCY

Intervener

**MATERIAL IN THE POSSESSION OF THE
CANADIAN TRANSPORTATION AGENCY**

**(Pursuant to Rule 318 of the *Federal Courts Rules* and Federal Court of Appeal Order 2021
FCA 201)**

December 13, 2021

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Senior Counsel
Legal Services Directorate
Canadian Transportation Agency
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Counsel for the Applicant

COPY TO: lukacs@AirPassengerRights.ca
Applicant

AND TO: **ATTORNEY GENERAL OF CANADA**
Department of Justice Canada
Civil Litigation Section
50 O'Connor Street, Suite 300
Ottawa, ON K1A 0H8
Per: **J. Sanderson Graham**
Tel: 613-296-4469
Fax: 613-954-1920
Email: Sandy.Graham@justice.gc.ca

Per: **Lorne Ptack**
Email: lorne.ptack@justice.gc.ca

Solicitors for the Respondent Attorney General of Canada



CERTIFICATION

I, Valérie Lagacé, of the city of Gatineau, province of Québec, Secretary of the Canadian Transportation Agency, **DO HEREBY CERTIFY** that attached hereto are true and correct copies of the following documents which are in the custody of the Secretary:

Responsive documents from ATIP release package A-2020-00029

Documents from Scott Streiner

Documents from Elizabeth Barker

Documents from Mark MacKeigan

Documents from Heather Smith

Documents from Mary Tobin Oates

Documents from Lenore Duff

Documents from Sébastien Bergeron

Documents from Marcia Jones

Documents from Caitlin Hurcomb

Documents from Vincent Turgeon

Documents from Jordan Doyle

Documents from 3rd parties

IN WITNESS THEREOF I have hereunto set my hand and affixed the Official Seal of the Canadian Transportation Agency at Gatineau, province of Québec, this 13 of December 2021.

Valérie Lagacé
Secretary



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7.	Documents from Lenore Duff
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9.	Documents from Marcia Jones
10.	Documents from Caitlin Hurcomb
11.	Documents from Vincent Turgeon
12.	Documents from Jordan Doyle
13.	Documents from 3 rd parties

Nadine Landry

From: Marcia Jones
Sent: Wednesday, March 25, 2020 1:55 PM
To: Renée Langlois
Cc: Tim Hillier; Vincent Turgeon; Valérie Lagacé; Caitlin Hurcomb
Subject: FW: Statement
Attachments: Statement.docx

Over to you! 😊

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Sent: Wednesday, March 25, 2020 1:35 PM
To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Cc: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>; Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: Statement

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but may have clauses that airlines believe relieve them of such obligations in *force majeure* situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time (24 months would be considered reasonable in most cases).

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

Nadine Landry

From: Liz Barker
Sent: Wednesday, March 25, 2020 11:04 AM
To: Scott Streiner
Subject: RE: Answer

I understand Seb's point, to try to frame this, and your response, that it might overstate it. But given that it is consistent with your intent, that this be seen as guidance by all, it might be ok to overstate it slightly.

Liz

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Sent: March-25-20 10:43 AM
To: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>; Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: RE: Answer

Not sure we should call this guidance. That might slightly overstate it.

----- Original message -----

From: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Date: 2020-03-25 10:26 a.m. (GMT-05:00)
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>, Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: RE: Answer

Scott,

I also like the tone of these lines. I like the fact that the emphasis is put on passengers, and that it clarifies what we want to do for them (first paragraph).

My only small suggestion would be as follows:

1. Sentence number one now says " we think passengers protection is essential" and the second sentence says, "so we issued a statement". I think we should use the word "guidance" instead of " statement" as it carries more weight. Going with something like "guidance in the form of a statement" could also make sense here. One downside of using "guidance" is that the end of this sentence now says "...may be appropriate", which could be deemed too vague to be considered "guidance".

Seb

Sébastien Bergeron

Chef de cabinet | Bureau du président et premier dirigeant
Office des transports du Canada | Gouvernement du Canada
sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

Chief of Staff | Office of the Chair and Chief Executive Officer
Canadian Transportation Agency | Government of Canada
Sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

De : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Envoyé : 25 mars 2020 09:53

À : Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>

Cc : Liz Barker <Liz.Barker@otc-cta.gc.ca>

Objet : RE: Answer

Hi, Marcia. As part of Liz's and my discussion of the statement this morning, we concluded that vouchers may not, in fact, go beyond what the APPR require, since they could, arguably be deemed a necessary alternative to itinerary completion where completion isn't possible. That's the sort of interpretation the Agency might could conceivably in future adjudications.

Could you please adjust the answer accordingly, emphasizing not "going beyond" but rather, "bringing greater greater clarity and consistency in unprecedented and unanticipated circumstances"?

Thanks.

From: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Sent: Tuesday, March 24, 2020 8:53 PM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Sébastien Bergeron
<Sebastien.Bergeron@otc-cta.gc.ca>
Subject: RE: Answer

Hi Scott, I was thinking of the same issue. I drafted up the following earlier today, for your consideration. I think with regard to the airlines, we are not trying to benefit them per se, but rather, ensure that Canadians can benefit from a variety of carriers, service offerings and routes in the future. The only reason we want to do this is for the benefit of Canadian passengers in the long term. It may be helpful to accentuate this.

Marcia

Q3. It does not seem fair to passengers who lost money that they would only get credits or vouchers. Can you explain?

The CTA believes that fair and robust air protection for passengers whose flights are cancelled in these circumstances is essential. That is why the CTA has issued a statement ([insert link](#)) indicating that providing vouchers or credits to passengers in these extraordinary circumstances may be appropriate. This measure goes beyond what is required for situations outside of the carrier's control under the *Air Passenger Protection Regulations* and, in some cases, goes beyond what carriers provide for in their tariffs.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic.

The issuance of vouchers or credits strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances. It is important that passengers not suffer out of pocket, and also that the air industry survive and can continue to provide diverse service offerings to Canadians once the crisis has abated.

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Sent: Tuesday, March 24, 2020 7:34 PM
To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Sébastien Bergeron
<Sebastien.Bergeron@otc-cta.gc.ca>
Subject: Answer

Hi, Marcia and Seb. Attached is a draft answer to possible questions on why we issued the statement, whether it shortchanges passengers, whether it puts fragile airlines at greater risk of failure, etc. Feel free to tweak – and I'm happy to discuss -- but we need to be ready when the calls come. Thanks.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada

Chair and Chief Executive Officer, Canadian Transportation Agency

scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

Nadine Landry

From: Scott Streiner
Sent: Wednesday, March 25, 2020 10:43 AM
To: Sébastien Bergeron; Marcia Jones
Cc: Liz Barker
Subject: RE: Answer

Not sure we should call this guidance. That might slightly overstate it.

----- Original message -----

From: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Date: 2020-03-25 10:26 a.m. (GMT-05:00)
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>, Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
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Scott,

I also like the tone of these lines. I like the fact that the emphasis is put on passengers, and that it clarifies what we want to do for them (first paragraph).

My only small suggestion would be as follows:

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Canadian Transportation Agency | Government of Canada

[Sebastien.bergeron@otc-cta.gc.ca](mailto:Sebastien.Bergeron@otc-cta.gc.ca) | Tél. 819-712-0827

De : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Envoyé : 25 mars 2020 09:53

À : Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>

Cc : Liz Barker <Liz.Barker@otc-cta.gc.ca>

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Could you please adjust the answer accordingly, emphasizing not "going beyond" but rather, "bringing greater greater clarity and consistency in unprecedented and unanticipated circumstances"?

Thanks.

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Sent: Tuesday, March 24, 2020 8:53 PM

To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>

Subject: RE: Answer

Hi Scott, I was thinking of the same issue. I drafted up the following earlier today, for your consideration. I think with regard to the airlines, we are not trying to benefit them per se, but rather, ensure that Canadians can benefit from a variety of carriers, service offerings and routes in the future. The only reason we want to do this is for the benefit of Canadian passengers in the long term. It may be helpful to accentuate this.

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Sent: Tuesday, March 24, 2020 7:34 PM

To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Sébastien Bergeron <Sébastien.Bergeron@otc-cta.gc.ca>

Subject: Answer

Hi, Marcia and Seb. Attached is a draft answer to possible questions on why we issued the statement, whether it shortchanges passengers, whether it puts fragile airlines at greater risk of failure, etc. Feel free to tweak – and I'm happy to discuss -- but we need to be ready when the calls come. Thanks.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada

Chair and Chief Executive Officer, Canadian Transportation Agency

scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

Nadine Landry

From: Scott Streiner
Sent: Wednesday, March 25, 2020 9:45 AM
To: Valérie Lagacé
Cc: Marcia Jones; Tom Oommen; Sébastien Bergeron; Lesley Robertson
Subject: Statement
Attachments: Statement.docx

Hi, all. After a lot of back-and-forth this morning, Liz and I have decided on a few additional tweaks to the statement. The final FINAL ***FINAL*** (!) version is attached.

No need for the call at 10.

Thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but typically may have clauses that airlines believe relieve them of such obligations in *force majeure* situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns protection and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and must find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

Nadine Landry

From: Scott Streiner
Sent: Tuesday, March 24, 2020 8:40 AM
To: Marcia Jones; Valérie Lagacé
Cc: Sébastien Bergeron
Subject: RE: Statement
Attachments: Statement.docx

So the final version would be as attached.

For the sake of Patrice's sanity, this should be our last tweak unless we spot something egregious!

From: Scott Streiner
Sent: Tuesday, March 24, 2020 8:38 AM
To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Cc: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Subject: RE: Statement

Works for me, assuming the sentence continues with the words "in force majeure situations".

From: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Sent: Tuesday, March 24, 2020 8:35 AM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Cc: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Subject: RE: Statement

Good morning,

Only one minor point - I would suggest striking out the word "typically" wrt tariffs and adjusting the sentence— so it would read "Some airlines' tariffs provide for refunds in certain cases, but may have clauses that relieve the airline of such obligations"

Thanks,
Marcia

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Sent: Tuesday, March 24, 2020 7:40 AM
To: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>; Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Cc: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Subject: Statement

Bon matin. After sleeping on it, I've made one more single-word tweak to the statement – to talk about passenger "protection" rather than "concerns" (attached). Unless either of you has an issue with this, let's finalize the translation and prep of this version, so it's ready for release along with the two decisions later today.

Thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

Nadine Landry

From: Scott Streiner
Sent: Monday, March 23, 2020 12:09 PM
To: Valérie Lagacé
Cc: Liz Barker; Marcia Jones
Subject: RE: Revised statement

Yes (yesterday afternoon, not evening!). Thanks.

----- Original message -----

From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Date: 2020-03-23 12:07 p.m. (GMT-05:00)
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>, Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Subject: RE: Revised statement

Just to be certain I should use the version provided in your email of 2:57 pm yesterday (see in green below)?

De : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Envoyé : 23 mars 2020 12:00
À : Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Cc : Liz Barker <Liz.Barker@otc-cta.gc.ca>; Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Objet : RE: Revised statement

OK, let's finalize and post the statement as provided yesterday evening. No further changes.

From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Sent: Monday, March 23, 2020 11:43 AM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: RE: Revised statement

Yes, Secretariat is working as fast as they can on this. The sooner they have a finalized version, the better as they have also formatting to do. Valérie

De : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Envoyé : 23 mars 2020 11:37
À : Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Cc : Liz Barker <Liz.Barker@otc-cta.gc.ca>
Objet : RE: Revised statement

Hi, Valérie. Liz and I are leaning towards leaving the statement as is. Have you already sent it for translation? Even if we tweak the expiry language, most of the statement will remain unchanged – and ideally, we'd like post it this afternoon (Comms is on standby).

Thanks,

From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Sent: Monday, March 23, 2020 9:23 AM
To: Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <_EC@otc-cta.gc.ca>
Subject: RE: Revised statement

I agree with Tom on this. my least favorite option is to say nothing and let air carriers issue useless vouchers.

De : Tom Oommen <Tom.Oommen@otc-cta.gc.ca>
Envoyé : 23 mars 2020 09:21
À : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <_EC@otc-cta.gc.ca>
Objet : RE: Revised statement

In my view, given the nature of the statement, suggesting that 24 months could be considered reasonable, is a good approach. Tom

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Date: 2020-03-23 9:09 AM (GMT-05:00)
To: +_EC <_EC@otc-cta.gc.ca>
Subject: RE: Revised statement

Hi again, everyone. One issue that's been raised by a Member: should we retain language on expiry dates and if so, is the current text the best approach? While it comes across as balanced, it may be a bit vague and beg immediate questions on what we'd see as reasonable. Alternatives:

- Say vouchers/credits shouldn't have any expiry date. This would be consistent with the APPR and spread people travelling on vouchers over a longer period, but might be seen negatively by carriers who are trying to manage liabilities as losses pile up.
- Indicate more specifically what we think is reasonable – perhaps 24 months. This would provide clarity, but might seem a bit arbitrary in a highly fluid situation. Passengers might also object, given that the APPR prohibit expiry dates (albeit for different circumstances).
- Remain silent on the matter. This would avoid the complications noted above, but we know short expiry periods are being used by some carriers and that passengers find this frustrating and inconsistent with the spirit (if not the letter) of the APPR.

Please email any views on this question in the next hour or so.

Thanks,

S

From: Scott Streiner
Sent: Sunday, March 22, 2020 2:57 PM
To: +_EC < EC@otc-cta.gc.ca >
Subject: Revised statement

Hi, all. The attached version reflects feedback from Members. Please let me know this afternoon if you have any additional comments.

Valerie, let's have the secretariat ready to translate the statement and a 64 decision tomorrow morning.

Thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

Nadine Landry

From: Liz Barker
Sent: Monday, March 23, 2020 11:59 AM
To: Scott Streiner
Subject: RE: Revised statement

Yes, I agree.

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Sent: March-23-20 11:56 AM
To: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: FW: Revised statement

Leave as is, I think. If you agree, I'll ask staff to proceed and we'll explain on the Members' call tomorrow why we decided not to be more specific in these highly fluid circumstances.

From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Sent: Monday, March 23, 2020 11:43 AM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
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Yes, Secretariat is working as fast as they can on this. The sooner they have a finalized version, the better as they have also formatting to do. Valérie

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From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Sent: Monday, March 23, 2020 9:23 AM
To: Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <_EC@otc-cta.gc.ca>
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To: +_EC <_EC@otc-cta.gc.ca>

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Hi again, everyone. One issue that's been raised by a Member: should we retain language on expiry dates and if so, is the current text the best approach? While it comes across as balanced, it may be a bit vague and beg immediate questions on what we'd see as reasonable. Alternatives:

- Say vouchers/credits shouldn't have any expiry date. This would be consistent with the APPR and spread people travelling on vouchers over a longer period, but might be seen negatively by carriers who are trying to manage liabilities as losses pile up.
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Please email any views on this question in the next hour or so.

Thanks,

S

From: Scott Streiner

Sent: Sunday, March 22, 2020 2:57 PM

To: +_EC <_EC@otc-cta.gc.ca>

Subject: Revised statement

Hi, all. The attached version reflects feedback from Members. Please let me know this afternoon if you have any additional comments.

Valérie, let's have the secretariat ready to translate the statement and a s.64 decision tomorrow morning.

Thanks,

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Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

Nadine Landry

From: Liz Barker
Sent: Monday, March 23, 2020 9:52 AM
To: Marcia Jones; Sébastien Bergeron; Valérie Lagacé; Tom Oommen; Scott Streiner; +_EC
Subject: RE: Revised statement

I agree with Marcia. The EU is sticking with its regime, so refunds are available in all instances where the carrier cancels the flight for whatever reason. However, where the passenger cannot travel/cancels their travel, they are stuck with the rules attached to their ticket.

Liz

From: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Sent: March-23-20 9:47 AM
To: Liz Barker <Liz.Barker@otc-cta.gc.ca>; Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>; Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>; Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <+_EC@otc-cta.gc.ca>
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Thanks,
Marcia

From: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Sent: Monday, March 23, 2020 9:38 AM
To: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>; Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>; Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <+_EC@otc-cta.gc.ca>
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https://ec.europa.eu/commission/presscorner/detail/en/ip_20_485

From: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Sent: March-23-20 9:29 AM
To: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>; Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <+_EC@otc-cta.gc.ca>
Subject: RE: Revised statement

I agree with Valerie : my least favorite option is to say nothing and let air carriers issue useless vouchers.

Having said this, my preference would be to give these vouchers no expiration date or something like a 5 years expiration date. Allowing airlines to give vouchers instead of cash is already a big move. For reference, the EU, at the exception of Belgium, hasn't gone that far yet. So, in the interest of striking a balance, I would be tempted to give passengers more time to use these vouchers.

Seb

Sébastien Bergeron

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Chief of Staff | Office of the Chair and Chief Executive Officer
Canadian Transportation Agency | Government of Canada
Sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

De : Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>

Envoyé : 23 mars 2020 09:23

À : Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <EC@otc-cta.gc.ca>

Objet : RE: Revised statement

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De : Tom Oommen <Tom.Oommen@otc-cta.gc.ca>

Envoyé : 23 mars 2020 09:21

À : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <EC@otc-cta.gc.ca>

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----- Original message -----

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Date: 2020-03-23 9:09 AM (GMT-05:00)

To: +_EC <EC@otc-cta.gc.ca>

Subject: RE: Revised statement

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Nadine Landry

From: Marcia Jones
Sent: Monday, March 23, 2020 9:47 AM
To: Liz Barker; Sébastien Bergeron; Valérie Lagacé; Tom Oommen; Scott Streiner; +_EC
Subject: RE: Revised statement
Attachments: Rebooking and Refund Requirements.docx

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Rebooking and Refund Requirements

Airline cancellations		
	EC261 (EU)	APPR (with current exemptions)
Rebooking/ refund requirements	<p>Regardless of the reason for a cancellation, the carrier must give the passenger the choice of:</p> <ul style="list-style-type: none"> • reimbursement (refund); • re-routing at the earliest opportunity, or • re-routing at a later date at the passenger's convenience. 	<p>Situations within carrier control (incl. required for safety):</p> <ul style="list-style-type: none"> • The carrier must rebook the passenger on the next available flight operated by them or a partner airline. • If that rebooking does not meet the passenger's needs, the passenger must be given a refund. <p>Situations outside carrier control:</p> <ul style="list-style-type: none"> • The carrier must rebook the passenger on the next available flight operated by them or a partner airline • No refund obligation (per legislative framework) • Whether or not a passenger is reimbursed would depend on the airline's terms and conditions (tariff/fare rules)
Method of refund	<p>By cash, electronic bank transfer, bank orders or bank cheques or, <u>with the signed agreement of the passenger</u>, in travel vouchers and/or other services.</p> <p>EU guidance: If the carrier proposes a voucher, this offer cannot affect the passenger's right to opt for reimbursement instead.</p>	<p>Refunds required under the APPR (situations within carrier control) must be paid by the method used for the original payment and to the person who purchased the ticket or additional service.</p>
Passenger cancellation		
Rebooking/ refund requirements	<p>Not addressed in regulations.</p> <p>Whether or not a passenger is reimbursed would depend on the airline's terms and conditions (tariff/fare rules)</p> <p>Note: Certain jurisdictions (e.g., Italy) put in place their own requirements to provide a refund or voucher when a passenger cancels their own travel.</p>	<p>Not addressed in regulations.</p> <p>Whether or not a passenger is reimbursed would depend on the airline's terms and conditions (tariff/fare rules)</p>

Nadine Landry

From: Marcia Jones
Sent: Monday, March 23, 2020 9:41 AM
To: Valérie Lagacé; Tom Oommen; Scott Streiner; +_EC
Subject: RE: Revised statement

Hi,

Despite the problems for the passengers, I would advocate for the vague approach.

It is important to remember that suggesting carriers should provide vouchers is going above what the APPR actually require for circumstances outside the carrier's control, which is nothing, and also beyond what most tariffs provide for, which is nothing in case of force majeure. A statement indicating that carriers should provide vouchers that last a reasonable period of time is sufficient and balances both concerns. In my view, imposing a specific period of time will be problematic in the current environment.

