



WITHOUT PREJUDICE
VIA E-MAIL: SECRETARIAT@OTC-CTA.GC.CA

04 August 2017

The Secretary
Canadian Transportation Agency
Ottawa, Ontario
K1A 0N9

Dear Sir/Madam:

RE: Case No. 17-03788

Reference is made to the Agency's letter (LET-A-47-2017) of 02 August 2017 concerning the above-mentioned matter wherein Air Transat was provided the opportunity to show cause as to why the Agency should not find that the terms and conditions of our international tariffs were not properly applied with respect to incidents that occurred at Ottawa International Airport (CYOW) on 31 July 2017. The present is our formal response in this regard and will deal with the circumstances surrounding the two identified flights in the above-mentioned letter i.e. TS157 and TS507.

Air Transat is fully mindful and respectful of the Agency's mandate in this matter with respect to ensuring compliance by air carrier licensees with the commitments in their terms and conditions of carriage as outlined in their tariffs. However, as we will attempt to demonstrate hereunder, there were numerous parties involved in this matter whose actions had a *direct* impact on the management of the unfolding events.

Consequently, Air Transat respectfully suggests that the Agency, as part of its current investigation, address all relevant circumstances and seek answers to the following questions, notably:

- Why were all of the four Air Transat flights diverted to CYOW – including the two principal flights involved, TS157 and TS507 – redirected from the taxiway to the remote northern section of CYOW? Indeed, it should be



noted that aircraft of all other affected airlines were allowed to remain on the taxiway in question and were all refuelled before Air Transat's flights?

- Why were standard operating fueling / handling practices, i.e. first come first served basis, not followed in circumstances when demand greatly exceeds resources for timely intervention? (CYOW was then handling about 20 diversions over and above its regular traffic)
- Was there a special protocol implemented in these exceptional circumstances of which Air Transat was at no time made aware?
- Why were the four Air Transat flights diverted to CYOW refuelled last despite repeated requests from the flight commanders and Air Transat SOCC asking for priority? Most if not all of the aircraft that arrived at CYOW *after* our affected flights were refueled and departed before our company's stranded aircraft were literally left until the end to be serviced.
- Why was Air Transat not informed by local authorized fuelers - with whom our flight crews and SOCC were regularly communicating per standard operating procedure - of the overall timing that the entire refuelling operation could take in CYOW as the delays dragged on, so as to permit an informed decision on how to manage the situation? (Instead, Air Transat flight deck crews were led to believe that their aircraft would be refuelled within the next 30 minutes, which cycle repeated itself several times).

The relevant tariff provision for the purposes of the present compliance inquiry, and as cited in the Agency's letter, addresses delays that occur while passengers are on board the aircraft:

If the delay occurs while onboard, the Carrier will offer drinks and snacks, where it is safe to do so. If the delay exceeds 90 minutes *and if the aircraft commander permits*, the Carrier will offer the passengers the option of disembarking until it is time to depart (emphasis added).

The reason for subjecting the above requirement to offer disembarkation after 90 minutes of ramp delay to the commander's ultimate discretion is that he/she is ultimately best able to assess all the relevant factors and circumstances related thereto. This is particularly the case when a decision to deplane may in fact *unduly* exacerbate and increase the length and the severity of the delay for passengers ex.

leaving a de-icing line-up at a non-discretionary cut-off point when the aircraft is one of the next to be de-iced.

Consequently, where evidence reveals that the aircraft commander has exercised the above-mentioned authority with the ultimate view of ensuring safety and minimizing disruptions for our passengers, as well reasonably and in good faith given the applicable circumstances, Air Transat will be of the view that the requirements of the tariff provision in question have been satisfied. As we will attempt to show in the following chronology of events, we believe that this is the case in the present matter:

- At approximately 16h00 EDT, flights TS157 (BRU-YUL) and TS507 (FCO-YUL) were on approach to CYUL when crews were advised landings were halted and the airport was closed as a result of storms passing through.
- Both aircraft were given instructions by ATC to assume a standard holding pattern while awaiting developments regarding accessibility of the field.
- After a mistaken report that CYUL had been re-opened, the flights were eventually authorised to proceed to their requested alternate i.e. CYOW.
- After having been provided circuitous vectors by ATC to CYOW, the commander of TS157 was ultimately forced to declare a fuel emergency and was eventually authorized to land on a priority basis and without incident at CYOW – wheels down at 17h07 EDT. There were 2.2 tonnes of fuel remaining on board.
- TS507 landed normally shortly thereafter
- Both aircraft were directed by ground control to position and park on Runway 07L as a result of severe ramp congestion (to the best of our knowledge, anywhere from 20 to 30 aircraft were diverted from CYUL to CYOW as a result of the storms). Many aircraft were parked ahead of, and behind TS157 and TS507 on the runway and contiguous taxiways.
- Per standard operating and safety procedures, both aircraft shut down main engines and switched to auxiliary power units (APUs) to power onboard lighting and ventilation systems.

