



May 10, 2013

File No. M 4120-3/13-01696

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Sunwing Airlines Inc.
c/o Paterson MacDougall LLP
Barristers, Solicitors
Box 100, Suite 900
1 Queen Street East
Toronto, Ontario
M5C 2W5

Attention: Clay S. Hunter, Partner

Dear Sirs:

Re: Complaint by the Nawrot family against Sunwing Airlines Inc.

This refers to the above-noted complaint filed with the Canadian Transportation Agency (Agency) on March 21, 2013.

On April 28, 2013, the Nawrot family filed, among other matters, a claim for confidentiality respecting a credit card payment summary filed in support of the family's claim for compensation. On April 29, 2013, Sunwing Airlines Inc. (Sunwing) also filed a claim for confidentiality in respect of the redacted names of individuals contained in certain exhibits attached to the Affidavit of Joanne Dhue filed on April 17, 2013.

In Decision No. LET-C-A-71-2013 dated May 1, 2013, the Agency ordered the parties, should they wish to contest each other's claims for confidentiality, to file a request for disclosure of the documents, in accordance with subsections 23(7) and (8) of the *Canadian Transportation Agency General Rules* (General Rules). The Agency also ordered that any reply the parties may wish to make must be filed in accordance with subsection 23(9) of the General Rules.

On May 3, 2013, the Nawrot family filed a motion to contest Sunwing's claim for confidentiality and on May 7, 2013, Sunwing replied to the Nawrot family's submission. In its reply, Sunwing made submission regarding, among other things, the *Personal Information Protection and Electronic Documents Act* (PIPEDA). On May 7, 2013, the Nawrot family filed an additional submission in which the family asserts that Sunwing's submission relating to PIPEDA, included in Sunwing's reply dated May 7, 2013, represents a new issue, and given that such issue was not included in Sunwing's claim for confidentiality, the Nawrot family did not have the opportunity to address it.

The Agency has considered this matter and finds that Sunwing's submission respecting PIPEDA constitutes a new issue, and that such submission should have been included in Sunwing's claim for confidentiality.

The Agency is of the view that a reply represents an opportunity for a party who is, as in the present case, making a claim for confidentiality, to address additional information or arguments that may have been raised in another party's submissions contesting such claim for confidentiality. It should not include arguments contained in previous correspondence with the Agency or new arguments unrelated to those raised in the other party's submissions.

Accordingly, Sunwing's submission respecting PIPEDA will not be considered in this proceeding. The Agency directs Sunwing, by the close of business on May 15, 2013, to refile its reply dated May 7, 2013 with all reference to PIPEDA, deleted. Sunwing's original reply dated May 7, 2013, and the Nawrot family's subsequent submission will not form part of the record.

Should you have any questions regarding the foregoing, you may contact Sylvie Giroux at telephone number 819-997-6410, facsimile number 819-953-7910 or by e-mail at sylvie.giroux@otc-cta.gc.ca.

Sincerely,


Cathy Murphy
Secretary

BY THE AGENCY:

RAYMON J KADUCK

Member

Sam Barone

Member