Marcia

From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Sent: Monday, March 23, 2020 9:23 AM
To: Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <_EC@otc-cta.gc.ca>
Subject: RE: Revised statement

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De : Tom Oommen <Tom.Oommen@otc-cta.gc.ca>
Envoyé : 23 mars 2020 09:21
À : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <_EC@otc-cta.gc.ca>
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From: Scott Streiner
Sent: March 18, 2020 10:14 PM
To: Marcia Jones
Cc: Sébastien Bergeron
Subject: RE: Request for recognition and acceptance of travel voucher solutions

Thanks, Marcia. I'm not sure we have a clear role here, as this seems to boil down to a commercial dispute between the carrier and the credit card companies. That said, these are extraordinary times, and if there's something we can do to ease threats to industry viability while protecting passengers, we should at least consider it. Let's discuss during EC tomorrow.

S

From: Marcia Jones
Sent: Wednesday, March 18, 2020 10:05 PM
To: Scott Streiner
Cc: Sébastien Bergeron
Subject: Fwd: Request for recognition and acceptance of travel voucher solutions

Scott, I had a long call this evening and have a better understanding of the concern, now outlined in this email.

Perhaps we can discuss tomorrow or at the special EC.

Marcia

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: George Petsikas <George.Petsikas@transat.com>
Date: 2020-03-18 8:16 PM (GMT-05:00)
To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Subject: Request for recognition and acceptance of travel voucher solutions

Marcia

Many thanks for taking time to speak with me this evening.

As discussed, we are currently under enormous pressure from Canada's bank-owned credit card processors as a result of their charge back guarantees to their customers where the merchant is unable to provide the service nor refund the money paid to this end with the card. This is a pretty standard commitment per the credit card agreements offered by the big players such as Mastercard and Visa.

Consequently, one of the conditions imposed by these companies when doing business with large merchants such as Transat is to demand financial guarantees to cover their exposure per their voluntary commitments to their customers in the event we can't deliver or refund regardless of circumstances, including beyond our control and/or force majeure.

The net result is with the avalanche of recent COVID cancellations, consumers are invoking their charge back guarantees directly with the cards / banks, who in turn are demanding that the merchant makes them whole through the guarantees in question. This is putting enormous strain on our desperate attempts to manage the collapse in our revenues and stabilize our business and avoid ultimate failure and job losses.

As explained, this matter was actively addressed in France and Italy recently, two countries enormously dependant on the stability of their important travel and tourism and tourism sectors that have been severely impacted by the crisis. In brief, the relevant travel industry oversight authorities in these countries publicly recognized and accepted the offering of travel vouchers valid for up to 24 months as a satisfactory resolution of the consumer's claim for a cash refund in the current extraordinary circumstances.

This recognition of this option by state authorities in turn allowed the banks / card processors in those countries to invoke this voucher in lieu of a cash refund approach as evidence the merchant had fulfilled its obligations per the sale and thus allowed them to deny the charge back claim. The result was subsequently the suspension or significant alleviation of cash guarantee demands on the travel industry merchant by the banks.

Consequently, Transat respectfully requests that the Agency give active and urgent consideration to publishing a similar statement with respect to the existing travel voucher programs now being offered by Canadian air carriers including ourselves and Air Canada, among others. Again, the purpose is not to create any form of obligation in this sense but simply to recognize them as a satisfactory resolution of any cash refund claims against airlines. This of course would be temporary while we ride out the worst of the storm over the next few months.

Thank you in advance for your assistance and expeditious consideration of the present and please don't hesitate if you have any questions or require further information.

Kind regards - GP

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From: Scott Streiner
Sent: March 22, 2020 8:54 AM
To: Liz Barker; Marcia Jones; Valérie Lagacé; Tom Oommen; Sébastien Bergeron
Subject: Draft
Attachments: Statement.docx

Good morning, folks. The attached will be one item for discussion on our 10:30 call. Talk soon.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. In addition, some airlines' tariffs provide for refunds in certain cases, but have clauses that relieve the airline of such obligations in *force majeure* situations.

All these documents were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of mass cancellations that have taken place over recent weeks as a result of the COVID-19 pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and have to find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. They should be "kept whole" in some manner. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could put their very survival at risk.

While any specific situations brought before the CTA will be examined on their merits, the CTA believes that, generally speaking, an appropriate solution could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

From: Scott Streiner
Sent: March 22, 2020 11:24 AM
To: Mark MacKeigan; Heather Smith; Mary Tobin Oates; Lenore Duff; Gerald Dickie
Cc: Liz Barker
Subject: Draft statement
Attachments: Statement.docx

Hi, Colleagues. I hope all of you and your family and friends remain healthy and are doing OK despite our current isolation in our homes.

As you know, there have been many questions about what (if any) entitlements passengers have, and what (if any) obligations carriers have, when flights are disrupted as a result of the COVID-19-related mass cancellations.

After some analysis, reflection, and discussion with other federal players, we're considering issuing a statement (draft attached) that acknowledges the current rule-set never really contemplated the present circumstances and indicates that vouchers/credits would be an appropriate way of protecting passengers from a total loss without pushing carriers closer towards insolvency.

Because this statement is a policy signal of sorts and could inform -- though of course, not fetter -- future Agency decisions, Liz and I wanted to share it with all Members. We're looking at releasing it as early as tomorrow, so could you please let us know by 2 pm if you concur with it, and whether you have any questions or comments?

Many thanks,

S

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The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but typically have clauses that relieve the airline of such obligations in *force majeure* situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and must find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

From: Scott Streiner
Sent: March 23, 2020 8:10 AM
To: Liz Barker
Subject: FW: Draft statement

Hmmm. I wonder if we should actually say that there should be no expiry date, consistent with the APPR. That said, carriers will argue that the extraordinary circumstances justify limitations that wouldn't apply in normal times. We could also just refrain from any reference to expiration at all.

S

From: Heather Smith
Sent: Sunday, March 22, 2020 10:32 PM
To: Gerald Dickie ; Scott Streiner ; Mark MacKeigan ; Mary Tobin Oates ; Lenore Duff
Cc: Liz Barker
Subject: RE: Draft statement

Hi all!

I agree with the comments that Mary, Mark and Lenore have already made on the draft text. I would also encourage you to look again at the last phrase of the statement "as long as these vouchers or credits do not expire in an unreasonably short period of time". It is ambiguous about what "an unreasonably short period of time" would be, and in many provinces, consumer protection legislation does not allow vouchers and credits to have expiry dates. It seems to be injecting unnecessary questions or potential for media controversy where the Agency is trying to provide guidance and reassurance. I would delete that last thought altogether, or - if you have incorporated Lenore's suggested changes to that sentence re "taking the current circumstances fully into account", I suggest that you end the sentence there.

Cheers!

Heather

From: Gerald Dickie <Gerald.Dickie@otc-cta.gc.ca>
Sent: Sunday, March 22, 2020 10:04 PM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Mark MacKeigan <Mark.MacKeigan@otc-cta.gc.ca>; Heather Smith <Heather.Smith@otc-cta.gc.ca>; Mary Tobin Oates <Mary.TobinOates@otc-cta.gc.ca>; Lenore Duff <Lenore.Duff@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: Re: Draft statement

No comments from me other than the letter is well timed and valuable to the reader. Its the right thing to do in terms of Crisis Management.

Gerry

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Date: 2020-03-22 11:24 AM (GMT-05:00)

To: Mark MacKeigan <Mark.MacKeigan@otc-cta.gc.ca>, Heather Smith <Heather.Smith@otc-cta.gc.ca>, Mary Tobin Oates <Mary.TobinOates@otc-cta.gc.ca>, Lenore Duff <Lenore.Duff@otc-cta.gc.ca>, Gerald Dickie <Gerald.Dickie@otc-cta.gc.ca>

Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>

Subject: Draft statement

Hi, Colleagues. I hope all of you and your family and friends remain healthy and are doing OK despite our current isolation in our homes.

As you know, there have been many questions about what (if any) entitlements passengers have, and what (if any) obligations carriers have, when flights are disrupted as a result of the COVID-19-related mass cancellations.

After some analysis, reflection, and discussion with other federal players, we're considering issuing a statement (draft attached) that acknowledges the current rule-set never really contemplated the present circumstances and indicates that vouchers/credits would be an appropriate way of protecting passengers from a total loss without pushing carriers closer towards insolvency.

Because this statement is a policy signal of sorts and could inform -- though of course, not fetter -- future Agency decisions, Liz and I wanted to share it with all Members. We're looking at releasing it as early as tomorrow, so could you please let us know by 2 pm if you concur with it, and whether you have any questions or comments?

Many thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada

Chair and Chief Executive Officer, Canadian Transportation Agency

scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Scott Streiner
Sent: March 23, 2020 8:56 AM
To: Liz Barker
Subject: RE: Draft statement

Probably – but if true, the carriers themselves shouldn't be imposing expiry dates. So presumably, they're either too stretched to have thought this through carefully, or see the potential benefit (people not collecting in time) outweighing the cost (too much cramming in the recovery period).

I'll ask staff for views.

S

From: Liz Barker
Sent: Monday, March 23, 2020 8:35 AM
To: Scott Streiner
Subject: RE: Draft statement

I don't feel like I have enough information to make that decision so maybe best to avoid the subject for now. I'm not sure about the applicability of consumer legislation regarding gift cards here, especially if the terms of the purchase include that it is non-refundable such that people aren't entitled to anything. And on the other hand, a limitation period would presumably cram all those 'free' services into a shorter period of time whereas having no expiry would result in the 'free' services being more spread out with 'revenue generating' services which has to be better for the carriers, yes?

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Sent: March-23-20 8:10 AM
To: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: FW: Draft statement

Hmmm. I wonder if we should actually say that there should be no expiry date, consistent with the APPR. That said, carriers will argue that the extraordinary circumstances justify limitations that wouldn't apply in normal times. We could also just refrain from any reference to expiration at all.

S

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Sent: Sunday, March 22, 2020 10:32 PM
To: Gerald Dickie <Gerald.Dickie@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Mark MacKeigan <Mark.MacKeigan@otc-cta.gc.ca>; Mary Tobin Oates <Mary.TobinOates@otc-cta.gc.ca>; Lenore Duff <Lenore.Duff@otc-cta.gc.ca>
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Many thanks,

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scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Scott Streiner
Sent: March 23, 2020 9:10 AM
To: +_EC
Subject: RE: Revised statement

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Please email any views on this question in the next hour or so.

Thanks,

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From: Scott Streiner
Sent: Sunday, March 22, 2020 2:57 PM
To: +_EC
Subject: Revised statement

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Valérie, let's have the secretariat ready to translate the statement and a s.64 decision tomorrow morning.

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From: Scott Streiner
Sent: March 23, 2020 11:37 AM
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Subject: RE: Revised statement

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Thanks,

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Sent: Monday, March 23, 2020 9:23 AM
To: Tom Oommen ; Scott Streiner ; +_EC
Subject: RE: Revised statement

I agree with Tom on this. my least favorite option is to say nothing and let air carriers issue useless vouchers.

De : Tom Oommen <Tom.Oommen@otc-cta.gc.ca>
Envoyé : 23 mars 2020 09:21
À : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <_EC@otc-cta.gc.ca>
Objet : RE: Revised statement

In my view, given the nature of the statement, suggesting that 24 months could be considered reasonable, is a good approach. Tom

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From: Scott Streiner
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Leave as is, I think. If you agree, I'll ask staff to proceed and we'll explain on the Members' call tomorrow why we decided not to be more specific in these highly fluid circumstances.

From: Valérie Lagacé
Sent: Monday, March 23, 2020 11:43 AM
To: Scott Streiner
Cc: Liz Barker
Subject: RE: Revised statement

Yes, Secretariat is working as fast as they can on this. The sooner they have a finalized version, the better as they have also formatting to do. Valérie

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scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Scott Streiner
Sent: March 23, 2020 12:00 PM
To: Valérie Lagacé
Cc: Liz Barker; Marcia Jones
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OK, let's finalize and post the statement as provided yesterday evening. No further changes.

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Yes (yesterday afternoon, not evening!). Thanks.

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From: Valérie Lagacé
Date: 2020-03-23 12:07 p.m. (GMT-05:00)
To: Scott Streiner
Cc: Liz Barker , Marcia Jones
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scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Scott Streiner
Sent: March 24, 2020 7:40 AM
To: Valérie Lagacé; Marcia Jones
Cc: Sébastien Bergeron
Subject: Statement
Attachments: Statement.docx

Bon matin. After sleeping on it, I've made one more single-word tweak to the statement – to talk about passenger "protection" rather than "concerns" (attached). Unless either of you has an issue with this, let's finalize the translation and prep of this version, so it's ready for release along with the two decisions later today.

Thanks,

S

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The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but typically have clauses that may relieve the airline of such obligations in *force majeure* situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns-protection and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and must find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

From: Scott Streiner
Sent: March 24, 2020 7:34 PM
To: Marcia Jones; Sébastien Bergeron
Subject: Answer
Attachments: Answer.docx

Hi, Marcia and Seb. Attached is a draft answer to possible questions on why we issued the statement, whether it shortchanges passengers, whether it puts fragile airlines at greater risk of failure, etc. Feel free to tweak – and I'm happy to discuss -- but we need to be ready when the calls come. Thanks.

S

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- The *Canada Transportation Act* and *Air Passenger Protection Regulations* do not require refunds where a flight cancellation is outside an airline's control, which would include cancellations resulting from the COVID-19 pandemic.
- Airline tariffs have a wide range of provisions, but it's often unclear which tariff terms would apply to this unprecedented situation and whether the *force majeure* clauses in most tariffs would exempt airlines from paying anything.
- As a result, many passengers affected by the cancellations have been facing significant confusion about what their rights were and the possibility that they will lose the entire cost of their flights.
- At the same time, airlines have had to deal with huge drops in passenger volumes and have little to no ability to issue cash refunds.
- In these extraordinary circumstances – which were never anticipated by the legislation, the regulations, or the tariffs – the CTA concluded that the best way of balancing passenger protection with airline's current operating realities was to suggest that airlines issue vouchers or travel credits for the value of cancelled tickets, as long as those vouchers or credits don't expire too soon.
- We believe that this is a fair, sensible approach in these very difficult circumstances and that greater clarity and consistency of approach will be of benefit to for both passengers and airlines.

From: Scott Streiner
Sent: March 24, 2020 9:13 PM
To: Marcia Jones; Sébastien Bergeron
Subject: RE: Answer

This is very good, Marcia. We'll finalize the text tomorrow, but I like the approach and tone a lot. Thanks.

----- Original message -----

From: Marcia Jones
Date: 2020-03-24 8:53 p.m. (GMT-05:00)
To: Scott Streiner , Sébastien Bergeron
Subject: RE: Answer

Hi Scott, I was thinking of the same issue. I drafted up the following earlier today, for your consideration. I think with regard to the airlines, we are not trying to benefit them per se, but rather, ensure that Canadians can benefit from a variety of carriers, service offerings and routes in the future. The only reason we want to do this is for the benefit of Canadian passengers in the long term. It may be helpful to accentuate this.

Marcia

Q3. It does not seem fair to passengers who lost money that they would only get credits or vouchers. Can you explain?

The CTA believes that fair and robust air protection for passengers whose flights are cancelled in these circumstances is essential. That is why the CTA has issued a statement ([insert link](#)) indicating that providing vouchers or credits to passengers in these extraordinary circumstances may be appropriate. This measure goes beyond what is required for situations outside of the carrier's control under the *Air Passenger Protection Regulations* and, in some cases, goes beyond what carriers provide for in their tariffs.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic.

The issuance of vouchers or credits strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances. It is important that passengers not suffer out of pocket, and also that the air industry survive and can continue to provide diverse service offerings to Canadians once the crisis has abated.

From: Scott Streiner
Sent: Tuesday, March 24, 2020 7:34 PM
To: Marcia Jones ; Sébastien Bergeron
Subject: Answer

Hi, Marcia and Seb. Attached is a draft answer to possible questions on why we issued the statement, whether it shortchanges passengers, whether it puts fragile airlines at greater risk of failure, etc. Feel free to tweak – and I'm happy to discuss -- but we need to be ready when the calls come. Thanks.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Scott Streiner
Sent: March 25, 2020 8:47 AM
To: Liz Barker
Subject: FW: Answer

Q3. It does not seem fair to passengers who lost money that they would only get credits or vouchers. Can you explain?

The CTA believes that fair and robust air protection for passengers whose flights are cancelled in these circumstances is essential. That is why the CTA has issued a statement ([insert link](#)) indicating that providing vouchers or credits to passengers in these extraordinary circumstances may be appropriate. This measure goes beyond what is required for situations outside of the carrier's control under the *Air Passenger Protection Regulations* and, in some cases, goes beyond what carriers provide for in their tariffs.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic.

The issuance of vouchers or credits strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances. It is important that passengers not suffer out of pocket, and also that the air industry survive and can continue to provide diverse service offerings to Canadians once the crisis has abated.

From: Scott Streiner
Sent: March 25, 2020 9:32 AM
To: Liz Barker
Subject: FW: Statement
Attachments: Statement.docx

From: Scott Streiner
Sent: Tuesday, March 24, 2020 8:40 AM
To: Marcia Jones ; Valérie Lagacé
Cc: Sébastien Bergeron
Subject: RE: Statement

So the final version would be as attached.

For the sake of Patrice's sanity, this should be our last tweak unless we spot something egregious!

From: Scott Streiner
Sent: Tuesday, March 24, 2020 8:38 AM
To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Cc: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Subject: RE: Statement

Works for me, assuming the sentence continues with the words "in force majeure situations".

From: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Sent: Tuesday, March 24, 2020 8:35 AM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Cc: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Subject: RE: Statement

Good morning,

Only one minor point - I would suggest striking out the word "typically" wrt tariffs and adjusting the sentence— so it would read "Some airlines' tariffs provide for refunds in certain cases, **but may have clauses that relieve the airline of** such obligations"

Thanks,
Marcia

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Sent: Tuesday, March 24, 2020 7:40 AM
To: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>; Marcia Jones <Marcia.Jones@otc-cta.gc.ca>

Cc: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>

Subject: Statement

Bon matin. After sleeping on it, I've made one more single-word tweak to the statement – to talk about passenger "protection" rather than "concerns" (attached). Unless either of you has an issue with this, let's finalize the translation and prep of this version, so it's ready for release along with the two decisions later today.

Thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada

Chair and Chief Executive Officer, Canadian Transportation Agency

scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but typically may have clauses that relieve the airline of such obligations in *force majeure* situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns-protection and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and must find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

From: Scott Streiner
Sent: March 25, 2020 9:53 AM
To: Marcia Jones; Sébastien Bergeron
Cc: Liz Barker
Subject: RE: Answer

Hi, Marcia. As part of Liz's and my discussion of the statement this morning, we concluded that vouchers may not, in fact, go beyond what the APPR require, since they could, arguably be deemed a necessary alternative to itinerary completion where completion isn't possible. That's the sort of interpretation the Agency might conceivably in future adjudications.

Could you please adjust the answer accordingly, emphasizing not "going beyond" but rather, "bringing greater greater clarity and consistency in unprecedented and unanticipated circumstances"?

Thanks.

From: Marcia Jones
Sent: Tuesday, March 24, 2020 8:53 PM
To: Scott Streiner ; Sébastien Bergeron
Subject: RE: Answer

Hi Scott, I was thinking of the same issue. I drafted up the following earlier today, for your consideration. I think with regard to the airlines, we are not trying to benefit them per se, but rather, ensure that Canadians can benefit from a variety of carriers, service offerings and routes in the future. The only reason we want to do this is for the benefit of Canadian passengers in the long term. It may be helpful to accentuate this.

Marcia

Q3. It does not seem fair to passengers who lost money that they would only get credits or vouchers. Can you explain?

