

RE: Reply to United's April 12, 2013 answer [RE: Complaint regarding United Air Lines, Inc.'s prohibition against onboard photograph and audio or video]

1 message

Drew Tyler <dtyler@conlinbedard.com>

Mon, Apr 15, 2013 at 5:35 PM

To: "secretaire-secretary@otc-cta.gc.ca" <secretaire-secretary@otc-cta.gc.ca>

Cc: Gabor Lukacs <lukacs@airpassengerrights.ca>, "Sylvie.Giroux@otc-cta.gc.ca" <Sylvie.Giroux@otc-cta.gc.ca>, "jeff.wittig@united.com" <jeff.wittig@united.com>, Ben Bedard <bbedard@conlinbedard.com>

Madam Secretary,

United has received Dr. Lukács's response, dated April 15, 2013, to United's email dated April 12, 2013. The letter attempts to provide justification as to why an extension is appropriate in this case. United notes that it was incumbent upon Dr. Lukács to provide reasons justifying his extension request prior to the due date for his reply. It is wholly improper for him to provide justification afterwards and the Agency should reject his letter dated April 12, 2013. Nonetheless, United feels obliged to challenge Dr. Lukács's argument that he is entitled to an extension because United refused to answer questions 3, 5 and 6.

United maintains its position that section 19 of the CTA Rules provides for the ascertainment of facts relevant to a particular issue within a proceeding. Section 19 is not intended as a means by which a party can fish for an opposing party's views or force an opposing party to take a legal position.

Dr. Lukács position that his earlier questions have not been answered is without merit; United has answered every question except one which is neither relevant nor proper and therefore need not be answered.

Dr. Lukács's questions 3—whether the Federal Aviation Administration (FAA) has a regulation pertaining to the use of camera's and recording equipment onboard aircraft—is irrelevant and inappropriate. First, Dr. Lukács is not asking for relevant factual information; rather, he is asking that United take a legal position on US law. If Dr. Lukács requires legal advice on FAA regulations then it is open to him to seek such advice. Second, if there were US regulations with respect to the use of video cameras and recording equipment, these regulations would only be relevant to this CTA proceeding if United raised them as a defence to Dr. Lukács's allegation. United has made no such claim and as such they are not relevant, particularly with respect to his reply. Therefore, question 3 is neither relevant nor appropriate, need not be answered, and United's refusal to address this question is not an exceptional circumstance that warrants granting an extension.

With respect to questions 5 and 6, United's submission, dated April 4, 2013, presents United's view that photography and video-recording of passengers and flight crew can affect the safety of a flight (for example, see pages 3, 6, 7, 17 and 20). Consequently, United submits that, as per page 20 of its submission, these two questions have been sufficiently answered.

Lastly, Dr. Lukács's complaint raised the following issues: 1) is the statement on photography and recording in *Hemispheres* a term or condition of carriage that must be included within United's Tariff; 2) is the statement in *Hemispheres* misleading contrary to section 18(b) of the ATR; and 3) if the statement in *Hemispheres* were a term or condition of carriage found in its Tariff, would it be reasonable pursuant to section 111(1) of the ATR? United continues to reserve its specific comments with respect to Dr. Lukács additional questions. However, it does take the general position that Dr. Lukács's additional questions and document requests are not relevant to these issues, and, as stated in its letter dated April 12, 2013, these additional questions do not give rise to an exception circumstance that warrant granting an extension. As such, United objects to all of the new questions raised in Dr. Lukács's motion, but will await further instructions from the Agency on the manner in which the Agency intends to proceed with that portion of his motion.

In summary, Dr. Lukács was obliged to provide justification for his request for an extension to file his reply on or before April 11, 2013. Dr. Lukács failed to do so and it is improper for him to try and do so now. Further, Dr. Lukács's position that his extension request is justified because United refused to answer his questions is without merit. United has sufficiently answered questions 5 and 6 and it is not obliged to answer question 3 as it is improper and not relevant. Lastly, the additional questions raised by Dr. Lukács's do not give rise to an exception circumstance that warrants granting an extension. Consequently, United submits there is no exceptional circumstance that warrants granting Dr. Lukács's request for an extension to file his reply and therefore the Agency should dismiss his extension request.

Sincerely,

Drew Tyler

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

From: Gabor Lukacs [<mailto:dr.gabor.lukacs@gmail.com>] On Behalf Of Gabor Lukacs

Sent: April 15, 2013 12:13 PM

To: Sylvie.Giroux@otc-cta.gc.ca; secretaire-secretary@otc-cta.gc.ca

Cc: Drew Tyler

Subject: Reply to United's April 12, 2013 answer [Re: Complaint regarding United Air Lines, Inc.'s prohibition against onboard photograph and audio or video]

Dear Madam Secretary and Ms. Giroux,

Enclosed please find my reply, pursuant to Rule 32(5), to United's answer of April 12, 2013 to my motion.

I would be grateful if you could confirm its receipt.

Best wishes,

Dr. Gabor Lukacs