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August 23, 2013

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, Ontario, K1A 0N9

Attention: Ms. Shanda Frater, Analyst

Dear Madam Secretary:

Re: Dr. Gábor Lukács v. British Airways
Complaint about rules governing liability and denied boarding compensation
File No.: M 4120/13-00661
Motion to compel full and complete answer to question Q6

Please accept the following motion pursuant to Rules 20 and 32 of the *Canadian Transportation Agency General Rules*.

BACKGROUND

Exhibit "B" to British Airways' March 22, 2013 submissions is a list of the amounts of denied boarding compensation paid by British Airways to individual passengers departing from Canada to the United Kingdom in 2010, 2011, and 2012.

On July 16, 2013, the Applicant directed a number of follow-up questions to British Airways, including the following one:

- Q6. Exhibit "B" lists amounts ranging from \$375.00 to \$4,563.00. These amounts are substantially higher than what is set out in British Airways' Rule 87(B)(3)(B).

What method did British Airways use to determine these amounts?

Relevance: These questions are aimed at clarifying British Airways' current practices of denied boarding compensation. According to Exhibit "B" of British Airways, these practices substantially differ from what is set out in Rule 87(B)(3)(B). Since British Airways cannot suffer any competitive disadvantage from changing Rule 87(B)(3)(B) to reflect its current practices, answers to these questions speak to the reasonableness of the existing Rule 87(B)(3)(B).

On August 9, 2013, the Agency directed British Airways to provide a complete response to certain questions, including question Q6, by August 23, 2013.

On August 23, 2013, British Airways provided the following answer to question Q6:

For compensation for passengers rerouted to arrive at last destination not more than 4 hours after original STA, cash of GBP 125.00 is the amount. For compensation for passengers rerouted to arrive at last destination more than 4 hours after original STA, cash of GBP 250.00 is the amount.

The Applicant submits that British Airways has failed to provide a full and complete answer to question Q6.

ARGUMENT

Exhibit "B" lists compensation amounts ranging from GBP 375.00 to GBP 4,563.00 paid to individual passengers (earlier, the currency was incorrectly identified as CAD). With due respect to British Airways, none of these amounts are explained by British Airways' statement of paying compensation in the amount of GBP 125.00/250.00. Furthermore, British Airways fails to address the method it used to establish these compensation rates.

In fact, a cursory review of Exhibit "B" demonstrates that British Airways never paid the amount of GBP 125.00 or GBP 250.00 to any passenger departing from Canada who was denied boarding. The lowest amount of compensation shown in Exhibit "B" is GBP 375.00, which is not explained in any way by British Airways' answer to question Q6.

For example, Exhibit "B" (starting at the bottom of the page marked "DBSI") shows that on November 3, 2011, some 15 passengers who were scheduled to depart from Montreal (YUL) received denied boarding compensation in the amount of GBP 375.00 each.

Moreover, according to Exhibit "B", on March 10, 2012, six (6) passengers who were scheduled to depart from Vancouver (YVR) received denied boarding compensation in the amount of GBP 750.00 each.

Exhibit "B" also shows a Vancouver (YVR) passenger who received GBP 1,521.00 for denied boarding compensation on July 26, 2010 (case ID: 8372288). It is worth noting that this amount is not even a multiple of 125.00.

The figures contained in Exhibit “B” are clearly inconsistent with the answer that British Airways provided in response to question Q6 (namely, that it provided GBP 125.00/250.00, depending on the length of the delay), and thus it is submitted that British Airways failed to provide a full and complete answer to the question, which was: “What method did British Airways use to determine these amounts?”

This question is relevant and important for the present complaint, because it speaks to British Airways’ current practices of denied boarding compensation, which appear to substantially differ from what is set out in Rule 87(B)(3)(B). Clearly, British Airways cannot suffer any disadvantage from changing Rule 87(B)(3)(B) to reflect its current practices, and thus the sought information speaks to the reasonableness of the existing Rule 87(B)(3)(B).

RELIEF SOUGHT

The Applicant is asking the Agency that:

- A. the Agency order British Airways to provide a full and complete answer to question Q6;
- B. the Agency grant the Applicant 10 days from the receipt of the answer to question Q6 and/or disposition of the present motion (whichever is later) to file his Reply pursuant to Rule 44.

All of which is most respectfully submitted.

Dr. Gábor Lukács
Applicant

Cc: Ms. Carol E. McCall, counsel for British Airways