The CTA believes that fair and robust air protection for passengers whose flights are cancelled in these circumstances is essential. That is why the CTA has issued a statement ([insert link](#)) indicating that providing vouchers or credits to passengers in these extraordinary circumstances may be appropriate. This measure goes beyond what is required for situations outside of the carrier's control under the *Air Passenger Protection Regulations* and, in some cases, goes beyond what carriers provide for in their tariffs.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic.

The issuance of vouchers or credits strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances. It is important that passengers not suffer out of pocket, and also that the air

industry survive and can continue to provide diverse service offerings to Canadians once the crisis has abated.

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Sent: Tuesday, March 24, 2020 7:34 PM

To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Sébastien Bergeron <Sébastien.Bergeron@otc-cta.gc.ca>

Subject: Answer

Hi, Marcia and Seb. Attached is a draft answer to possible questions on why we issued the statement, whether it shortchanges passengers, whether it puts fragile airlines at greater risk of failure, etc. Feel free to tweak – and I'm happy to discuss -- but we need to be ready when the calls come. Thanks.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada

Chair and Chief Executive Officer, Canadian Transportation Agency

scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Scott Streiner
Sent: March 25, 2020 12:00 PM
To: +_EC
Subject: Draft blog
Attachments: Dispatches from the living room.docx

...for feedback before, or discussion during, our daily call.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

Dispatches from the living room

Hi, folks. We're approaching the end of our second week in work-at-home arrangements. As we all know, this may continue for some time to come.

It seems most of us are growing more accustomed to, and comfortable with, the technologies and work patterns needed to do our jobs effectively at a distance. I've certainly gotten better at calling into teleconferences (with a little help from Lesley)!

On the personal front, many of us are using various online platforms to stay connected with friends and family. Last Saturday, my wife and I used a combination of a game app and Hangouts to play a round of Monopoly with our sons (who live in Toronto and Calgary) and their partners. It was lots of fun – not quite the same as being together physically, but not too different – despite the fact that the parents were the first ones to go bankrupt. Seems a little unfair after everything we spent over the years providing our kids with lodging, food (a lot of food), and extracurricular activities, but when it comes to board games, our boys have a pronounced competitive spirit!

Some of you have told me that electronics and music are playing an increasing role in your currently hunkered-down lives. Indeed, during our daily calls, several members of EC may even have mentioned spousal drum kits or electric guitars with something less than total enthusiasm...

I hope everyone, and your loved ones, are healthy and holding up well. To the extent possible, we should all be trying to ensure – for ourselves and others -- that increased physical isolation doesn't result in too much social and psychological isolation.

On the work front, the Agency has taken additional temporary steps to address the impacts of COVID-19 on airlines and air passengers. This week, we issued three decisions: one exempting airlines from the normal 120-day notice period for the temporary suspension (but not permanent discontinuation) of certain domestic routes; another establishing longer timelines for airlines to respond to passengers' compensation claims and extending the modifications to a number of other APPR provisions to June 30; and a third extending the temporary stay of all dispute proceedings involving airlines to June 30.

We also released a statement indicating that in the extraordinary circumstances created by the pandemic, it could be appropriate for airlines give vouchers or credits to passengers who are unable to complete their itineraries. This guidance was aimed at bringing greater clarity and consistency of approach to an unprecedented situation, where there's a great deal of confusion around what, if anything, is owed to passengers, while airlines face severe financial challenges.

We're doing exceptionally well as an organization during these challenging days. EC and the broader management community will continue our efforts to keep communication flowing, respond quickly to questions and requests, and make sure that employees have meaningful work to do, even as some of our activities inevitably slow down.

Please don't hesitate to reach out to your supervisor, Branch Head, or me on any issue.

Stay safe, and stay in touch!

From: Scott Streiner
Sent: March 25, 2020 12:54 PM
To: +_EC
Subject: RE: Draft blog
Attachments: Dispatches from the living room.docx

For those that haven't taken a look yet, this version has been revised based on feedback from Liz.

From: Scott Streiner
Sent: Wednesday, March 25, 2020 12:00 PM
To: +_EC
Subject: Draft blog

...for feedback before, or discussion during, our daily call.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

Dispatches from the living room

Hi, folks. We're approaching the end of our second week in work-at-home arrangements. As we all know, this may continue for some time to come. Indeed, based on direction from public health officials and Treasury Board Secretariat, access to our offices is no longer allowed without special permission from senior management.

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On the personal front, many of us are using various online platforms to stay connected with friends and family. Last Saturday, my wife and I used a combination of a game app and Hangouts to play a round of Monopoly with our sons (who live in Toronto and Calgary) and their partners. It was lots of fun – not quite the same as being together physically, but not too different – despite the fact that the parents were the first ones to go bankrupt. Seems a little unfair after everything we spent over the years providing our kids with lodging, food (a lot of food), and extracurricular activities, but when it comes to board games, our boys have a pronounced competitive spirit!

Some of you have told me that electronics and music are playing an increasing role in your currently hunkered-down lives. During our daily calls, several members of EC may even have mentioned spousal drum kits or electric guitars with something less than total enthusiasm...

I hope everyone, and your loved ones, are healthy and holding up well. To the extent possible, we should all be trying to ensure – for ourselves and others -- that increased physical isolation doesn't result in too much social and psychological isolation.

On the work front, the Agency has taken additional temporary steps to address the impacts of COVID-19 on airlines and air passengers. This week, we issued three decisions: one exempting airlines from the normal 120-day notice period for the temporary suspension (but not permanent discontinuation) of certain domestic routes; another establishing longer timelines for airlines to respond to passengers' compensation claims and extending the modifications to a number of other APPR provisions to June 30; and a third extending the temporary stay of all dispute proceedings involving airlines to June 30.

We also released a statement indicating that in the extraordinary circumstances created by the pandemic, it could be appropriate for airlines give vouchers or credits to passengers who are unable to complete their itineraries. This guidance was aimed at bringing greater clarity and consistency of approach to an unprecedented situation,

where there's a great deal of confusion around what is owed to passengers, and airlines are facing severe financial challenges.

We're doing exceptionally well as an organization during these challenging days. Unlike some departments and agencies, we've been able to maintain a full suite of services, thanks to some good decisions in the past around laptop purchases and VPN improvements, the hard work of our IT and other Internal Services teams, strong and collegial internal relationships, and an agile and committed workforce.

EC and the broader management community will continue our efforts to keep communication flowing, respond quickly to questions and requests, and make sure that employees have meaningful work to do, even as some of our activities inevitably slow down.

Please don't hesitate to reach out to your supervisor, Branch Head, or me on any issue.

Stay safe, and stay in touch!

From: Scott Streiner
Sent: March 25, 2020 1:35 PM
To: Marcia Jones
Cc: Sébastien Bergeron; Liz Barker
Subject: Statement
Attachments: Statement.docx

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but may have clauses that airlines believe relieve them of such obligations in *force majeure* situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time (24 months would be considered reasonable in most cases).

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

From: Scott Streiner
Sent: March 25, 2020 5:14 PM
To: +_EC
Subject: Blog - new text
Attachments: Dispatches from the living room.docx

Hi, all. I've added a para along the lines we discussed (highlighted in the attached version). Please let me know if you have any concerns/suggestions regarding the wording.

Thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

Dispatches from the living room

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Some of you have told me that electronics and music are playing an increasing role in your currently hunkered-down lives. During our daily calls, several members of EC may even have mentioned spousal drum kits or electric guitars with something less than total enthusiasm...

I hope everyone, and your loved ones, are healthy and holding up well. To the extent possible, we should all be trying to ensure – for ourselves and others -- that increased physical isolation doesn't result in too much social and psychological isolation.

On the work front, the Agency has taken additional temporary steps to address the impacts of COVID-19 on airlines and air passengers. This week, we issued three decisions: one exempting airlines from the normal 120-day notice period for the temporary suspension (but not permanent discontinuation) of certain domestic routes; another establishing longer timelines for airlines to respond to passengers' compensation claims and extending the modifications to a number of other APPR provisions to June 30; and a third extending the temporary stay of all dispute proceedings involving airlines to June 30.

We also released a statement indicating that in the extraordinary circumstances created by the pandemic, it could be appropriate for airlines to give vouchers or credits to passengers who are unable to complete their itineraries. This guidance was aimed at bringing greater clarity and consistency of approach to an unprecedented situation,

where there's a great deal of confusion around what is owed to passengers, and airlines are facing severe financial challenges.

We're doing exceptionally well as an organization during these challenging days. Unlike some departments and agencies, we've been able to maintain a full suite of services, thanks to some good decisions in the past around laptop purchases and VPN improvements, the hard work of our IT and other Internal Services teams, strong and collegial relationships, and an agile and committed workforce.

I understand some employees have raised concerns about possible layoffs, so let me reassure you that the Agency has no plans to let anyone go, and we've had no indication that anything like this is being contemplated at the government-wide level.

EC and the broader management community will continue our efforts to keep communication flowing, respond quickly to questions and requests, and make sure that employees have meaningful work to do, even as some of our activities inevitably slow down.

Please don't hesitate to reach out to your supervisor, Branch Head, or me on any issue.

Stay safe, and stay in touch!

Archivé: 13 décembre 2021 10:54:05

De:

À:

Cc:

Sujet: RE: message to carriers - signals check

Confidentialité: Normal

Hi, Marcia. Good (fast) work. A few tweaks, highlighted below.

We may also need to add something like, "Finally, the timeline for previously-announced special measures – exemptions from certain APPR requirements and a pause to all dispute resolution activities involving air carriers – has been extended from April 30, 2020 to ...", depending on the outcome of the Members call this morning.

Thanks,

S

From: Marcia Jones

Sent: Tuesday, March 24, 2020 9:05 AM

To: Scott Streiner

Cc: Sébastien Bergeron ; Caitlin Hurcomb ; Allan Burnside ; Valérie Lagacé

Subject: message to carriers - signals check

Scott, normally I would not ask you to review this type of email, but wanted to be sure you had no issue with the draft message below that I will be sending out this afternoon. Thanks to Cait for preparing this quickly.

The plan is to send it out to carriers en masse, but given the outreach from PIAC/CAA, I could also do a separate send out to each of them.

Thanks

Marcia

Good afternoon,

I am writing to provide an update on the latest steps the Canadian Transportation Agency has taken related to the COVID-19 pandemic. Today, the CTA issued [decisions](#):

- Temporarily exempting all air carriers holding a domestic licence from the requirement in section 64 of the Canada Transportation Act to provide 120 days' notice and engage in consultations before [temporarily](#) suspending the operation of air services between points in Canada, [while retaining that requirement for any permanent discontinuation of service](#). For more information, see [Order X](#).
- Temporarily exempting all air carriers from the *Air Passenger Protection Regulations* deadline for responding to passenger claims for compensation, [while requiring that responses be provided within 120 days of the end of the exemption to certain APPR provisions](#). For more information, see [Order Y](#).

In addition, the CTA has released a statement providing guidance for addressing the mass flight cancellations taking place worldwide. In order to balance passenger [protection](#) and airline operating realities [in these extraordinary and unprecedented circumstances](#), the CTA [has indicated that](#), generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time. Of course, any situation brought forward to the CTA [will](#) be evaluated on its own merits. The full statement is available on the CTA's website ([insert link](#)).

We will be sure to keep you informed of any further developments. Please don't hesitate to contact me with any questions.

Sincerely,

Marcia Jones

Dirigeante principale, Stratégies/Chief Strategy Officer

Office des transports du Canada/Canadian Transportation Agency

15, rue Eddy/15 Eddy Street

Gatineau, QC, K1A 0N9

(819) 953-0327

marcia.jones@otc-cta.gc.ca

From: Liz Barker
Sent: March 23, 2020 8:35 AM
To: Scott Streiner
Subject: RE: Draft statement

I don't feel like I have enough information to make that decision so maybe best to avoid the subject for now. I'm not sure about the applicability of consumer legislation regarding gift cards here, especially if the terms of the purchase include that it is non-refundable such that people aren't entitled to anything. And on the other hand, a limitation period would presumably cram all those 'free' services into a shorter period of time whereas having no expiry would result in the 'free' services being more spread out with 'revenue generating' services which has to be better for the carriers, yes?

From: Scott Streiner
Sent: March-23-20 8:10 AM
To: Liz Barker
Subject: FW: Draft statement

Hmmm. I wonder if we should actually say that there should be no expiry date, consistent with the APPR. That said, carriers will argue that the extraordinary circumstances justify limitations that wouldn't apply in normal times. We could also just refrain from any reference to expiration at all.

S

From: Heather Smith <Heather.Smith@otc-cta.gc.ca>
Sent: Sunday, March 22, 2020 10:32 PM
To: Gerald Dickie <Gerald.Dickie@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Mark MacKeigan <Mark.MacKeigan@otc-cta.gc.ca>; Mary Tobin Oates <Mary.TobinOates@otc-cta.gc.ca>; Lenore Duff <Lenore.Duff@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: RE: Draft statement

Hi all!

I agree with the comments that Mary, Mark and Lenore have already made on the draft text. I would also encourage you to look again at the last phrase of the statement "as long as these vouchers or credits do not expire in an unreasonably short period of time". It is ambiguous about what "an unreasonably short period of time" would be, and in many provinces, consumer protection legislation does not allow vouchers and credits to have expiry dates. It seems to be injecting unnecessary questions or potential for media controversy where the Agency is trying to provide guidance and reassurance. I would delete that last thought altogether, or - if you have incorporated Lenore's suggested changes to that sentence re "taking the current circumstances fully into account", I suggest that you end the sentence there.

Cheers!

Heather

From: Gerald Dickie <Gerald.Dickie@otc-cta.gc.ca>
Sent: Sunday, March 22, 2020 10:04 PM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Mark MacKeigan <Mark.MacKeigan@otc-cta.gc.ca>; Heather Smith <Heather.Smith@otc-cta.gc.ca>; Mary Tobin Oates <Mary.TobinOates@otc-cta.gc.ca>; Lenore Duff <Lenore.Duff@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: Re: Draft statement

No comments from me other than the letter is well timed and valuable to the reader. Its the right thing to do in terms of Crisis Management.

Gerry

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Date: 2020-03-22 11:24 AM (GMT-05:00)
To: Mark MacKeigan <Mark.MacKeigan@otc-cta.gc.ca>, Heather Smith <Heather.Smith@otc-cta.gc.ca>, Mary Tobin Oates <Mary.TobinOates@otc-cta.gc.ca>, Lenore Duff <Lenore.Duff@otc-cta.gc.ca>, Gerald Dickie <Gerald.Dickie@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: Draft statement

Hi, Colleagues. I hope all of you and your family and friends remain healthy and are doing OK despite our current isolation in our homes.

As you know, there have been many questions about what (if any) entitlements passengers have, and what (if any) obligations carriers have, when flights are disrupted as a result of the COVID-19-related mass cancellations.

After some analysis, reflection, and discussion with other federal players, we're considering issuing a statement (draft attached) that acknowledges the current rule-set never really contemplated the present circumstances and indicates that vouchers/credits would be an appropriate way of protecting passengers from a total loss without pushing carriers closer towards insolvency.

Because this statement is a policy signal of sorts and could inform -- though of course, not fetter -- future Agency decisions, Liz and I wanted to share it with all Members. We're looking at releasing it as early as tomorrow, so could you please let us know by 2 pm if you concur with it, and whether you have any questions or comments?

Many thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada

Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Liz Barker
Sent: March 23, 2020 9:38 AM
To: Sébastien Bergeron; Valérie Lagacé; Tom Oommen; Scott Streiner; +_EC
Subject: RE: Revised statement

I think the EU has landed on something different:
https://ec.europa.eu/commission/presscorner/detail/en/ip_20_485

From: Sébastien Bergeron
Sent: March-23-20 9:29 AM
To: Valérie Lagacé ; Tom Oommen ; Scott Streiner ; +_EC
Subject: RE: Revised statement

I agree with Valerie : my least favorite option is to say nothing and let air carriers issue useless vouchers.

Having said this, my preference would be to give these vouchers no expiration date or something like a 5 years expiration date. Allowing airlines to give vouchers instead of cash is already a big move. For reference, the EU, at the exception of Belgium, hasn't gone that far yet. So, in the interest of striking a balance, I would be tempted to give passengers more time to use these vouchers.

Seb

Sébastien Bergeron

Chef de cabinet | Bureau du président et premier dirigeant
Office des transports du Canada | Gouvernement du Canada
sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

Chief of Staff | Office of the Chair and Chief Executive Officer
Canadian Transportation Agency | Government of Canada
Sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

De : Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Envoyé : 23 mars 2020 09:23
À : Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <EC@otc-cta.gc.ca>
Objet : RE: Revised statement

I agree with Tom on this. my least favorite option is to say nothing and let air carriers issue useless vouchers.

De : Tom Oommen <Tom.Oommen@otc-cta.gc.ca>
Envoyé : 23 mars 2020 09:21
À : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <EC@otc-cta.gc.ca>
Objet : RE: Revised statement

In my view, given the nature of the statement, suggesting that 24 months could be considered reasonable, is a good approach. Tom

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Date: 2020-03-23 9:09 AM (GMT-05:00)

To: +_EC <_EC@otc-cta.gc.ca>

Subject: RE: Revised statement

Hi again, everyone. One issue that's been raised by a Member: should we retain language on expiry dates and if so, is the current text the best approach? While it comes across as balanced, it may be a bit vague and beg immediate questions on what we'd see as reasonable.

Alternatives:

- Say vouchers/credits shouldn't have any expiry date. This would be consistent with the APPR and spread people travelling on vouchers over a longer period, but might be seen negatively by carriers who are trying to manage liabilities as losses pile up.
- Indicate more specifically what we think is reasonable – perhaps 24 months. This would provide clarity, but might seem a bit arbitrary in a highly fluid situation. Passengers might also object, given that the APPR prohibit expiry dates (albeit for different circumstances).
- Remain silent on the matter. This would avoid the complications noted above, but we know short expiry periods are being used by some carriers and that passengers find this frustrating and inconsistent with the spirit (if not the letter) of the APPR.

Please email any views on this question in the next hour or so.

Thanks,

S

From: Scott Streiner
Sent: Sunday, March 22, 2020 2:57 PM
To: +_EC <_EC@otc-cta.gc.ca>
Subject: Revised statement

Hi, all. The attached version reflects feedback from Members. Please let me know this afternoon if you have any additional comments.

Valérie, let's have the secretariat ready to translate the statement and a s.64 decision tomorrow morning.

Thanks,

S

Scott Streiner
Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Liz Barker
Sent: March 23, 2020 11:59 AM
To: Scott Streiner
Subject: RE: Revised statement

Yes, I agree.

From: Scott Streiner
Sent: March-23-20 11:56 AM
To: Liz Barker
Subject: FW: Revised statement

Leave as is, I think. If you agree, I'll ask staff to proceed and we'll explain on the Members' call tomorrow why we decided not to be more specific in these highly fluid circumstances.

From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Sent: Monday, March 23, 2020 11:43 AM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: RE: Revised statement

Yes, Secretariat is working as fast as they can on this. The sooner they have a finalized version, the better as they have also formatting to do. Valérie

De : Scott Streiner <Scott.Streiner@otc-cta.gc.ca>
Envoyé : 23 mars 2020 11:37
À : Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Cc : Liz Barker <Liz.Barker@otc-cta.gc.ca>
Objet : RE: Revised statement

Hi, Valérie. Liz and I are leaning towards leaving the statement as is. Have you already sent it for translation? Even if we tweak the expiry language, most of the statement will remain unchanged – and ideally, we'd like post it this afternoon (Comms is on standby).

