

From Secretariat.Secretariat@otc-cta.gc.ca Fri Jan 15 16:17:14 2016  
Date: Fri, 15 Jan 2016 20:17:05 +0000  
From: secretariat <Secretariat.Secretariat@otc-cta.gc.ca>  
To: Gabor Lukacs <lukacs@airpassengerrights.ca>  
Subject: Question concerning "Consultation on the requirement to hold a licence"

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Dr. Lukacs,

This is in response to your e-mail to Mr. Blanchard and separate e-mail to Mr. Touloupoulos, both dated January 8, 2016. Your two e-mails have been reproduced at the end of this response.

A panel has been assigned to review whether NewLeaf Travel Company Inc. (NewLeaf) is required, pursuant to section 57 of the Canada Transportation Act (CTA), to hold a licence to operate the proposed air transportation business venture between NewLeaf and Flair Airlines Inc. (Flair). The Agency is, pursuant to section 81 of the CTA, conducting an inquiry into this matter. Next steps, including whether to issue a formal decision, order, or any other action is to be taken is entirely at the discretion of the panel.

The Agency is also currently consulting with Canadians on whether persons who bulk purchase all seats on planes and then resell those seats to the public, such as NewLeaf, should be required to hold a licence. Consultations serve as a means to collect information from key and interested stakeholders. If you have views on whether persons who bulk purchase all seats on planes and then resell those seats to the public should be required to hold a licence, I encourage you to submit your comments, as part of the consultation process, by end of day January 22nd, which is the deadline.

NewLeaf, like other persons who bulk purchase all seats on planes and then resell those seats to the public, that hold an Agency licence or have a pending application, has been informed that while this review is underway, the Agency will not require persons to apply for a licence as long as the service offered to the public meets all of the following conditions:

- i. The person does not operate any aircraft;
- ii. The person charters the aircraft's entire capacity, for the purpose of resale to the public; and
- iii. The air carrier holds the appropriate Agency licence to operate the air service.

There is no enforcement action in place with NewLeaf with respect to sections 57 and 59 of the CTA. Should the Agency's review conclude that persons that market

and sell an air service to the public, but do not operate any aircraft, are required to hold a licence, they will be informed of such a decision and will be required to apply for a licence from the Agency.

-----Original Message-----

From: Gabor Lukacs [mailto:lukacs@AirPassengerRights.ca]

Sent: January-08-16 6:03 PM

To: John Touliopoulos

Subject: Question concerning "Consultation on the requirement to hold a licence"

Dear Mr. Touliopoulos,

I am writing to seek further information about the nature of the above-noted consultation.

1. Based on what provision of the Canada Transportation Act or the Air Transportation Regulations does the Agency engage in this consultation exercise?

2/a. At the end of the consultation, will the Agency issue a decision or order?

2/b. If so, what provision(s) of the Canada Transportation Act or the Air Transportation Regulations permits the Agency to make a generic

(legislative-like) determination with respect to domestic service, without a complaint or application about a specific business?

I look forward to hearing from you.

Best wishes,

Dr. Gabor Lukacs

-----Original Message-----

From: Gabor Lukacs [mailto:lukacs@AirPassengerRights.ca]

Sent: January-08-16 4:44 PM

To: Ghislain Blanchard

Cc: secretariat

Subject: RE: URGENT: Possible unlicensed operation / violation of s. 67(1) of the CTA

Dear Mr. Blanchard,

Thank you for your answer. According to the consultation website that you sent me:

The Agency's current approach [...] requires the person with commercial control to hold the licence, irrespective of whether the person operates any aircraft.

Thus, on its face, it appears that NewLeaf is required to hold a license, and its operation is contrary to ss. 57 and/or 59 of the Canada Transportation Act (the "CTA").

1. Is there any proceeding currently before the Agency to bring NewLeaf into compliance with ss. 57 and/or 59 of the CTA?

2/a. Has the Agency taken or contemplates to take any steps in terms of enforcement with respect to NewLeaf's non-compliance with ss. 57 and/or 59 of the CTA?

2/b. If not, why not?

As per our telephone call today, I would appreciate if you could confirm when you will be able to answer these questions.

I look forward to hearing from you.

Best wishes,

Dr. Gabor Lukacs