- As a result of the external high prevailing ambient temperatures and humidity levels, as well as the high concentration of passengers on board each aircraft, the APUs functioning alone had limited capabilities to maintain the cabins at cabin temperatures i.e. +/- 23 Celsius or lower and, as a result, temperatures began to rise steadily.
- As outlined earlier, there was severe congestion at the airport and, as a result, there was critically-high demand on the limited number of available arrival gates, ground power units (which would have been able to cool the cabins far more effectively than the APUs), air stairs (cabin doors may not be opened without same in place for safety reasons) and catering units needed to support our affected flights.
- The crews of both TS157 and TS507 requested re-fueling while waiting on the runway. They were advised by the aircraft fuelers that this was not possible. Shortly thereafter, our personnel witnessed a diverted Air Canada wide-body aircraft parked on the runway behind them being refueled.
- Shortly after both affected aircraft began holding on the runways, cabin crew were given authority to open onboard stores and offer whatever remaining drinks and other refreshments were available on board, although these were *limited* in quantity following the multi-hour transatlantic crossings and were eventually exhausted. Priority was given by our cabin crews to children or passengers with special needs.
- In total, both aircraft held on the runway with no ground support whatsoever for approximately 90 minutes. Deplaning in the above circumstances was therefore a physical impossibility.
- After holding on the runway, both aircraft were directed to proceed to the de-icing area where they were advised that refueling would take place. During all relevant times, the commander of TS157 made numerous urgent requests to expedite fueling as a result of his low-fuel situation and the imminent shutdown of the APU and supported systems including cooling / ventilation (note: the re-positioning to the de-icing area took approximately 30 minutes and burned precious fuel).
- Once at the de-icing apron (approximately 2.25 hours after wheels down), the crews of both flights were advised that fueling would be provided in approximately 30 minutes (there were still no air stairs available). In the

meantime, numerous other diverted flights of other airlines including Air Canada / Rouge, WestJet, Air France, Emirates and KLM (many of which had arrived *after* our affected flights) had been, or were in the process of being re-fueled and were subsequently able to depart shortly thereafter without having deplaned any passengers to the best of our knowledge.

- When requesting an update after 30 minutes regarding the re-fueling situation, the crews were told that it would take another 15 to 30 minutes. This cycle repeated itself several times. At all relevant times, it remained *impossible* to safely deplane passengers. The crews also regularly kept passengers apprised of developments through frequent cabin announcements.
- Eventually, this creeping delay in obtaining urgently requested services led to the exhaustion of fuel on board TS157 and the shutdown of the APU. Normal cabin lighting switched to emergency mode and ventilation / AC shut down in what was already a hot cabin per the operational limitations of the APU system outlined above.
- It was shortly thereafter that the much-publicized events took place in the cabin including the call from one of the passengers to 9-1-1 emergency services. It should be clearly noted that TS507 did not have a critical fuel situation and onboard systems continued to function normally at all times including ventilation / AC.
- Shortly before the arrival of emergency services, air stairs were brought to TS157 that allowed entry of personnel into the cabin. While they confirmed that cabin temperatures were hot, there were no health emergencies and they instructed everybody to remain on board for their safety. The captain thereafter authorized that the doors remain open subject to the strict condition that everyone remain in their seats for safety purposes.
- Eventually, and after practically *all* other diverted flights had been refueled, TS157 and TS507 were provided refueling services approximately four hours into the diversion delay and were authorised thereafter to restart engines and taxi for take-off for return to CYUL. While TS507 proceeded without incident and returned to CYUL, TS157 encountered problems with onboard systems caused by the fuel starvation, which in turn caused delays in refueling and engine restart. The aircraft was eventually wheels-up after six hours on the ground at CYOW.



Per the above, Air Transat submits that a confluence of factors *beyond our control* led directly to our inability to minimize the weather-related diversion delays of the affected flights, deplane passengers safely from stranded aircraft and provide minimal levels of comfort to our passengers onboard. This ultimately included functioning lighting and ventilation / cooling systems on TS157.

Furthermore, Air Transat submits that its crews exercised their duties and satisfied the requirements of the above-mentioned tariff provision to the fullest extent that was physically and reasonably possible and in the interests of passenger safety and comfort. Consequently, we do not believe there are grounds for the Agency to find that Air Transat did not properly apply the terms and conditions set out in our international tariffs, per subsection 110(4) ATR.

In closing, and per our numerous public pronouncements over the last 72 hours, Air Transat genuinely regrets the inconveniences and discomfort suffered by our passengers as a result of this matter. This is not in keeping with our proud track-record as a globally-recognized and award-winning airline for family and leisure travel.

However, mindful of the government's intentions per Bill C-49, and per our observations at the outset of the present response, we believe that this incident is highly instructive as it clearly demonstrates the challenges of imposing various obligations on air carriers in similar circumstances without applying commensurate requirements on airports and their licenced service providers to provide critical infrastructure and related operational ground support in a timely manner. Indeed, as we have clearly seen in this case, the tendency is to focus solely on the actions of the airline. This must not be the basis for informed legislation going forward.

Respectfully submitted,

AIR TRANSAT A.T. Inc.



Jean-François Lemay
President and Chief Executive Officer

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C.c. George Petsikas – Senior Director, Government and Industry Affairs