Thanks,

S

From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Sent: Monday, March 23, 2020 9:23 AM
To: Tom Oommen <Tom.Oommen@otc-cta.gc.ca>; Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; +_EC <_EC@otc-cta.gc.ca>
Subject: RE: Revised statement

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Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Liz Barker
Sent: March 25, 2020 9:48 AM
To: Scott Streiner
Subject: RE: Answer

So I don't like this answer because I don't think it "goes beyond what is required" under the APPR. At a minimum, we should have the discretion to interpret that provision of the APPR as requiring the issuance of vouchers in the circumstances. My view is that this provision cannot leave the pax with nothing.

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Scott Streiner
Date: 2020-03-25 8:47 AM (GMT-05:00)
To: Liz Barker
Subject: FW: Answer

Q3. It does not seem fair to passengers who lost money that they would only get credits or vouchers. Can you explain?

The CTA believes that fair and robust air protection for passengers whose flights are cancelled in these circumstances is essential. That is why the CTA has issued a statement ([insert link](#)) indicating that providing vouchers or credits to passengers in these extraordinary circumstances may be appropriate. This measure goes beyond what is required for situations outside of the carrier's control under the *Air Passenger Protection Regulations* and, in some cases, goes beyond what carriers provide for in their tariffs.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic.

The issuance of vouchers or credits strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances. It is important that passengers not suffer out of pocket, and also that the air industry survive and can continue to provide diverse service offerings to Canadians once the crisis has abated.

From: Liz Barker
Sent: March 25, 2020 4:11 PM
To: Scott Streiner
Cc: Sébastien Bergeron
Subject: RDIM-#2124145-v2-Web_FAQs_-_COVID-19.docx
Attachments: RDIM-#2124145-v2-Web_FAQs_-_COVID-19.docx

My comments in track changes.

Thanks

Liz

Web FAQs – COVID-19 Pandemic

Q1. I cancelled my flight reservation because of COVID-19 – does the airline have to refund my ticket?

The *Air Passenger Protection Regulations* (APPR) do not address situations where a passenger cancels their travel. In these cases, the airline must follow the policies set out in their tariff and fare rules. Contact your airline for more information.

Q2. The airline cancelled my flight because of COVID-19 – does the airline have to refund my ticket?

We The CTA anticipates that most flight disruptions related to COVID-19 will be outside the airline's control. In these cases, the *Air Passenger Protection Regulations* only require that the airline ensure passengers complete their itineraries by rebooking them on the next available flight operated by them or a partner airline. However, an airline is not expected to rebook a passenger if they have completed their trip (including by a repatriation flight).

Some airlines' tariffs provide for refunds in certain cases, but may have clauses that airlines believe relieve them of such obligations in *force majeure* situations.

The legislation, regulations and tariffs were not developed in anticipation of extraordinary circumstances such as these. While each case would need to be assessed on its merits, the CTA believes that refunds to passengers whose flights are cancelled in the form of vouchers or credits for future travel could be appropriate, as long as these vouchers or credits do not expire in an unreasonably short period of time.

This strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances.

Q3. It does not seem fair to passengers who lost money that they would only get credits or vouchers. Can you explain?

The CTA believes that fair and robust air protection for passengers whose flights are cancelled in these circumstances is essential. That is why the CTA has issued a statement ([insert link](#)) indicating that providing vouchers or credits to passengers in these extraordinary circumstances may be appropriate. This measure provides a clear signal on the carrier's obligations in ~~brings greater clarity and consistency in unprecedented and unanticipated circumstances in~~ situations outside of their carrier's control under the *Air Passenger Protection Regulations* – which simply require the

Commented [SB1]: I would delete all of this and simply provide an hyperlink to the statement on our website.

Commented [LB2]: Agreed. Or set quote of statement out here, clearly identified as a quote.

Commented [SB3]:

Commented [LB4]: Well robust air passenger protection would give them what they're entitled to, wouldn't it...? I think that this is the wrong word...

Commented [SB5]: guidance?

completion of the passenger's itinerary, when this may no longer be possible in today's environment – and, in some cases, goes beyond what carriers are to provide under their tariffs.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic.

The issuance of vouchers or credits strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances. It is important that passengers not suffer out of pocket, and also that the air industry survive and can continue to provide diverse service offerings to Canadians once the crisis has abated.

Q4. I am a Canadian trying to return home from abroad. Can the Government of Canada help cover costs?

The Government of Canada has announced the creation of the [COVID-19 Emergency Loan Program](#) to provide financial help for Canadians outside Canada.

Q5. How do the Air Passenger Protection Regulations (APPR) apply to flight delays or cancellations during this pandemic?

In the event of a flight delay or cancellation, airlines must always keep passengers informed of their rights and the cause of a flight disruption.

We anticipate that most flight disruptions related to COVID-19 will be outside the airline's control. In these cases, airlines must make sure the passengers reach their destinations (re-booking them on other flights), but the regulations do not require that airlines provide standards of treatment or compensation.

In the current circumstances, airlines do not have to follow APPR requirements to rebook passengers using an airline with which they have no commercial agreement.

For more information, visit [Important Information for Travellers During COVID-19](#).

Refunds to passengers for cancelled flights, in the form of travel credits or vouchers, may also be appropriate. For more information, please see the CTA's statement [insert link](#)

Q6. I've made a claim for compensation with an airline – don't they have to respond within 30 days?

Commented [LB6]: Not sure we should say this. If obligation is on next available flight but there are no flights for a long time, then obligation moves to when they resume operations. Recognizing the extraordinary circumstances with a long term suspension of air services and ongoing government advisories and bans on travel to and from certain locations, this provision could be interpreted as requiring that vouchers be provided to permit completion of the itinerary at a point in the future, the timing of which is to be determined by the passenger based on the carrier's recovered schedules.

Commented [SB7]: Marcia's changes following your discussion with her re. guidance

Commented [LB8]: Would definitely not say this because I believe that if tariffs provide for nothing, they are out of compliance with the APPR.

Commented [LB9]: Not sure this is enough. I think we should be directing people to the GAC resources that Seb gave me in response to the two situations I sought advice on earlier this week. (as an aside, the three women are still stuck in India because they are unable to travel from GOA to Delhi to catch a repatriation flight due to the Indian govt's shutdown. Not a good situation)

Commented [SB10]: I would be tempted to only provide the 'For more information, visit...' line here

Commented [LB11]: I think there's value in providing this information as it incorporates both the reg and the subsequent orders related to COVID – 19.

Commented [LB12]: Not sure this is accurate. Would only apply in cases where travel had started. There's also the situation of people whose travel hasn't yet started and not sure this covers it that clearly.

Commented [LB13]: Or refunds

Commented [SB14]: guidance?

Commented [LB15]: I would prefer to not pull this sentence out of the statement like this. I would simply link to the statement now.

In the context of the significant declines in passenger volumes and disruptions to airline operations caused by the COVID-19 pandemic and to allow airlines to continue focusing on immediate and urgent operational demands, including bringing Canadians home from abroad, the airlines are temporarily exempted from the obligation to respond to claims for compensation in 30-days. This will remain valid until June 30, 2020 or any further date that the CTA may order. After that, the airline will have 120 days to respond to the claims received during that time.

Q7. I filed an air travel complaint with the CTA. Will it still be processed during the pandemic period?

~~In light of the extraordinary circumstances resulting from the Covid-19 pandemic, the CTA is temporarily pausing all dispute resolution activities involving air carriers until June 30, 2020, to permit them to focus on immediate and urgent operational demands. All air passenger complaints, including by persons with disabilities, will be processed in due course.~~

~~On or before June 30, 2020, the CTA will determine if the pause should end on that date or be extended to a later date.~~

During these difficult times, the Canadian Transportation Agency (CTA) continues to maintain its normal operations while our employees practice social distancing. Our dedicated employees are working remotely and are available through electronic means to provide service. You can continue to request CTA services, file applications, and do normal business with us through our normal channels.

Please note, however, that the CTA has temporarily paused all dispute resolution activities involving air carriers until June 30, 2020, to permit them to focus on immediate and urgent operational demands. While you, passengers, can continue to file air passenger travel complaints with us and all complaints will be processed in due course, we may not be able to respond quickly. On or before June 30, 2020, the Agency will determine if the pause should end on that date or be extended to a later date.

Q8. An airline just suspended their services in my region. Don't airlines have to provide a notice of 120 days before eliminating a service?

The impact of the COVID-19 pandemic is significant and continues to evolve as air carriers try to adjust to travel restrictions and rapidly dropping passenger volumes and revenues. Given these circumstances, the CTA has exempted all airlines from the normal 120 day notice requirement when temporarily reducing or ~~suspending~~ ~~discontinuing~~ domestic air services until June 30, 2020. Once the exemption ends, airlines will be required to immediately resume those services. Services cannot be reduced or discontinued on a permanent basis unless the normal requirements for notice and consultation are followed.

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Commented [SB16]: I would go with the messaging we agreed upon the other day that also signals that we continue to maintain our normal operations...

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Commented [LB17]: agreed

If the CTA finds that the suspension of service on a certain route has caused or is likely to cause a community to become so isolated that it does not have access to critical services and goods, the CTA may lift the exemption. In this case, service would have to resume and the carrier providing the service would have to follow the normal advance notice requirements before suspending it.

From: Mark MacKeigan
Sent: March 22, 2020 1:11 PM
To: Mary Tobin Oates; Scott Streiner; Heather Smith; Lenore Duff; Gerald Dickie
Cc: Liz Barker
Subject: RE: Draft statement
Attachments: Statement mto_mm.docx

Scott, Mary, and all,

I think Mary's changes improve the document. I agree with the policy statement being necessary and I agree with its contents. I have made a few further changes in the attached for colouring and limitation of this policy re: perception of fettering.

Mark

From: Mary Tobin Oates
Sent: Sunday, March 22, 2020 12:55 PM
To: Scott Streiner ; Mark MacKeigan ; Heather Smith ; Lenore Duff ; Gerald Dickie
Cc: Liz Barker
Subject: RE: Draft statement

Hey there!

Thank you for the opportunity to review this document. I think that there should be a short introductory sentence that states that cause of the issuance of a statement. That it's the pandemic is buried. I also wonder which situations are captured by our recommendation: flights returning to Canada or future flights. Thanks, MTO

From: Scott Streiner
Sent: Sunday, March 22, 2020 11:24 AM
To: Mark MacKeigan <Mark.MacKeigan@otc-cta.gc.ca>; Heather Smith <Heather.Smith@otc-cta.gc.ca>; Mary Tobin Oates <Mary.TobinOates@otc-cta.gc.ca>; Lenore Duff <Lenore.Duff@otc-cta.gc.ca>; Gerald Dickie <Gerald.Dickie@otc-cta.gc.ca>
Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>
Subject: Draft statement

Hi, Colleagues. I hope all of you and your family and friends remain healthy and are doing OK despite our current isolation in our homes.

As you know, there have been many questions about what (if any) entitlements passengers have, and what (if any) obligations carriers have, when flights are disrupted as a result of the COVID-19-related mass cancellations.

After some analysis, reflection, and discussion with other federal players, we're considering issuing a statement (draft attached) that acknowledges the current rule-set never really contemplated the present circumstances and indicates that vouchers/credits would be an appropriate way of protecting passengers from a total loss without pushing carriers closer towards insolvency.

Because this statement is a policy signal of sorts and could inform -- though of course, not fetter -- future Agency decisions, Liz and I wanted to share it with all Members. We're looking at releasing it as early as tomorrow, so could you please let us know by 2 pm if you concur with it, and whether you have any questions or comments?

Many thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

The COVID-19 pandemic has caused disruptions in daily lives around the world. For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. In addition, some airlines' tariffs provide for refunds in certain cases, but have clauses that relieve the airline of such obligations in *force majeure* situations. The COVID-19 pandemic would be considered a *force majeure*.

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All these documents were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the COVID-19 pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns and airlines' operational realities in these extraordinary and unprecedented circumstances.

Commented [MM1]: While this document may have been drafted in the context of our Canadian carriers, international licensees are also covered. This text might add a bit of useful colouring.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and have to find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could put their very survival at risk.

Commented [MT02]: Are only repatriation flights being considered? The next sentence seems to contemplate ongoing disruptions.

Commented [MM3R2]: Mary raises a good point.

While any specific situations brought before the CTA will be examined on their merits, the CTA believes that, in the context of the current pandemic, generally speaking, an appropriate solution could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

Commented [MM4]: Again, emphasizing the specific nature of the circumstances. Might help on the fettering issue.

From: Heather Smith
Sent: March 22, 2020 10:32 PM
To: Gerald Dickie; Scott Streiner; Mark MacKeigan; Mary Tobin Oates; Lenore Duff
Cc: Liz Barker
Subject: RE: Draft statement

Hi all!

I agree with the comments that Mary, Mark and Lenore have already made on the draft text. I would also encourage you to look again at the last phrase of the statement "as long as these vouchers or credits do not expire in an unreasonably short period of time". It is ambiguous about what "an unreasonably short period of time" would be, and in many provinces, consumer protection legislation does not allow vouchers and credits to have expiry dates. It seems to be injecting unnecessary questions or potential for media controversy where the Agency is trying to provide guidance and reassurance. I would delete that last thought altogether, or - if you have incorporated Lenore's suggested changes to that sentence re "taking the current circumstances fully into account", I suggest that you end the sentence there.

Cheers!

Heather

From: Gerald Dickie
Sent: Sunday, March 22, 2020 10:04 PM
To: Scott Streiner ; Mark MacKeigan ; Heather Smith ; Mary Tobin Oates ; Lenore Duff
Cc: Liz Barker
Subject: Re: Draft statement

No comments from me other than the letter is well timed and valuable to the reader. Its the right thing to do in terms of Crisis Management.

Gerry

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

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Date: 2020-03-22 11:24 AM (GMT-05:00)
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From: Lenore Duff
Sent: March 22, 2020 1:12 PM
To: Scott Streiner; Liz Barker; Mark MacKeigan; Heather Smith; Mary Tobin Oates; Gerald Dickie
Subject: Statement
Attachments: Statement.docx

Hi Scott & Liz (and colleagues):

Thank you for the opportunity to comment. I have taken a look at this and have a few comments. A couple are for clarity, and one is a “communications” concern, but I have tried to respect the content and format that you and Liz have taken. Please feel free to ignore any or all of my comments – afterall, I will not be around to deal with the fall out from the current crisis when we finally turn the corner. And by not be around, I mean at the Agency rather than on the earth, I hope!

Beyond that, I was wondering about two things:

- What happened in the past with respect to large scale disruptions of air travel, as in 9/11 and the Iceland volcano in Europe. I have noted that in my comments, but was wondering if what we are saying now is consistent with that. I realize it does not have to be consistent and the current crisis is worse, but it might prove useful.
- I am wondering about the timing of this statement. Are we responding to questions from the airlines or the public – if so will be saying something like “in response to concerns/questions raised by the industry and the public... .” I just would want to be careful to not be looking to set a policy standard, which may appear more favourable to industry, without some context. You mention in your email that you have been discussing with other federal colleagues, so this may be a more coordinated federal response, so that may address that concern.

Hope this is helpful, no need to answer my questions, they are largely rhetorical.

Lenore

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. In addition, some airlines' tariffs provide for refunds in certain cases, but have clauses that relieve the airline of such obligations in *force majeure* situations.

All these documents were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of mass cancellations that have taken place over recent weeks as a result of the COVID-19 pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and have to find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues, because of circumstances largely beyond their control should not be expected to take steps that could put their very survival at risk.

While any specific situations brought before the CTA will be examined on its their merits, the CTA believes that, generally speaking, an appropriate response solution could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits take the current situation fully into account, and do not expire in an unreasonably short period of time.

Commented [LD1]: Not sure what we mean by documents here; is it tariffs, or legislation referred to above, or both? I would probably broaden this to instead say: "The legislative framework that governs air travel is primarily designed to address relatively localized and short-term disruptions."

That said, I don't know what happened after 9/11 (or, grant it, to a lesser extent), the Iceland volcano, but perhaps there is some experience on which to draw in terms of a broad scale disruption of air traffic. I think what will set this one apart will be the duration.

Commented [LD2]: Definitely would nix this language, as I can see individuals coming back to say that this is putting their personal survival at risk – not good optics. Maybe you could replace with:
... take steps that threaten their overall economic viability;
or
... take steps that threaten their continued operations.

From: Sébastien Bergeron
Sent: March 25, 2020 2:45 PM
To: Hill, Miled
Subject: Hyperlink : statement_CTA

Miled,

See below.

Sébastien Bergeron

Chef de cabinet | Bureau du président et premier dirigeant
Office des transports du Canada | Gouvernement du Canada
sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

Chief of Staff | Office of the Chair and Chief Executive Officer
Canadian Transportation Agency | Government of Canada
Sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

De : Tim Hillier
Envoyé : 25 mars 2020 14:43
À : Sébastien Bergeron
Cc : Vincent Turgeon
Objet : RE: Link to the statement on the website: can you send this to me ?

<https://otc-cta.gc.ca/eng/statement-vouchers>
<https://otc-cta.gc.ca/fra/message-concernant-credits>

From: Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>
Sent: Wednesday, March 25, 2020 2:42 PM
To: Tim Hillier <Tim.Hillier@otc-cta.gc.ca>
Cc: Vincent Turgeon <Vincent.Turgeon@otc-cta.gc.ca>
Subject: Link to the statement on the website: can you send this to me ?

Sébastien Bergeron

Chef de cabinet | Bureau du président et premier dirigeant
Office des transports du Canada | Gouvernement du Canada
sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

Chief of Staff | Office of the Chair and Chief Executive Officer
Canadian Transportation Agency | Government of Canada
Sebastien.bergeron@otc-cta.gc.ca | Tél. 819-712-0827

From: Sébastien Bergeron
Sent: March 25, 2020 1:37 PM
To: Marcia Jones; Patrice Bellerose; Tim Hillier; Vincent Turgeon; Caitlin Hurcomb; Allan Burnside
Cc: Valérie Lagacé
Subject: RE: push button ready

Yes.

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Marcia Jones
Date: 2020-03-25 1:35 PM (GMT-05:00)
To: Patrice Bellerose , Tim Hillier , Vincent Turgeon , Caitlin Hurcomb , Allan Burnside
Cc: Valérie Lagacé , Sébastien Bergeron
Subject: RE: push button ready

OK, so the statement is being tweaked to reference a 24 months expiry date for vouchers.

It will arrive from the Chair shortly and will need to be translated.

Not a major change.

Seb, can you confirm the approach is to go live once Comms is ready to go live with the statement. So Tim would confirm they are ready, Patrice would then do the decisions and Comms then goes live with the statement and I send out the emails to carriers. Sounds right?

From: Patrice Bellerose
Sent: Wednesday, March 25, 2020 1:27 PM
To: Marcia Jones ; Tim Hillier ; Vincent Turgeon ; Caitlin Hurcomb ; Allan Burnside
Cc: Valérie Lagacé
Subject: RE: push button ready
Are your talking about your statement only or are we stopping on our Decisions too??

From: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Sent: Wednesday, March 25, 2020 1:23 PM
To: Tim Hillier <Tim.Hillier@otc-cta.gc.ca>; Vincent Turgeon <Vincent.Turgeon@otc-cta.gc.ca>; Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>; Allan Burnside <Allan.Burnside@otc-cta.gc.ca>
Cc: Patrice Bellerose <Patrice.Bellerose@otc-cta.gc.ca>; Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>
Subject: RE: push button ready
Importance: High
Stop, do not post – stay tuned.
Sorry about this

From: Marcia Jones
Sent: Wednesday, March 25, 2020 1:11 PM
To: Tim Hillier <Tim.Hillier@otc-cta.gc.ca>; Vincent Turgeon <Vincent.Turgeon@otc-cta.gc.ca>; Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>; Allan Burnside <Allan.Burnside@otc-cta.gc.ca>

cta.gc.ca>

Subject: FW: push button ready

Importance: High

Hello, please note

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Sent: Wednesday, March 25, 2020 12:47 PM

To: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>

Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>; Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>; Marcia Jones <Marcia.Jones@otc-cta.gc.ca>

Subject: RE: push button ready

Let's push the botton(s) at 1:30.

Marcia, please send the emails informing industry and other stakeholders almost immediately after issuance.

Thanks.

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Sent: Wednesday, March 25, 2020 10:40 AM

To: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>

Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>; Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>; Marcia Jones <Marcia.Jones@otc-cta.gc.ca>

Subject: RE: push button ready

Perfect. Thanks.

----- Original message -----

From: Valérie Lagacé <Valerie.Lagace@otc-cta.gc.ca>

Date: 2020-03-25 10:36 a.m. (GMT-05:00)

To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Cc: Liz Barker <Liz.Barker@otc-cta.gc.ca>, Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>, Marcia Jones <Marcia.Jones@otc-cta.gc.ca>

Subject: push button ready

Mr. Streiner,

I just got an update on Patrice's work. She will be ready to issue the three orders by 12:00. We will of course wait for your signal.

Valérie

From: Marcia Jones
Sent: March 11, 2020 9:57 AM
To: Sébastien Bergeron; Liz Barker; Valérie Lagacé
Subject: FW: by way of example

From: Andrew Gibbons
Sent: Wednesday, March 11, 2020 9:48 AM
To: Marcia Jones
Subject: by way of example

Guidance on the application of Regulation EC261/2004 in the context of the developing situation with Covid-19

We recognise that this is a very challenging time for airlines and passengers. We believe it would be helpful for us, as the UK's National Enforcement Body, to clarify how we are currently interpreting certain aspects of European Regulation EC261/2004 that apply to compensation rights that passengers have during disruption caused by the Covid-19 outbreak.

Regulation EC261/2004 provides important rights to passengers applicable at all times, including during the current unprecedented situation. Where flights are cancelled or there are long delays, airlines are required to assist passengers by providing information on their rights and providing care and assistance during the disruption such as providing meals, allowing for passengers to communicate messages, and providing hotel accommodation (and transfers to and from the hotel) for overnight delays.

Where flights are cancelled passengers must be offered the choice of:

- a refund; or
- re-routing (alternative flights) at the earliest opportunity; or
- re-routing at a later date (subject to availability).

It is important that airlines assist passengers by clearly setting out these options to them. In addition, it is open to airlines to offer incentives to passengers to encourage them to fly at a later date, for example through providing vouchers. We recognise that in the current operating environment there may be significant practical difficulties in airlines providing alternative flights, for example, where government advice is to avoid travel to particular destinations. A refund for the passenger may therefore be the only practical option available.

Regulation EC261/2004 also provides for fixed sum compensation in some circumstances. However, this does not apply for cancellations made more than 14 days in advance or where the cancellation is due to 'extraordinary circumstances'.

Given the unprecedented situation we are experiencing in aviation due to Covid-19, and although each case would need to be considered on its own merits and the relevant facts, we consider that the following circumstances would be viewed as 'extraordinary circumstances' and therefore the fixed sum compensation would, in our view, not be payable:

- Where the Government advises against all travel, or all but essential travel, to a destination.
- For cancellations or long delays impacted by Covid-19 in other circumstances that are not inherent in the operation of the airline and beyond its control. Such circumstances could include those where there is no Government advice against travel, but where disruption has been directly caused by activities of regulatory authorities or other third parties related to Covid-19, for example closing airspace to the airline, seriously restricting the airline's operations in other ways, or by placing significant requirements on the airline's passengers which causes disruption to flights.

There may be other circumstances where airlines seek to cancel flights within the 14 day period due to the economic and environmental consequences of operating flights with only a small number of passengers on-board. Such circumstances may be viewed as 'extraordinary circumstances' under Regulation EC261/2004 and therefore the fixed sum compensation would not be payable, but this may not be the case in all circumstances.

The CAA takes a proportionate approach to enforcement and focuses its resources on systematic issues of non-compliance that substantially harm the interests of passengers. In assessing compliance, we are cognisant of the challenging operating conditions that airlines are currently facing and we expect airlines to act in a way which best serves the interests of their customers. On this basis, we will look to airlines to demonstrate that they are being proactive and flexible in managing the situation and minimising the impact on passengers of the disruption.

Please note that the CAA's interpretation of 'extraordinary circumstances' set out above is illustrative and for guidance only, rather than determinative of our view in any specific case that may arise. Each case will be context and fact specific. It should also be recognised that should a passenger or group of passengers disagree with the CAA's interpretation in a specific case, it is open to them to seek to enforce their rights through the courts.

The CAA reserves the right to withdraw, update or amend this statement in light of developments, including guidance from the European Commission or the UK Government, and taking into account the practical impact on both airlines and passengers.

Andrew Gibbons

Director, Government Relations and Regulatory Affairs
116 Lisgar Street, Suite 600
Ottawa, ON
K2P 0C2

P 613-697-1740 | W westjet.com



From: Marcia Jones
Sent: March 18, 2020 10:05 PM
To: Scott Streiner
Cc: Sébastien Bergeron
Subject: Fwd: Request for recognition and acceptance of travel voucher solutions

Scott, I had a long call this evening and have a better understanding of the concern, now outlined in this email.

Perhaps we can discuss tomorrow or at the special EC.

Marcia

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: George Petsikas
Date: 2020-03-18 8:16 PM (GMT-05:00)
To: Marcia Jones
Subject: Request for recognition and acceptance of travel voucher solutions

Marcia

Many thanks for taking time to speak with me this evening.

As discussed, we are currently under enormous pressure from Canada's bank-owned credit card processors as a result of their charge back guarantees to their customers where the merchant is unable to provide the service nor refund the money paid to this end with the card. This is a pretty standard commitment per the credit card agreements offered by the big players such as Mastercard and Visa.

Consequently, one of the conditions imposed by these companies when doing business with large merchants such as Transat is to demand financial guarantees to cover their exposure per their voluntary commitments to their customers in the event we can't deliver or refund regardless of circumstances, including beyond our control and/or force majeure.

The net result is with the avalanche of recent COVID cancellations, consumers are invoking their charge back guarantees directly with the cards / banks, who in turn are demanding that the merchant makes them whole through the guarantees in question. This is putting enormous strain on our desperate attempts to manage the collapse in our revenues and stabilize our business and avoid ultimate failure and job losses.

As explained, this matter was actively addressed in France and Italy recently, two countries enormously dependant on the stability of their important travel and tourism and tourism sectors that have been severely impacted by the crisis. In brief, the relevant travel industry oversight authorities in these countries publicly recognized and accepted the offering of travel vouchers valid for up to 24 months as a satisfactory resolution of the consumer's claim for a cash refund in the current extraordinary circumstances.

This recognition of this option by state authorities in turn allowed the banks / card processors in those countries to invoke this voucher in lieu of a cash refund approach as evidence the merchant had fulfilled its obligations per the sale and thus allowed them to deny the charge back claim. The result was subsequently the suspension or significant alleviation of cash guarantee demands on the travel industry merchant by the banks.

Consequently, Transat respectfully requests that the Agency give active and urgent consideration to publishing a similar statement with respect to the existing travel voucher programs now being offered by Canadian air carriers including ourselves and Air Canada, among others. Again, the purpose is not to create any form of obligation in this sense but simply to recognize them as a satisfactory resolution of any cash refund claims against airlines. This of course would be temporary while we ride out the worst of the storm over the next few months.

Thank you in advance for your assistance and expeditious consideration of the present and please don't hesitate if you have any questions or require further information.

Kind regards - GP

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From: Marcia Jones
Sent: March 19, 2020 4:19 PM
To: George Petsikas
Cc: Bernard Bussi eres; Agnieszka Charysz; Howard Liebman; Allan Burnside; Caitlin Hurcomb
Subject: RE: Request for recognition and acceptance of travel voucher solutions

Follow Up Flag: Assurer un suivi
Flag Status: Flagged

Hi George,

Thanks for your message. Please rest assured we are looking into this – there is a lot going on in government/the Agency at this time, as you can imagine. We do appreciate how much pressure you are facing.

I will definitely keep you posted of any updates.
Marcia

From: George Petsikas
Sent: Thursday, March 19, 2020 12:55 PM
To: Marcia Jones
Cc: Bernard Bussi eres ; Agnieszka Charysz ; Howard Liebman
Subject: RE: Request for recognition and acceptance of travel voucher solutions
Importance: High

Hi Marcia,

Would you be able to provide a status update regarding our urgent request hereunder?

Copying my colleagues who are on need-to-know basis.

Thanks again for your vital cooperation.

George Petsikas

Directeur principal Affaires gouvernementales et de l'industrie
Senior Director, Government and Industry Affairs

T 514-842-9612
C 514-781-1525



Transat A.T. inc.
300, rue L eo-Pariseau, bureau 600
Montr eal (Qu ebec) H2X 4C2

De : Marcia Jones <Marcia.Jones@otc-cta.gc.ca>

Envoyé : 18 mars 2020 22:19

À : George Petsikas <George.Petsikas@transat.com>

Objet : Re: Request for recognition and acceptance of travel voucher solutions

CYBERSÉCURITÉ *Courriel d'une source externe:* Ne cliquer sur aucun lien et aucune pièce jointe sauf si vous faites confiance à l'expéditeur et que le contenu est légitime.

CYBERSECURITY *Email from an external source:* Don't open links and attachments unless you trust the sender and know the content is safe.

Hi George,

Thank you for your message and explaining the situation in more detail. I will be checking into this and I appreciate it is highly urgent.

Regards,
Marcia

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: George Petsikas <George.Petsikas@transat.com>

Date: 2020-03-18 8:16 PM (GMT-05:00)

To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>

Subject: Request for recognition and acceptance of travel voucher solutions

Marcia

Many thanks for taking time to speak with me this evening.

As discussed, we are currently under enormous pressure from Canada's bank-owned credit card processors as a result of their charge back guarantees to their customers where the merchant is unable to provide the service nor refund the money paid to this end with the card. This is a pretty standard commitment per the credit card agreements offered by the big players such as Mastercard and Visa.

Consequently, one of the conditions imposed by these companies when doing business with large merchants such as Transat is to demand financial guarantees to cover their exposure per their voluntary commitments to their customers in the event we can't deliver or refund regardless of circumstances, including beyond our control and/or force majeure.

The net result is with the avalanche of recent COVID cancellations, consumers are invoking their charge back guarantees directly with the cards / banks, who in turn are demanding that the merchant makes them whole through the guarantees in question. This is putting enormous strain on our desperate attempts to manage the collapse in our revenues and stabilize our business and avoid ultimate failure and job losses.

As explained, this matter was actively addressed in France and Italy recently, two countries enormously dependant on the stability of their important travel and tourism and tourism sectors that have been severely impacted by the crisis. In brief, the relevant travel industry oversight authorities in these countries publicly recognized and accepted the offering of travel vouchers valid for up to 24 months as a satisfactory resolution of the consumer's claim for a cash refund in the current extraordinary circumstances.

This recognition of this option by state authorities in turn allowed the banks / card processors in those countries to invoke this voucher in lieu of a cash refund approach as evidence the merchant had fulfilled its obligations per the sale and thus allowed them to deny the charge back claim. The result was subsequently the suspension or significant alleviation of cash guarantee demands on the travel industry merchant by the banks.

Consequently, Transat respectfully requests that the Agency give active and urgent consideration to publishing a similar statement with respect to the existing travel voucher programs now being offered by Canadian air carriers including ourselves and Air Canada, among others. Again, the purpose is not to create any form of obligation in this sense but simply to recognize them as a satisfactory resolution of any cash refund claims against airlines. This of course would be temporary while we ride out the worst of the storm over the next few months.

Thank you in advance for your assistance and expeditious consideration of the present and please don't hesitate if you have any questions or require further information.

Kind regards - GP

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From: Marcia Jones
Sent: March 20, 2020 12:18 PM
To: Allan Burnside; Caitlin Hurcomb
Subject: Fwd: Air passengers and financial stress
Attachments: Air passengers and financial stress (Mar.19.20).pdf

Follow Up Flag: Assurer un suivi
Flag Status: Flagged

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Scott Streiner
Date: 2020-03-20 12:08 PM (GMT-05:00)
To: +_EC
Subject: FW: Air passengers and financial stress

From: Jason Kerr
Sent: Thursday, March 19, 2020 7:21 PM
To: MINTC@TC.GC.CA
Cc: Scott Streiner ; Hill, Miled ; Sébastien Bergeron ; Ian Jack
Subject: Air passengers and financial stress

Dear Minister,

We are writing to you this evening concerning two issues of importance to many thousands of Canadian air travellers affected by government actions in response to the COVID-19 crisis. If you or your staff have any questions, they may contact me for additional information.

Thank you,
Jason



Jason Kerr
SENIOR DIRECTOR / DIRECTEUR PRINCIPAL
Government Relations / Relations gouvernementales
100 – 46 Elgin Street
Ottawa, ON
Tel/Tél 343-998-6679
jkerr@national.caa.ca

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March 19, 2020

The Honourable Marc Garneau, P.C., M.P.
Minister of Transport
330 Sparks Street
Ottawa, ON
K1A 0N5

Subject: Air passengers and financial stress

Dear Minister,

I am writing today concerning two issues of importance to many thousands of Canadian air travellers affected by government actions in response to the COVID-19 virus.

Let me first salute your government for its rapid response to this global pandemic, and acknowledge the extraordinary and complex work that is being undertaken by government and its private-sector partners, such as the airlines, to cope with the sudden and systemic shocks that have resulted.

That said, cases that our travel agent network have dealt with, as well as numerous media reports, show that in recent days many, many Canadians have had to pay thousands of dollars over regular prices in order to buy tickets to come back to Canada, as requested by the federal government. In a related issue, many carriers are offering only credits for future flights, most of which expire within a year, for flights cancelled due to government advisories or orders not to fly to certain destinations. In contrast, Via Rail Canada is offering full refunds to consumers wishing to cancel travel, regardless of when the ticket was purchased.

We believe these government actions are reasonable and warranted for public health reasons. But we equally believe that Canadians should not be hit with large financial penalties for decisions out of their hands, especially at a time when unexpected economic stress has become a fact of life for most Canadians.

We understand the industry is under immense financial pressure itself, and we accept that the enormous fares – as high as \$14,000 to fly from Australia – may have been an unintentional booking anomaly driven by a frantic surge in demand. But the result is still a huge and often unaffordable bill to affected consumers. We note the \$5,000 the government has made available to Canadians who need to book tickets urgently, and thank you for this measure. But we also know that this is not a grant – it is a repayable loan.

As for credits, we note that European Union policy in this area is clear, different than Canada's, and much better for travellers. It requires that airlines offer a full refund

500–1545 ave Carling Ave, Ottawa, ON K1Z 8P9 Tel/Tél 613.247.0117 Fax/Télec 613.247.0118 CAA.ca



(<https://ec.europa.eu/transport/sites/transport/files/legislation/c20201830.pdf>). Customers may choose to accept a credit for future flight, but they should not be forced to. Again, we support a balanced approach that does not unduly further destabilize the carriers. It may well be that their systems are overwhelmed right now, they are properly focused on repatriating Canadians with special flights, and their cash flow cannot withstand a stream of cash refunds at the moment. But it is not fair to expect passengers to shoulder this either. They should be able to access a cash refund, if not now then in the coming months, whether it is the carriers or government that make them whole. To the extent that credits remain an option, they should not be allowed to expire as they would under normal circumstances. It may be more than a year before a Canadian's financial situation is good enough for her or him to contemplate another trip.

We know from the Prime Minister's social media feed that he talked yesterday with the CEOs of Air Canada and WestJet. Such dialogue is important. We request that you raise these issues with the carriers, and also consider whether some government relief is in order. We understand the carriers themselves may need financial relief, and we support this – but would expect that consumer concerns are taken into account too.

A signal now from the Government that these issues will be addressed, even if not for a few weeks, would go a long way towards relieving many thousands of Canadian travellers of the undue financial anxiety that these needed public health measures have imposed on them.

We are in the middle of an unprecedented crisis for everyone, including carriers, but as things stand now many consumers are getting sideswiped in the process. You have always been a champion of the Canadian traveller, Minister Garneau, and we ask you to step up once again.

We would be happy to answer any questions you or your staff might have. Please do not hesitate to contact me by telephone at (613) 863-2590 or email at ijack@national.caa.ca.

Sincerely,

A handwritten signature in blue ink, appearing to read 'IJ', is positioned below the text 'Sincerely,'.

Ian Jack
Vice President, Public Affairs
Canadian Automobile Association (CAA)

CC: Scott Streiner, Chair and Chief Executive Officer, Canadian Transportation Agency

From: Marcia Jones
Sent: March 21, 2020 4:19 PM
To: Allan Burnside; Caitlin Hurcomb; Timothy Zarins
Subject: Fwd: communiqué de presse-arrêt ministériel-20-03-2020.pdf.pdf.pdf.pdf
Attachments: communiqué de presse-arrêt ministériel-20-03-2020.pdf.pdf.pdf.pdf

Fyi

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: George Petsikas
Date: 2020-03-21 12:30 PM (GMT-05:00)
To: Marcia Jones
Cc: Bernard Bussières , Howard Liebman
Subject: Fwd: communiqué de presse-arrêt ministériel-20-03-2020.pdf.pdf.pdf.pdf

Hi Marcia,

In relation to what we have discussed recently, please see attached from Belgium. This is in addition to similar measures already taken by France and Italy.

As you can see, we are not alone in our concerns and that this option is essential to avoid a catastrophic run on carrier cash reserves not just from consumers but from credit card chargeback refunds that the big banks want us to pay for.

I await news regarding our urgent request of earlier this week to this end.

Thx - GP

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L'utilisation de bons à valoir en cas d'annulation dans le cadre de la crise COVID-19 est approuvée par Arrêté ministériel

Le 20 mars 2020 – Le Cabinet de la ministre Muylle confirme que la proposition commune du secteur du voyage organisé d'utiliser des bons à valoir en cas d'annulation dans le cadre de la crise COVID-19 — que ce soit par le voyageur ou par l'organisateur de voyages — a été approuvée. Cette proposition a également été ratifiée aujourd'hui et l'Arrêté ministériel a été publié au Moniteur Belge. Il existe désormais un cadre juridique dans lequel le bon à valoir est devenu un moyen de paiement légalement reconnu.

Ce système de bons à valoir donne au secteur du voyage organisé, l'un des plus durement touchés par le coronavirus, le répit nécessaire pour surveiller ses flux de trésorerie, tout en étant en mesure d'aider le client.

Cette initiative fait suite à la demande des différentes associations professionnelles représentant les différents acteurs du secteur du voyage organisé.

Sans ce système, le secteur du voyage organisé ne pouvait pas survivre longtemps. Dans les circonstances actuelles d'annulation massive et obligatoire des contrats de voyage à forfait, les liquidités disponibles sont insuffisantes pour assurer le remboursement des voyageurs sous les conditions classiques.

Grâce au système de bons à valoir, le voyageur conserve le droit de réserver à nouveau son voyage à une date ultérieure et le secteur du voyage organisé préserve les liquidités nécessaires pour survivre dans cet état d'urgence.

Le secteur remercie la ministre Muylle et son cabinet pour cette action rapide et la bonne coopération dans le cadre de ce dossier.

Le secteur du voyage maintient sa demande de mesures de soutien supplémentaires au gouvernement

En plus de ce système de bons à valoir, le secteur du voyage organisé demande entre autres qu'un système équitable soit élaboré au sein de la Loi voyages qui donne possibilité à l'organisateur de voyages d'invoquer un cas de force majeure lorsque leurs fournisseurs y font appel, ce qui les préserverait de devoir rembourser les sommes reçues.

Actuellement, les entreprises du secteur du voyage organisé ont payé leurs fournisseurs étrangers, mais ne reçoivent pas de remboursement pour les annulations en cours, alors que la législation actuelle les oblige à rembourser toutes les sommes versées. Ce système est intenable dans les circonstances actuelles. C'est pourquoi le secteur réclame d'urgence la création d'un fonds de calamités pour protéger les voyageurs et le secteur dans ces cas précis.

Regard vers l'avenir: des annulations ne sont pas à l'ordre du jour

En tant que secteur, nous regardons également pleinement vers l'avenir. Bien sûr, nous voulons que les gens reviennent le plus tôt possible et le secteur gèrera ceci comme il l'a toujours fait de manière responsable, en tenant compte des directives belges et locales. Annuler ces voyages pour les vacances d'été n'est donc pas du tout à l'ordre du jour. Au contraire, nous espérons à ce moment-là être en mesure d'amener de nombreux voyageurs en toute sécurité vers des destinations de vacances sûres.

Communiqué de presse

Contact pour la presseⁱ:

- **Pour ABTO – Association of Belgian Travel Organisers, BTO – Belgian Travel Organisation en VLARA – Vlaamse Associatie van Reisagenten :**

Pierre Fivet, porte-parole – T: 0479 99 43 91 – E: pfivet@vacansoleil.com

- **Pour l'UPAV – Union Professionnelle des Agences de Voyages :**

Anne-Sophie Snyers, secrétaire générale – T : 0471 88 45 42 – E : anne-sophie@upav.be

- **Pour la VVR – Vereniging Vlaamse Reisbureaus :**

Koen van den Bosch, administrateur délégué – T : 050 25 00 60 – E : koen@vvr.be

ⁱ Il s'agit d'une initiative de l'ensemble du secteur du voyage, ces associations ont été désignées comme porte-parole.

From: Marcia Jones
Sent: March 24, 2020 8:53 PM
To: Scott Streiner; Sébastien Bergeron
Subject: RE: Answer

Hi Scott, I was thinking of the same issue. I drafted up the following earlier today, for your consideration. I think with regard to the airlines, we are not trying to benefit them per se, but rather, ensure that Canadians can benefit from a variety of carriers, service offerings and routes in the future. The only reason we want to do this is for the benefit of Canadian passengers in the long term. It may be helpful to accentuate this.

Marcia

Q3. It does not seem fair to passengers who lost money that they would only get credits or vouchers. Can you explain?

The CTA believes that fair and robust air protection for passengers whose flights are cancelled in these circumstances is essential. That is why the CTA has issued a statement ([insert link](#)) indicating that providing vouchers or credits to passengers in these extraordinary circumstances may be appropriate. This measure goes beyond what is required for situations outside of the carrier's control under the *Air Passenger Protection Regulations* and, in some cases, goes beyond what carriers provide for in their tariffs.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic.

The issuance of vouchers or credits strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances. It is important that passengers not suffer out of pocket, and also that the air industry survive and can continue to provide diverse service offerings to Canadians once the crisis has abated.

From: Scott Streiner
Sent: Tuesday, March 24, 2020 7:34 PM
To: Marcia Jones ; Sébastien Bergeron
Subject: Answer

Hi, Marcia and Seb. Attached is a draft answer to possible questions on why we issued the statement, whether it shortchanges passengers, whether it puts fragile airlines at greater risk of failure, etc. Feel free to tweak – and I'm happy to discuss -- but we need to be ready when the calls come. Thanks.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Marcia Jones
Sent: March 25, 2020 9:57 AM
To: Tim Hillier; Vincent Turgeon; Martine Maltais
Cc: Caitlin Hurcomb; Allan Burnside
Subject: FW: Statement
Attachments: Statement.docx

[Please note](#)

From: Scott Streiner
Sent: Wednesday, March 25, 2020 9:45 AM
To: Valérie Lagacé
Cc: Marcia Jones ; Tom Oommen ; Sébastien Bergeron ; Lesley Robertson
Subject: Statement

Hi, all. After a lot of back-and-forth this morning, Liz and I have decided on a few additional tweaks to the statement. The final FINAL **FINAL** (!) version is attached.

No need for the call at 10.

Thanks,

S

Scott Streiner
Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but typically may have clauses that airlines believe relieve the m-airline of such obligations in *force majeure* situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns-protection and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and must find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

From: Marcia Jones
Sent: March 25, 2020 9:59 AM
To: Scott Streiner; Sébastien Bergeron
Cc: Liz Barker
Subject: RE: Answer

Will do.

From: Scott Streiner
Sent: Wednesday, March 25, 2020 9:53 AM
To: Marcia Jones ; Sébastien Bergeron
Cc: Liz Barker
Subject: RE: Answer

Hi, Marcia. As part of Liz's and my discussion of the statement this morning, we concluded that vouchers may not, in fact, go beyond what the APPR require, since they could, arguably be deemed a necessary alternative to itinerary completion where completion isn't possible. That's the sort of interpretation the Agency might could conceivably in future adjudications.

Could you please adjust the answer accordingly, emphasizing not "going beyond" but rather, "bringing greater greater clarity and consistency in unprecedented and unanticipated circumstances"?

Thanks.

From: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Sent: Tuesday, March 24, 2020 8:53 PM
To: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>; Sébastien Bergeron <Sébastien.Bergeron@otc-cta.gc.ca>
Subject: RE: Answer

Hi Scott, I was thinking of the same issue. I drafted up the following earlier today, for your consideration. I think with regard to the airlines, we are not trying to benefit them per se, but rather, ensure that Canadians can benefit from a variety of carriers, service offerings and routes in the future. The only reason we want to do this is for the benefit of Canadian passengers in the long term. It may be helpful to accentuate this.

Marcia

Q3. It does not seem fair to passengers who lost money that they would only get credits or vouchers. Can you explain?

The CTA believes that fair and robust air protection for passengers whose flights are cancelled in these circumstances is essential. That is why the CTA has issued a statement ([insert link](#)) indicating that providing vouchers or credits to passengers in these extraordinary circumstances may be appropriate. This measure goes beyond what is required for situations outside of the carrier's control under the *Air Passenger*

Protection Regulations and, in some cases, goes beyond what carriers provide for in their tariffs.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic.

The issuance of vouchers or credits strikes a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances. It is important that passengers not suffer out of pocket, and also that the air industry survive and can continue to provide diverse service offerings to Canadians once the crisis has abated.

From: Scott Streiner <Scott.Streiner@otc-cta.gc.ca>

Sent: Tuesday, March 24, 2020 7:34 PM

To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>

Subject: Answer

Hi, Marcia and Seb. Attached is a draft answer to possible questions on why we issued the statement, whether it shortchanges passengers, whether it puts fragile airlines at greater risk of failure, etc. Feel free to tweak – and I'm happy to discuss -- but we need to be ready when the calls come. Thanks.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada

Chair and Chief Executive Officer, Canadian Transportation Agency

scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

From: Marcia Jones
Sent: March 25, 2020 4:20 PM
To: Sébastien Bergeron
Subject: Fwd: Update: CTA measures/Mise à jour: mesures prises par l'OTC

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: George Petsikas
Date: 2020-03-25 3:17 PM (GMT-05:00)
To: Marcia Jones
Cc: Caitlin Hurcomb , Allan Burnside , Bernard Bussières , Howard Liebman
Subject: Re: Update: CTA measures/Mise à jour: mesures prises par l'OTC

Marcia

I confirm reception of your note hereunder on behalf of Transat.

Please accept our sincere thanks for turning this around and getting it out the door. We are mindful that Agency staff have been working very hard and diligently to assist both industry and consumers in this time of crisis so our appreciation is genuine.

Best regards and personal wishes to you, your family and colleagues for continued good health.

George

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From: Marcia Jones
Sent: Wednesday, March 25, 2020, 2:34 PM
To: Marcia Jones
Cc: Caitlin Hurcomb; Allan Burnside
Subject: Update: CTA measures/Mise à jour: mesures prises par l'OTC

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Le français suit l'anglais.

Good afternoon,

I am writing to provide an update on the latest steps the Canadian Transportation Agency (CTA) has taken related to the COVID-19 pandemic. Today, the CTA issued decisions:

- Temporarily exempting all air carriers holding a domestic licence from the requirement in section 64 of the *Canada Transportation Act* to provide 120 days' notice and engage in consultations before temporarily suspending the operation of air services between points in Canada, while retaining that requirement for any permanent discontinuation of service. For more information, see [Order 2020-A-36](#).
- Temporarily exempting all air carriers from the *Air Passenger Protection Regulations* deadline for responding to passenger claims for compensation, while requiring that responses be provided within 120 days of the end of the exemption to certain APPR provisions. For more information, see [Determination A-2020-47](#).
- Extending the previously announced exemptions from certain APPR requirements related to compensation and alternate travel arrangements from April 30, 2020 to June 30, 2020. For more information, see [Determination A-2020-47](#).
- Extending the stay of all dispute resolution activities involving air carriers from April 30, 2020 to June 30, 2020. For more information, see [Order 2020-A-37](#).

In addition, the CTA has released a statement providing guidance for addressing the mass flight cancellations taking place worldwide. In order to balance passenger protection and airline operating realities in these extraordinary and unprecedented circumstances, the CTA has indicated that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time. A period of 24 months would be considered reasonable in most cases. Of course, any situation brought forward to the CTA will be evaluated on its own merits. The full statement is available on the [CTA's website](#).

We will be sure to keep you informed of any further developments. Please don't hesitate to contact me with any questions.

Bonjour,

Je vous écris pour faire le point sur les dernières mesures prises par l'Office des transports du Canada (OTC) dans le contexte de la pandémie de COVID-19. Aujourd'hui, l'OTC a rendu des décisions visant :

- à exempter temporairement tous les transporteurs aériens détenant une licence intérieure de l'obligation de donner un préavis de 120 jours, obligation prévue à l'article 64 de la *Loi sur les transports au Canada*, et de tenir des consultations avant de suspendre temporairement l'exploitation des services aériens entre des points situés au Canada; cette obligation est toutefois maintenue pour toute interruption de service permanente. Pour en savoir plus, consultez [l'arrêté n° 2020-A-36](#);
- à exempter temporairement tous les transporteurs aériens de l'obligation de respecter le délai prévu dans le *Règlement sur la protection des passagers aériens* pour répondre aux demandes d'indemnité présentées par les passagers, en exigeant toutefois que les réponses soient fournies dans un délai de 120 jours à compter de la fin de la période d'exemption de l'application de certaines dispositions du RPPA. Pour en savoir plus, consultez [la détermination n° A-2020-47](#);
- à prolonger du 30 avril au 30 juin 2020 les exemptions de l'application de certaines exigences du RPPA liées aux indemnités et aux arrangements de voyage alternatifs. Pour en savoir plus, consultez [la détermination n° A-2020-47](#);
- à prolonger du 30 avril au 30 juin 2020 la suspension de toutes les activités liées au règlement des différends concernant les transporteurs aériens. Pour en savoir plus, consultez [l'arrêté n° 2020-A-37](#).

De plus, l'OTC a publié une déclaration dans laquelle il donne des orientations pour faire face aux annulations massives de vols effectuées à l'échelle de la planète. Afin d'établir un équilibre entre la protection des passagers et les réalités opérationnelles des compagnies aériennes dans ces circonstances extraordinaires et sans précédent, l'OTC a indiqué que, de façon générale, une solution qui serait convenable dans le contexte actuel serait que les compagnies aériennes fournissent aux passagers touchés des bons ou des crédits pour des voyages futurs, à condition que ces bons ou ces crédits n'expirent pas dans un délai déraisonnablement court. Une période de 24 mois serait considérée comme raisonnable dans la plupart des cas. Bien entendu, toutes les situations présentées à l'OTC seront évaluées au cas par cas. La déclaration complète se trouve sur [le site Web de l'OTC](#).

Nous ne manquerons pas de vous tenir informés de l'évolution de la situation. N'hésitez pas à communiquer avec moi si vous avez des questions.

Meilleures salutations,

Marcia Jones

Dirigeante principale, Stratégies/Chief Strategy Officer

Office des transports du Canada/Canadian Transportation Agency

15, rue Eddy/15 Eddy Street

Gatineau, QC, K1A 0N9

(613) 864-9918

marcia.jones@otc-cta.gc.ca

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From: Caitlin Hurcomb
Sent: March 18, 2020 6:12 PM
To: Jason Kerr
Cc: Marcia Jones; Sébastien Bergeron; Allan Burnside
Subject: RE: Revised and simpler Qs I hope

Follow Up Flag: Assurer un suivi
Flag Status: Flagged

Hi Jason,

In the event of a delay or cancellation outside the airline's control, the APPR requires the airline to follow communications obligations and ensure the passenger completes their itinerary. This follows the regulatory framework set by Parliament in the *Transportation Modernization Act*.

I am not able to speak to airline policies regarding refunds for flight cancellations that are outside carrier control. These would vary by carrier and may also depend on the fare type. The same would be true of airline policies on cancellations initiated by the passenger. The APPR does not prescribe how refunds in these circumstances must be provided.

Please feel free to contact me if there are further questions.

All the best,
Cait

From: Jason Kerr [mailto:jkerr@national.caa.ca]
Sent: Wednesday, March 18, 2020 5:12 PM
To: Caitlin Hurcomb
Cc: Marcia Jones ; Sébastien Bergeron ; Allan Burnside
Subject: RE: Revised and simpler Qs I hope

Thanks for this info Cait. In the interest of time, generally speaking, do airlines refund for a force of majeure situation? I assume they refund refundable tickets. In other cases where maybe credits are all that applies, is it acceptable to have expiry dates? This was a key element of the APPR – ensuring any credits have no expiry.

Lastly, I want to reiterate that CAA does not believe that it is fair to consumers that airline-initiated cancellations are not refundable. We will be looking how best to address this element.

Jason

From: Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>
Sent: March 18, 2020 5:05 PM
To: Jason Kerr <jkerr@national.caa.ca>
Cc: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>; Sébastien Bergeron <Sebastien.Bergeron@otc-cta.gc.ca>; Allan Burnside <Allan.Burnside@otc-cta.gc.ca>
Subject: RE: Revised and simpler Qs I hope

Hi Jason,
I'm writing with some information in response to your questions below.

First, I should note that the APPR does not address situations in which a passenger cancels their own flight. In these cases, the passenger should speak directly with the airline or check the airline's tariff and fare rules on the airline's website.

In terms of flight delays and cancellations, we would expect most disruptions during the current circumstances would be COVID-related, and likely outside carrier control. However, it is possible for disruptions at this time to fall into the other categories as well.

For situations outside the carrier's control, the APPR requires that an airline make sure the passenger completes their itinerary by following rebooking requirements, but does not require a refund. If an airline's tariff allows a full or partial refund in such situations, the airline must provide it.

The temporary APPR exemptions the CTA announced on Friday relate to compensation and rebooking requirements. All other APPR requirements remain in place and unchanged. Here are some links to more information about the temporary measures. Further information for the public is forthcoming – we will let you know as soon as it is released on the CTA website.

- <https://otc-cta.gc.ca/eng/content/canadian-transportation-agency-issues-temporary-exemptions-certain-air-passenger-protection>
- <https://otc-cta.gc.ca/eng/ruling/a-2020-42>

You should be aware that in light of the extraordinary circumstances resulting from the COVID-19 pandemic, the CTA issued [an order](#) to temporarily stay dispute proceedings involving airlines – essentially, to pause communications with airlines on complaints against them. The stay is currently set to continue until April 30 and applies to proceedings that are currently before the Agency and any applications for dispute adjudication made during the stay period. This pause is aimed at allowing the airlines to focus on immediate and urgent operational demands, like getting Canadians home. The CTA will deal with every complaint that is brought forward and we remain available to answer questions from travellers.

Finally, the Government has announced a program to support Canadians trying to return from abroad. This program does not involve the CTA, but I expect further information is forthcoming.

I hope this information is helpful.

All the best,
Cait

From: Jason Kerr [<mailto:jkerr@national.caa.ca>]
Sent: Wednesday, March 18, 2020 1:32 PM
To: Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>; Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Subject: RE: Revised and simpler Qs I hope

Thanks Caitlin. Many thanks.

From: Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>
Sent: March 18, 2020 12:48 PM
To: Jason Kerr <jkerr@national.caa.ca>; Marcia Jones <Marcia.Jones@otc-cta.gc.ca>
Subject: Re: Revised and simpler Qs I hope

Hi Jason,
Just following up - we'll get back to you with some information as soon as possible.

Thanks very much,
Cait

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Jason Kerr <jkerr@national.caa.ca>

Date: 2020-03-18 12:45 PM (GMT-05:00)

To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>, Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>

Subject: Revised and simpler Qs I hope

Hi Marcia and Caitlin,

As I've gone through the details even deeper I think I can narrow down my questions. Also, with Canada closing the US border there are fewer questions I have about transborder versus international. It's primarily the items in yellow I would like confirmed and if you can add any context that would be great. Thank you!

1. **A Canadian in Canada today decides on their own not to travel domestically (e.g. Montreal to Vancouver) on a still regularly scheduled flight.**
 - **This situation is not covered under APPR.** The decision to cancel travel in this case is passenger-initiated.
 - Whether the customer can receive a refund or credit will depend on the airline and the restrictions on the ticket purchased.
2. **A Canadian is mid-trip and is booked on a flight that is still operating from an international or transborder destination back to Canada but, the flight is delayed significantly, rescheduled or cancelled.**
 - Virtually all international and transborder flights are likely to be Covid-related with related travel disruptions therefore considered outside carrier control. No compensation or standard of care due. Air carries do have to make sure the passenger completes their itinerary.
 - If a passenger believes their flight was disrupted by a non-Covid related issue, the CTA suggests filing a [complaint](#). The Agency will investigate complaints on a case-by-case-basis.
 - In the event the passenger in this case no longer wishes to travel of their own choosing, **there are no APPR requirements that apply.** Whether the customer can receive a refund or credit will depend on the airline and the restrictions on the ticket purchased.
3. **A Canadian at home has future international/transborder travel disrupted by the air carrier.**
 - **This situation is covered under APPR.**
 - **TBC - Airlines are required to get passengers where they were going, communicate travel changes with them or refund passengers if they no longer wish to travel.**
 - **Note: at this time, future domestic flights are likely to continue and the modified APPR (details below) applies.**
4. **A Canadian at home has regularly scheduled international/transborder travel for the future they would like to cancel. (Departure before April 30th)**
 - **This situation is not covered under APPR.** The decision to cancel travel in this case is passenger-initiated.

5. A Canadian at home has regularly scheduled international/transborder travel booked for the future they would like to cancel. (Departure after April 30th)
- **This situation is not covered under APPR.** The decision to cancel travel in this case is passenger-initiated.



Jason Kerr

SENIOR DIRECTOR / DIRECTEUR PRINCIPAL
Government Relations / Relations gouvernementales
100 – 46 Elgin Street
Ottawa, ON
Tel/Tél 343-998-6679
jkerr@national.caa.ca

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From: Vincent Turgeon
Sent: March 24, 2020 5:13 PM
To: Marcia Jones; Sébastien Bergeron
Cc: Alysia Lau; Tim Hillier; Martine Maltais
Subject: FW: Question urgente de La Presse

Importance: High

Hi, the **media request** below is the 3rd such request about refunds and vouchers. The first was received mid-week last week and remains unanswered.

In light of the web revision that is about to be posted on this topic, can we send the link to the journalists, with a short message stating we regret late response, and refer them to the statement which addresses their question?

Just for the question below, are we in a position to provide her with the number of complaints received citing that regulatory issue?

Also, our Twitter account has received dozens of questions on that same topic. Can I use that strategy for direct responses on email (@Info inbox) and on Twitter?

Please advise.

Vincent

From: Grammond, Stéphanie [<mailto:sgrammond@lapresse.ca>]
Sent: Tuesday, March 24, 2020 4:17 PM
To: Media Relations / Relations Medias <media@tc.gc.ca>
Subject: Question urgente de La Presse

Bonjour,

Au lieu de rembourser les clients dont les vols sont annulés à cause de la COVID-19, plusieurs transporteurs leur offrent un crédit valide pour 12-24 mois. En ces temps difficiles, les consommateurs qui sont nombreux à avoir perdu leur emploi préféreraient avoir l'argent dans leurs poches.

Avez-vous beaucoup de plaintes à cet égard?

Est-il légal de la part des transporteurs de refuser de rembourser les clients à qui ils n'ont pas fourni le vol prévu?

Merci de me revenir d'ici la fin de la journée,

SG



Stéphanie Grammond

Chroniqueuse

La Presse, Affaires

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LaPresse.ca | LaPressePlus.ca

From: Vincent Turgeon
Sent: March 25, 2020 4:05 PM
To: Tim Hillier; Marcia Jones
Subject: FW: Media Inquiry-URGENT

Importance: High

Hi Marcia and Tim, please advise. We just received this. We could simply respond that it is a clarification offered by the CTA.

Vincent

From: YVONNE COLBERT
Sent: Wednesday, March 25, 2020 3:53 PM
To: media
Subject: Media Inquiry-URGENT

Hello,

I am following up a voicemail I just left on your media line.

I am working on a story today about the airlines and their positions on providing credits versus refunds for tickets on flights that were cancelled by the airlines.

Is this from the CTA?

<https://www.otc-cta.gc.ca/eng/statement-vouchers>

It has no name attached to it and I would like to know who to attribute it to and on what legislative basis it is endorsing credits and not refunds?

I ask because the CTA has issued decisions that say airlines must refund passengers, even when the cancellation is beyond the airlines' control.

An August 29, 2013 decision from the Canadian Transport Agency states "The Agency agrees with Mr. Lukács, and finds that it is unreasonable for Porter to refuse to refund the fare paid by a passenger because of its cancellation of a flight, even if the cause is an event beyond Porter's control." I must finish my story today but I need confirmation from you that this link is legitimate and the release is from the CTA. I am hoping you can respond to my questions within the next few hours. Regards, Yvonne

<https://www.otc-cta.gc.ca/eng/statement-vouchers>

--

Yvonne Colbert
Consumer Watchdog
CBC Nova Scotia

902-420-4559 office
902-478-6425 cell
902-420-4116 newsroom
yvonne.colbert@cbc.ca

From: Jordan Doyle
Sent: March 18, 2020 1:44 PM
To: Drew Tyler; DTR-TRD
Cc: Ben Bedard; Greg Landry; Christine Solomon; Moira Siân Reid
Subject: RE: APPR - border closure

Good day Drew,

As you already stated the Agency took steps on Friday to address the major impacts that the COVID-19 pandemic is having on the airline industry. At this time there are no further exemptions forth coming, that I am aware of.

Under the Air Passenger Protection Regulations (APPR), when an airline cancels or delays a flight, they have minimum obligations to passengers that could include standards of treatment, rebooking or refunds, and compensation for inconvenience. Their obligations depend on whether the disruption is within the control of the airline, within the airline's control but required for safety, or outside its control. There were limited [exemptions issued last Friday](#) in this regard.

If an airline cancels or delays flights to or from a **certain region because of a medical emergency** (such as a Public Health Emergency of International Concern declared by the World Health Organization) or a **related travel ban there**, this would generally be considered outside the airline's control. In that case, airlines are required by APPR, at a minimum, to ensure the passenger's complete their itinerary as soon as feasible. In this regard, we draw your attention to section 18 of the APPR.

If the airline cancels or delays flights, this may also be outside their control, for example, if the medical emergency was the primary reason for the disruption. However, if the airline's decision was primarily commercial or one made in its day-to-day operations, this could be considered within the airline's control. **Each situation would have to be assessed on its own merits.**

The APPR does not address airline obligations **if a passenger wishes to change or cancel their flight reservation**. If a passenger wishes to cancel or change their own flight reservation to a certain region because of a medical emergency or travel advisory there or to a nearby region, the passenger should speak directly with the airline or check their tariff and the fare rules on their website. In respect to how the carrier refunds the passenger outside their obligations under the APPR, these policies must be articulated in the carrier's tariff. As such these policies may be subject to review by the Agency as they must be just and reasonable.

As well, an airline may refuse to transport a passenger, for example, for health, safety or immigration reasons or if the passenger is not allowed to enter their destination country. Airlines set out in their tariffs under what circumstances they will refuse to transport a passenger.

Regards,

Jordan Doyle

Conseiller Principal, Tarifs et recherche
Direction générale des déterminations et de la conformité
Office des transports du Canada | Gouvernement du Canada
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Senior Advisor, Tariffs and Research
Determinations and Compliance Branch

Office
des transports
du Canada



Canadian
Transportation
Agency

Canada

From: Drew Tyler
Sent: Wednesday, March 18, 2020 12:41 PM
To: Jordan Doyle ; DTR-TRD
Cc: Ben Bedard ; Greg Landry
Subject: APPR - border closure

Jordan,

Please see my email below to Christine Solomon and Moira Reid. Any information you can provide would be greatly appreciated. I've also copied dtr-trd@otc-cta.gc.ca as Ms. Solomon's out-of-office message indicated that emails should be sent to that address.

Regards,

Drew Tyler
Conlin Bedard LLP
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From: Drew Tyler
Sent: March 18, 2020 12:38 PM
To: Christine Solomon <Christine.Solomon@otc-cta.gc.ca>; Moira Siân Reid <Moira.Reid@otc-cta.gc.ca>
Cc: Ben Bedard (bbedard@conlinbedard.com) <bbedard@conlinbedard.com>; Greg Landry <glandry@conlinbedard.com>
Subject: APPR - border closure

Christine and Moira,

I tried calling but I suspect you may be working out of the office.

Can you provide any information on whether the CTA is going to grant any further exemptions to the APPR in light of the border closures? Further, can you advise on how the CTA will be dealing with airlines that are forced to suspend flights? For example, I noticed that Air Transat announced it will be suspending flights and that it

would be offering credits to affected passengers, rather than refunds. Is this something that the CTA will allow given the extraordinary circumstances?

Any information would be greatly appreciated.

Drew Tyler

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From: Jason Kerr <jkerr@national.caa.ca>
Sent: March 18, 2020 10:08 AM
To: Marcia Jones; Caitlin Hurcomb
Subject: RE: Covid

Follow Up Flag: Assurer un suivi
Flag Status: Flagged

Hi Marcia,

I realize I threw you a lot of questions yesterday and given the extraordinary circumstance remote work can be a challenge. For managing my own internal comms, do you think your team will be able to respond to me today?

Thanks,
Jason

From: Jason Kerr
Sent: March 17, 2020 1:08 PM
To: Marcia Jones ; Caitlin Hurcomb
Subject: RE: Covid

Thanks so much Marcia for the quick reply. I appreciate your guidance and feel it might be best to illustrate my questions in practical situations. Please feel free to add in details I neglect to ask about that you feel are useful for interpreting the situation. I am trying to better understand mainly the refund scenarios at play and how they intersect with APPR. The key thing I need to be able to guide our travel agents on is when the airline is required to provide refunds versus credits under the following several scenarios. Feel free to address these thoughts however best you see fit.

1. **A Canadian in Canada today decides on their own not to travel domestically (Montreal-Vancouver) on a still regularly scheduled flight.**
 - a. For a refund, does the reason for their decision matter – sick/worried/travel no longer needed?
 - b. For a refund, does the timeframe matter – cancellation request is hours/days/weeks before travel?
 - c. Would the passenger be entitled to a refund under APPR or would this fall to their contract terms and conditions?
 - d. Also – if the traveller did embark on the trip after all, please confirm that tarmac delays, child seating and communication requirements still apply?
2. **A Canadian in Canada today decides on their own not to travel transborder to the U.S. (Toronto-Chicago or vice versa) on a regularly scheduled flight.**
 - a. For a refund, does the reason for their decision matter – sick/worried/travel no longer needed?
 - b. For a refund, does the timeframe matter – cancellation request is hours/days/weeks before travel?
 - c. Would the passenger be entitled to a refund under APPR or would this fall to their contract terms and conditions?
 - d. Also – if the traveller did embark on the trip after all, please confirm that tarmac delays, child seating and communication requirements still apply?
3. **A Canadian is mid-trip and is booked on a flight that is still operating from an international destination to Canada but the flight is delayed significantly and/or rescheduled. *Note: I may be wrong but I'm assuming all international flights inbound are now considered Covid-19 related?***

- a. Does any APPR coverage still apply for tarmac delays, child seating and communication requirements? Does the answer change if the flight is from the U.S.?
 - b. We understand the airline must complete the passenger's itinerary but if the traveller chooses not to travel, are they entitled to a refund (versus a credit)?
 - i. Is the answer different depending on the reason (i.e. viral)?
 - ii. Is the answer different depending on the timeframe of the flight – hours/days/weeks?
- 4. A Canadian is somewhere in the world and their flight is cancelled due to the travel restrictions and they are left stranded at this time.**
- a. They are trying to get back. Are they entitled to a refund for the return leg of their trip?
 - b. Is the airline still responsible for repatriating them many weeks later whenever possible? Does that affect getting a refund?
- 5. A Canadian has international travel booked for the future they would like to cancel.**
- a. Are they entitled to a refund under APPR or is this solely based on their ticket contract?
 - i. Does reason or timeframe of notice matter?
- 6. A Canadian has international travel booked in the next few weeks that has been cancelled by the airline due to government restrictions.**
- a. The airline can't provide the service – is the passenger entitled to a refund despite the situation being outside carrier control?

Many thanks. I realize there is a lot here but any answers you can send me quickly would be super helpful even if more details take a bit longer.

Jason



Jason Kerr

SENIOR DIRECTOR / DIRECTEUR PRINCIPAL

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From: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>

Sent: March 17, 2020 11:58 AM

To: Jason Kerr <jkerr@national.caa.ca>; Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>

Subject: Re: Covid

Hi Jason, please send us your questions for now.

Thanks,
Marcia

Sent from my Bell Samsung device over Canada's largest network.

----- Original message -----

From: Jason Kerr <jkerr@national.caa.ca>

Date: 2020-03-17 11:35 AM (GMT-05:00)

To: Marcia Jones <Marcia.Jones@otc-cta.gc.ca>, Caitlin Hurcomb <Caitlin.Hurcomb@otc-cta.gc.ca>

Subject: Covid

Hi Marcia & Caitlin,

I hope you are both doing well and able to work from home. CAA, as you can imagine, like others in the travel industry is dealing with significant call volumes from customers facing travel disruptions. I have read all of the details the CTA posted about the exemptions and still have some questions. Would it be possible to have a quick call or can I send a list of questions? I am trying to draft an internal note to guide our call centres on what from APPR still applies and what doesn't to set expectation. Unless you have a guidance doc prepped that you can send me, this would be super helpful.

Thanks,
Jason



Jason Kerr

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From: Jason Kerr <jkerr@national.caa.ca>
Sent: March 18, 2020 4:36 PM
To: Marcia Jones; Caitlin Hurcomb
Cc: Sébastien Bergeron
Subject: RE: Revised and simpler Qs I hope

Importance: High

Follow Up Flag: Assurer un suivi
Flag Status: Flagged

I should add that I do realize I am asking for interpretations that move beyond just the APPR.

For example, in the EU, my understanding is airlines are required to refund flights the airline cancels over Covid-19. I reference Section 2.2 of an EU Guidance doc posted today at <https://ec.europa.eu/transport/sites/transport/files/legislation/c20201830.pdf>. It clearly distinguishes a difference between a passenger deciding to cancel as compared to an airline forced to cancel. The latter, the EU requires reimbursement as an option.

On the other hand, in Canada, airlines appear to be enforcing their ticketing terms and conditions. Refundable tickets are refunded while non-refundable and non-changeable ticket holders are being offered credits with expiry. Air Canada says credits have to be used by December 31, 2020. And Porter, their credit is only valid 12 months.

Is there precedent for this in Canada? Is this something the CTA Members must decide on? If you don't have all the answers that's ok. I recognize how fluid this situation is. Is there any federal jurisdiction for vacation packages in this crisis?

For the record, it is CAA's opinion that any future travel, cancelled by the airline due to Covid-19 should require a full refund for the service that can't be provided. In the event a passenger wishes to travel future travel, non-refundable tickets should at the very least be credited with no expiry. A traveller may not wish to travel to Cuba in the summer.

I would just like to know if CTA is addressing this at the moment. Things are in flux I know but I need a sense of whether this is on the radar. I have to have a note out to my Club by 5pm today so any partial details you can provide would be helpful.

Thanks,
Jason



Jason Kerr
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From: Jason Kerr
Sent: March 18, 2020 12:45 PM
To: 'Marcia Jones (marcia.jones@otc-cta.gc.ca)' ; Caitlin Hurcomb
Subject: Revised and simpler Qs I hope
Importance: High

Hi Marcia and Caitlin,

As I've gone through the details even deeper I think I can narrow down my questions. Also, with Canada closing the US border there are fewer questions I have about transborder versus international. It's primarily the items in yellow I would like confirmed and if you can add any context that would be great. Thank you!

- 1. A Canadian in Canada today decides on their own not to travel domestically (e.g. Montreal to Vancouver) on a still regularly scheduled flight.**
 - **This situation is not covered under APPR.** The decision to cancel travel in this case is passenger-initiated.
 - Whether the customer can receive a refund or credit will depend on the airline and the restrictions on the ticket purchased.
- 2. A Canadian is mid-trip and is booked on a flight that is still operating from an international or transborder destination back to Canada but, the flight is delayed significantly, rescheduled or cancelled.**
 - Virtually all international and transborder flights are likely to be Covid-related with related travel disruptions therefore considered outside carrier control. No compensation or standard of care due. Air carries do have to make sure the passenger completes their itinerary.
 - If a passenger believes their flight was disrupted by a non-Covid related issue, the CTA suggests filing a [complaint](#). The Agency will investigate complaints on a case-by-case-basis.
 - In the event the passenger in this case no longer wishes to travel of their own choosing, **there are no APPR requirements that apply.** Whether the customer can receive a refund or credit will depend on the airline and the restrictions on the ticket purchased.
- 3. A Canadian at home has future international/transborder travel disrupted by the air carrier.**
 - **This situation is covered under APPR.**
 - **TBC - Airlines are required to get passengers where they were going, communicate travel changes with them or refund passengers if they no longer wish to travel.**
 - **Note: at this time, future domestic flights are likely to continue and the modified APPR (details below) applies.**

4. A Canadian at home has regularly scheduled international/transborder travel for the future they would like to cancel. (Departure before April 30th)
 - This situation is not covered under APPR. The decision to cancel travel in this case is passenger-initiated.
5. A Canadian at home has regularly scheduled international/transborder travel booked for the future they would like to cancel. (Departure after April 30th)
 - This situation is not covered under APPR. The decision to cancel travel in this case is passenger-initiated.



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From: Heather Craig-Peddie <HCraig-Peddie@acta.ca>
Sent: March 22, 2020 7:49 PM
To: Caitlin Hurcomb
Cc: Heather Craig-Peddie
Subject: CTA Suspension of air dispute resolution activities

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Caitlin,

I do hope that you and your family are keeping well.

Caitlin, ACTA has received numerous responses from our Travel Agency Members concerned about the messaging that Gabor Lukas is reciting in main stream media. While the CTA has suspended all air dispute resolution activities, and airlines are not allowing for refunds to occur (only travel credits/vouchers), this puts tremendous pressure on travel agencies especially in the regulated provinces of BC, ON and QC. For example, Section 45 of the Ontario Travel Industry Act references that consumers must receive a refund if they do not get their product. The travel industry is on the brink. We anticipate 90% of travel agency businesses to temporarily close operations in the next 7 to 21 days. Recovery will be slow until consumers feel confident in traveling again. The industry will not recover if we have to adhere to these regulations.

Is the CTA in any position to assist the retail Canadian travel industry to work with the federal and provincial governments to quell Mr. Lukas's damaging messaging (difficult I know with freedom of speech), and/or assist with going to the banks and credit card companies for prevention of credit card chargebacks during this time. Globally, governments are putting measures in place to stem the tide of refunds. Below is an excerpt from Belgium law:

The Belgian decree is now official and will be published in the official gazette this afternoon (Google translate) :

Article 1. § 1. When a package travel contract as provided in Article 2, 3 °, of the Law of 21 November 2017 on the sale of package holidays, linked travel arrangements and travel services is canceled due to the corona crisis, either by the tour operator or by the traveler, the tour operator is entitled to provide him with a voucher worth the amount paid instead of a refund.

This voucher meets the following conditions:

1 ° the voucher represents the full value of the amount already paid by the traveler;

2 ° no costs will be charged to the traveler for the delivery of the voucher;

3 ° the voucher has a validity of at least one year;

4 ° the voucher explicitly states that it was delivered as a result of the corona crisis.

§ 2. The traveler cannot refuse the voucher that meets the conditions referred to in paragraph 1.

Art. 2. The travel organizers keep a permanent record of all issued vouchers, their value and their holder.

Art. 3. The insurance contract referred to in Article 3 of the Royal Decree of 29 May 2018 on the protection against insolvency in the sale of package holidays, linked travel arrangements and travel services covers the reimbursement of the vouchers referred to in Article 1.

Art. 4. This Decree shall enter into force on the day of its publication in the Belgian Official Gazette and shall cease to have effect three months after its entry into force.

I appreciate your urgent response to our serious concerns.

With kind regards,

Heather



Association of Canadian Travel Agencies
Association canadienne des agences de voyages

Heather Craig-Peddie
Vice President, Advocacy and Member Relations | ACTA
1 888 257 2282 ext. 122 | www.acta.ca | www.actafr.ca

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[Education Calendar](#) | [Events Calendar](#)

From: George Petsikas <George.Petsikas@transat.com>
Sent: March 25, 2020 3:18 PM
To: Marcia Jones
Cc: Caitlin Hurcomb; Allan Burnside; Bernard Bussières; Howard Liebman
Subject: Re: Update: CTA measures/Mise à jour: mesures prises par l'OTC

Marcia

I confirm reception of your note hereunder on behalf of Transat.

Please accept our sincere thanks for turning this around and getting it out the door. We are mindful that Agency staff have been working very hard and diligently to assist both industry and consumers in this time of crisis so our appreciation is genuine.

Best regards and personal wishes to you, your family and colleagues for continued good health.

George

Get [Outlook for Android](#)

From: Marcia Jones
Sent: Wednesday, March 25, 2020, 2:34 PM
To: Marcia Jones
Cc: Caitlin Hurcomb; Allan Burnside
Subject: Update: CTA measures/Mise à jour: mesures prises par l'OTC

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CYBERSECURITY *Email from an external source:* Don't open links and attachments unless you trust the sender and know the content is safe.

Le français suit l'anglais.

Good afternoon,

I am writing to provide an update on the latest steps the Canadian Transportation Agency (CTA) has taken related to the COVID-19 pandemic. Today, the CTA issued decisions:

- Temporarily exempting all air carriers holding a domestic licence from the requirement in section 64 of the *Canada Transportation Act* to provide 120 days' notice and engage in consultations before temporarily suspending the operation of air services between points in Canada, while retaining that requirement for any permanent discontinuation of service. For more information, see [Order 2020-A-36](#).
- Temporarily exempting all air carriers from the *Air Passenger Protection Regulations* deadline for responding to passenger claims for compensation, while requiring that responses be provided within 120 days of the end of the exemption to certain APPR provisions. For more information, see [Determination A-2020-47](#).
- Extending the previously announced exemptions from certain APPR requirements related to compensation and alternate travel arrangements from April 30, 2020 to June 30, 2020. For more information, see [Determination A-2020-47](#).

- Extending the stay of all dispute resolution activities involving air carriers from April 30, 2020 to June 30, 2020. For more information, see [Order 2020-A-37](#).

In addition, the CTA has released a statement providing guidance for addressing the mass flight cancellations taking place worldwide. In order to balance passenger protection and airline operating realities in these extraordinary and unprecedented circumstances, the CTA has indicated that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time. A period of 24 months would be considered reasonable in most cases. Of course, any situation brought forward to the CTA will be evaluated on its own merits. The full statement is available on the [CTA's website](#).

We will be sure to keep you informed of any further developments. Please don't hesitate to contact me with any questions.

Bonjour,

Je vous écris pour faire le point sur les dernières mesures prises par l'Office des transports du Canada (OTC) dans le contexte de la pandémie de COVID-19. Aujourd'hui, l'OTC a rendu des décisions visant :

- à exempter temporairement tous les transporteurs aériens détenant une licence intérieure de l'obligation de donner un préavis de 120 jours, obligation prévue à l'article 64 de la *Loi sur les transports au Canada*, et de tenir des consultations avant de suspendre temporairement l'exploitation des services aériens entre des points situés au Canada; cette obligation est toutefois maintenue pour toute interruption de service permanente. Pour en savoir plus, consultez [l'arrêté n° 2020-A-36](#);
- à exempter temporairement tous les transporteurs aériens de l'obligation de respecter le délai prévu dans le *Règlement sur la protection des passagers aériens* pour répondre aux demandes d'indemnité présentées par les passagers, en exigeant toutefois que les réponses soient fournies dans un délai de 120 jours à compter de la fin de la période d'exemption de l'application de certaines dispositions du RPPA. Pour en savoir plus, consultez [la détermination n° A-2020-47](#);
- à prolonger du 30 avril au 30 juin 2020 les exemptions de l'application de certaines exigences du RPPA liées aux indemnités et aux arrangements de voyage alternatifs. Pour en savoir plus, consultez [la détermination n° A-2020-47](#);
- à prolonger du 30 avril au 30 juin 2020 la suspension de toutes les activités liées au règlement des différends concernant les transporteurs aériens. Pour en savoir plus, consultez [l'arrêté n° 2020-A-37](#).

De plus, l'OTC a publié une déclaration dans laquelle il donne des orientations pour faire face aux annulations massives de vols effectuées à l'échelle de la planète. Afin d'établir un équilibre entre la protection des passagers et les réalités opérationnelles des compagnies aériennes dans ces circonstances extraordinaires et sans précédent, l'OTC a indiqué que, de façon générale, une solution qui serait convenable dans le contexte actuel serait que les compagnies aériennes fournissent aux passagers touchés des bons ou des crédits pour des voyages futurs, à condition que ces bons ou ces crédits n'expirent pas dans un délai déraisonnablement court. Une période de 24 mois serait considérée comme raisonnable dans la plupart des cas. Bien entendu, toutes les situations présentées à l'OTC seront évaluées au cas par cas. La déclaration complète se trouve sur [le site Web de l'OTC](#).

Nous ne manquerons pas de vous tenir informés de l'évolution de la situation. N'hésitez pas à communiquer avec moi si vous avez des questions.

Meilleures salutations,

Marcia Jones

Dirigeante principale, Stratégies/Chief Strategy Officer

Office des transports du Canada/Canadian Transportation Agency

15, rue Eddy/15 Eddy Street

Gatineau, QC, K1A 0N9

(613) 864-9918

marcia.jones@otc-cta.gc.ca

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From: Jason Kerr <jkerr@national.caa.ca>
Sent: March 25, 2020 3:45 PM
To: Caitlin Hurcomb
Cc: Marcia Jones; Sébastien Bergeron
Subject: RE: New dates for CTA exemptions

I should have shared this link as well. There is no quote but it sounds like a position statement from CTA that credits that expire 24 months out are deemed reasonable. Just also wondering if this story is valid. Thanks.

https://ca.travelpulse.com/news/impacting-travel/breaking-cta-announces-vouchers-only-in-response-to-covid-19-crisis.html?ubhide=true&utm_source=hs_email&utm_medium=email&utm_campaign=eltr_Breaking&oly_enc_id=9885J9232456G9D

From: Jason Kerr
Sent: March 25, 2020 3:24 PM
To: Caitlin Hurcomb
Cc: 'Marcia Jones (marcia.jones@otc-cta.gc.ca)'; Sébastien Bergeron
Subject: New dates for CTA exemptions

Hi Cait,

Last week the exemptions were announced until April 30 (<https://www.otc-cta.gc.ca/eng/content/canadian-transportation-agency-issues-temporary-exemptions-certain-air-passenger-protection>). Now I see online they are in place until June 30 (<https://otc-cta.gc.ca/eng/important-information-travellers-during-covid-19>). Wondering about how you are informing stakeholders of these changes? Can you share the rationale for the two-month extension less than a week after announcing the first date?

Thanks,
Jason



Jason Kerr
SENIOR DIRECTOR / DIRECTEUR PRINCIPAL
Government Relations / Relations gouvernementales
100 – 46 Elgin Street
Ottawa, ON
Tel/Tél 343-998-6679
jkerr@national.caa.ca

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From: Jason Kerr <jkerr@national.caa.ca>
Sent: March 25, 2020 4:11 PM
To: Marcia Jones
Cc: Allan Burnside; Caitlin Hurcomb; Sébastien Bergeron
Subject: RE: Update: CTA mesures/Mise à jour: mesures prises par l'OTC

Thank you! This is just what I was looking for. I was just out a bit ahead.

CAA will review the CTA guidance on vouchers and may provide further comment. We believe these government actions are reasonable and warranted for public health reasons. We believe Canadians should not be hit with large financial penalties for travel decisions out of their hands, especially at a time when unexpected economic stress has become a fact of life for most Canadians. Under these extraordinary circumstances it, CAA believes that, in our view, these extraordinary circumstances should permit an opportunity for passengers to access a cash refund, if not now then in the coming months, whether it is the airlines or government that make them whole. To the extent that credits remain an option, they should not be allowed to expire as they would under normal circumstances. It may be more than 12-24 months before a Canadian's financial situation is good enough to contemplate another trip. As well, some seniors may not be in a position to still travel 18 months from now.

Jason



Jason Kerr
SENIOR DIRECTOR / DIRECTEUR PRINCIPAL
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From: Consultations aeriennes / Air Consultations (OTC/CTA)
Sent: March 25, 2020 4:01 PM
To: Marcia Jones
Cc: Allan Burnside ; Caitlin Hurcomb
Subject: Update: CTA mesures/Mise à jour: mesures prises par l'OTC
Le français suit l'anglais.

Good afternoon,

I am writing to provide an update on the latest steps the Canadian Transportation Agency (CTA) has taken related to the COVID-19 pandemic. Today, the CTA issued decisions:

- Temporarily exempting all air carriers holding a domestic licence from the requirement in section 64 of the *Canada Transportation Act* to provide 120 days' notice and engage in consultations before temporarily suspending the operation of air services between points in Canada, while retaining that requirement for any permanent discontinuation of service. For more information, see [Order 2020-A-36](#).
- Temporarily exempting all air carriers from the *Air Passenger Protection Regulations* deadline for responding to passenger claims for compensation, while requiring that responses be provided within 120 days of the end of the exemption to certain APPR provisions. For more information, see [Determination A-2020-47](#).
- Extending the previously announced exemptions from certain APPR requirements related to compensation and alternate travel arrangements from April 30, 2020 to June 30, 2020. For more information, see [Determination A-2020-47](#).
- Extending the stay of all dispute resolution activities involving air carriers from April 30, 2020 to June 30, 2020. For more information, see [Order 2020-A-37](#).

In addition, the CTA has released a statement providing guidance for addressing the mass flight cancellations taking place worldwide. In order to balance passenger protection and airline operating realities in these extraordinary and unprecedented circumstances, the CTA has indicated that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time. A period of 24 months would be considered reasonable in most cases. Of course, any situation brought forward to the CTA will be evaluated on its own merits. The full statement is available on the [CTA's website](#).

I also invite you to visit our [webpage](#) containing important information for travellers during COVID-19.

We will be sure to keep you informed of any further developments. Please don't hesitate to contact me with any questions.

Marcia Jones

Dirigeante principale, Stratégies/Chief Strategy Officer
Office des transports du Canada/Canadian Transportation Agency
15, rue Eddy/15 Eddy Street
Gatineau, QC, K1A 0N9
(613) 864-9918
marcia.jones@otc-cta.gc.ca

Bonjour,

Je vous écris pour faire le point sur les dernières mesures prises par l'Office des transports du Canada (OTC) dans le contexte de la pandémie de COVID-19. Aujourd'hui, l'OTC a rendu des décisions visant :

- à exempter temporairement tous les transporteurs aériens détenant une licence intérieure de l'obligation de donner un préavis de 120 jours, obligation prévue à l'article 64 de la *Loi sur les transports au Canada*, et de tenir des consultations avant de suspendre temporairement l'exploitation des services aériens entre des points situés au Canada; cette obligation est toutefois maintenue pour toute interruption de service permanente. Pour en savoir plus, consultez [l'arrêté n° 2020-A-36](#);
- à exempter temporairement tous les transporteurs aériens de l'obligation de respecter le délai prévu dans le *Règlement sur la protection des passagers aériens* pour répondre aux demandes d'indemnité présentées par les passagers, en exigeant toutefois que les réponses soient fournies dans un délai de 120 jours à compter de la fin de la période d'exemption de l'application de certaines dispositions du RPPA. Pour en savoir plus, consultez [la détermination n° A-2020-47](#);
- à prolonger du 30 avril au 30 juin 2020 les exemptions de l'application de certaines exigences du RPPA liées aux indemnités et aux arrangements de voyage alternatifs. Pour en savoir plus, consultez [la détermination n° A-2020-47](#);
- à prolonger du 30 avril au 30 juin 2020 la suspension de toutes les activités liées au règlement des différends concernant les transporteurs aériens. Pour en savoir plus, consultez [l'arrêté n° 2020-A-37](#).

De plus, l'OTC a publié une déclaration dans laquelle il donne des orientations pour faire face aux annulations massives de vols effectuées à l'échelle de la planète. Afin d'établir un équilibre entre la protection des passagers et les réalités opérationnelles des compagnies aériennes dans ces circonstances extraordinaires et sans précédent, l'OTC a indiqué que, de façon générale, une solution qui serait convenable dans le contexte actuel serait que les compagnies aériennes fournissent aux passagers touchés des bons ou des crédits pour des voyages futurs, à condition que ces bons ou ces crédits n'expiront pas dans un délai déraisonnablement court. Une période de 24 mois serait considérée comme raisonnable dans la plupart des cas. Bien entendu, toutes les situations présentées à l'OTC seront évaluées au cas par cas. La déclaration complète se trouve sur [le site Web de l'OTC](#).

Je vous invite également à visiter notre [page web](#) contenant des informations importantes pour les voyageurs pour la période de la COVID-19.

Nous ne manquerons pas de vous tenir informés de l'évolution de la situation. N'hésitez pas à communiquer avec moi si vous avez des questions.

Meilleures salutations,

Marcia Jones

Dirigeante principale, Stratégies/Chief Strategy Officer

Office des transports du Canada/Canadian Transportation Agency

15, rue Eddy/15 Eddy Street

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Archivé: 9 décembre 2021 18:52:17

De: [Reynolds, Christopher](#)

Heure de réception du message: Wed, 18 Mar 2020 14:55:21

Envoyé: Wed, 18 Mar 2020 18:55:16

À: [media](#)

Sujet: RE: Canadian Transportation Agency issues temporary exemptions to certain Air Passenger Protection Regulations provisions to address the COVID-19 pandemic

Confidentialité: Normal

Hi folks:

Hope the week's going decently despite the hectic times.

I'm wondering if airlines are required to offer a refund if they have cancelled a flight for reasons related to COVID-19.

I understand that broader compensation is *not* owing to passengers, as stated in the temporary exemption issued on March 13. But is the offer of a simple fare refund required? Or do airlines only need to offer credit toward a future ticket?

Thanks very much,
Chris

Christopher Reynolds

Business Reporter

The Canadian Press

514-985-7217

@ChrisAReynolds

From: PR Newswire for Journalists

Sent: March 13, 2020 6:26 PM

To: Reynolds, Christopher

Subject: Canadian Transportation Agency issues temporary exemptions to certain Air Passenger Protection Regulations provisions to address the COVID-19 pandemic

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ITAP4\CBPAT8NEWS FROM CANADIAN TRANSPORTATION
AGENCY

\itap4\cbpat8Transmitted by PR Newswire for Journalists on March 13, 2020 05:24 PM EST

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\itap4\cbpat10Canadian Transportation Agency issues temporary
exemptions to certain Air Passenger Protection Regulations
provisions to address the COVID-19 pandemic

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\itap4\cbpat9\0GATINEAU, QC, March 13, 2020 /CNW/ - The Canadian
Transportation Agency (CTA) today [took steps](#) to address the major impacts that the
COVID-19 pandemic is having on the airline industry.

\itap4\cbpat9\0The *Air Passenger Protection Regulations* (APPR) set air carriers'
obligations to passengers that vary depending on whether the situation is 'within the air
carrier's control', 'within the air carrier's control but required for safety', or 'outside the air
carrier's control'.

\itap4\cbpat9\0APPR also provide a list of situations considered 'outside the air carrier's
control', including medical emergencies and orders or instructions from state officials. The
CTA has identified a number of situations related to this pandemic that are considered

'outside of the air carrier's control'. These include flight disruptions to locations that are covered by a government advisory against travel or unnecessary travel due to COVID-19.

In these situations, air carriers would not be required to provide standards of treatment or compensation for inconvenience. However, they would have to make sure the passenger completes their itinerary.

Until April 30th, the time at which passengers will be entitled to compensation for inconvenience related to flight cancellations or delays will be adjusted, to provide air carriers with more flexibility to modify schedules and combine flights. Air carriers will be allowed to make schedule changes without owing compensation to passengers until 72 hours before a scheduled departure time (instead of 14 days), and air carriers will be obligated to compensate passengers for delays on arrival that are fully within the air carrier's control once those delays are 6 hours or more in length (instead of 3 hours).

The CTA has also exempted air carriers from offering alternative travel arrangements that include flights on other air carrier's with which they have no commercial agreement.

These [measures](#) recognize the extraordinary nature of the current situation. After April 30th, the CTA will decide whether these temporary measures should be extended for an additional period of time.

All other air passenger [entitlements](#) under the *Air Passenger Protection Regulations* remain in force and unchanged, including those related to communication, tarmac delays and seating of children.

Quote

"The CTA recognizes that this is a very challenging time for both airlines and air passengers. The temporary measures we've taken today strike a balance between, on the one hand, giving airlines the necessary flexibility to adjust schedules in the face of rapidly falling passenger numbers and very fluid circumstances and, on the other hand, making sure passengers are well-protected. We'll continue to monitor the situation closely."

- Scott Streiner, Chair and CEO of the Canadian Transportation Agency

About the CTA

The **Canadian Transportation Agency** is an independent, quasi-judicial tribunal and regulator that has, with respect to all matters necessary for the exercise of its jurisdiction, all the powers of a superior court. The CTA has three core mandates: helping to keep the national transportation system running efficiently and smoothly, protecting the fundamental right of persons with disabilities to accessible transportation services, and providing consumer protection for air passengers. To help advance these mandates, the CTA makes and enforces ground rules that establish the rights and responsibilities of transportation service providers and users and level the playing field among competitors, resolves disputes using a range of tools from facilitation and mediation to arbitration and adjudication, and ensures that transportation providers and users are aware of their rights and responsibilities and how the CTA can help them.

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SOURCE Canadian Transportation Agency

CONTACT: Canadian Transportation Agency, Media Relations, media@otc-cta.gc.ca, Tel.: 819-934-3448

Web Site: <http://www.cta-otc.gc.ca/>

[VIEW IN BROWSER](#)

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||



March 22, 2020

Transmission by e-mail
scott.streiner@otc-cta.gc.ca

Mr. Scott Streiner
Chairman and Chief Executive Officer
Canadian Transportation Agency
15 Eddy Street, 17th Floor
Gatineau, Quebec J8X 4B3

RE: Request for further public clarification of air carrier obligations per the *Air Passenger Protection Regulations* ("APPR") in the context of the current extraordinary circumstances

Dear Mr. Streiner:

As you are aware, the global air transport and tourism industries are dealing with a wholly-unprecedented collapse in world travel demand, as well as with the resulting operational and financial calamity in terms of drastically cutting capacity and preserving liquidity in an attempt to prevent our businesses from failing and putting tens of thousands of Canadians out of work. Obviously, Transat A.T. and our subsidiary travel units, including Air Transat and Transat Holidays, have not been spared the brunt of this disaster.

Indeed, we have recently announced, as a result of borders closing, the suspension of all outbound travel sales on our flights and the imminent grounding of almost all of our fleet until April 30, 2020, except for the small remainder of our flights that are conducting emergency repatriation operations of Canadians abroad in coordination with the federal government. Furthermore, we are confronted to making extremely difficult decisions where an important number of employees will be put on leave until the situation stabilizes and until we can hopefully and eventually contemplate a return to some sense of normalcy in the future.

In the meantime, while our industry fights to survive, we urgently need the federal government and our oversight authorities such as the CTA to provide assistance, both in the form of financial support and relief in terms of the substantial easing of existing regulatory costs and burdens. I have already written to Ministers Garneau and Morneau with regards to the first objective, and I am now hereby addressing myself to you with respect to the second.

Please be assured that I appreciated the Agency's efforts on March 13, 2020 to provide much-needed clarification to both industry and consumers concerning the application and enforcement of certain provisions of the APPR in the context of the current extraordinary circumstances.



...page 2

However, we need more to be done on an urgent basis in order to establish proper certainty and support the industry's impact mitigation efforts to date.

Specifically, I hereby request that the Agency publicly and unequivocally recognize the uncontrollable nature of the crisis and that all changes to schedules and capacity reductions are measures needed to manage the devastating losses this crisis is causing. Quite simply, these changes are not within the control of air carriers and our regulator should be clear to this end, as well as for the purposes of the application of the APPR.

Furthermore, the limited scope of the exemption on March 13, 2020 is problematic as our personnel have almost no ability to provide alternative travel arrangements at this time given the above-mentioned folding of flight schedules. Consequently, and as additional support and relief, I hereby request the following:

- Clearly recognize that all delays, cancellations, and denied boarding occurring at this time of crisis are outside of Air Transat's control;
- Clarify that the uncontrollable nature of the crisis means that no refunds to passengers are required under the APPR. This is essential to avoid unnecessary confusion among consumers and to pre-empt a spike in the increase of complaints and lawsuits;
- Recognize the offering of travel voucher options in lieu of cash refunds as an acceptable means to address consumer requests for refunds which, in turn, would allow credit card companies and their processors to deny customer chargeback claims and thereafter cease otherwise resulting and destructive financial guarantee demands on air carrier merchants;
- Exempt airlines from the obligation to respond to compensation claims within 30 days;
- Exempt airlines from all obligations to provide alternate travel arrangements; and
- Ensure that all exemptions ordered by the Agency, including those found in Determination No. A-2020-42, are in effect until such time as the industry has fully recovered, which is expected to take longer than April 30, 2020, and at the very least, 90 days.

I would also like to take this opportunity to request a minimum one-year suspension of enforcement action and the levying of fines for non-compliance per the APPR and ATPDR. Again, we are not trying to conveniently avoid our obligations *in normal circumstances*, but rather to ensure that our reduced levels of human resources going forward are able to focus on actively



...page 3

managing the crisis and minimizing as much as possible disruptions to the system and our eventual efforts at recovery.

I wish to thank you in advance for your understanding and expeditious consideration of the present request. Also, please accept my best wishes for the continued health and well-being of yourself, your loved ones and your staff in these unimaginably difficult times.

Sincerely,

Jean-Marc Eustache
Chairman, President and
Chief Executive Officer

c.c. Hon. Marc Garneau, PC, MP – Minister of Transport
Marcia Jones, Chief Strategy Officer - CTA
Miled Hill, Office of the Hon. Marc Garneau, PC, MP
Lawrence Hanson, Assistant Deputy Minister of Transport (Policy)
Colin Stacey, Director General of Air Policy – Transport Canada
George Petsikas, Senior Director, Government and Industry Affairs – Transat A.T. Inc.