

Amanda Hamelin

From: Scott Streiner
Sent: Sunday, March 22, 2020 8:54 AM
To: Liz Barker; Marcia Jones; Valérie Lagacé; Tom Oommen; Sébastien Bergeron
Subject: Draft
Attachments: Statement.docx

Good morning, folks. The attached will be one item for discussion on our 10:30 call. Talk soon.

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. In addition, some airlines' tariffs provide for refunds in certain cases, but have clauses that relieve the airline of such obligations in *force majeure* situations.

All these documents were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of mass cancellations that have taken place over recent weeks as a result of the COVID-19 pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and have to find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. They should be "kept whole" in some manner. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could put their very survival at risk.

While any specific situations brought before the CTA will be examined on their merits, the CTA believes that, generally speaking, an appropriate solution could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

Amanda Hamelin

Subject: Urgent Debrief - Please confirm attendance ASAP
Location: CBCI teleconference: dial 1 514 938 6569 call ID: 935311571# then # again

Start: Sun 3/22/2020 10:30 AM
End: Sun 3/22/2020 11:00 AM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Scott Streiner
Required Attendees: sebastien bergeron (Sebastien.Bergeron@otc-cta.gc.ca); Marcia Jones; Tom Oommen; Valérie Lagacé; Liz Barker

Importance: High

Seb will host

Amanda Hamelin

From: Lenore Duff
Sent: Sunday, March 22, 2020 1:12 PM
To: Scott Streiner; Liz Barker; Mark MacKeigan; Heather Smith; Mary Tobin Oates; Gerald Dickie
Subject: Statement
Attachments: Statement.docx

Hi Scott & Liz (and colleagues):

Thank you for the opportunity to comment. I have taken a look at this and have a few comments. A couple are for clarity, and one is a “communications” concern, but I have tried to respect the content and format that you and Liz have taken. Please feel free to ignore any or all of my comments – afterall, I will not be around to deal with the fall out from the current crisis when we finally turn the corner. And by not be around, I mean at the Agency rather than on the earth, I hope!

Beyond that, I was wondering about two things:

- What happened in the past with respect to large scale disruptions of air travel, as in 9/11 and the Iceland volcano in Europe. I have noted that in my comments, but was wondering if what we are saying now is consistent with that. I realize it does not have to be consistent and the current crisis is worse, but it might prove useful.
- I am wondering about the timing of this statement. Are we responding to questions from the airlines or the public – if so will be saying something like “in response to concerns/questions raised by the industry and the public... .” I just would want to be careful to not be looking to set a policy standard, which may appear more favourable to industry, without some context. You mention in your email that you have been discussing with other federal colleagues, so this may be a more coordinated federal response, so that may address that concern.

Hope this is helpful, no need to answer my questions, they are largely rhetorical.

Lenore

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. In addition, some airlines' tariffs provide for refunds in certain cases, but have clauses that relieve the airline of such obligations in *force majeure* situations.

All these documents were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of mass cancellations that have taken place over recent weeks as a result of the COVID-19 pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and have to find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues, because of circumstances largely beyond their control should not be expected to take steps that could put their very survival at risk.

While any specific situations brought before the CTA will be examined on its their merits, the CTA believes that, generally speaking, an appropriate response solution could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits take the current situation fully into account, and do not expire in an unreasonably short period of time.

Commented [LD1]: Not sure what we mean by **documents** here; is it tariffs, or legislation referred to above, or both? I would probably broaden this to instead say: "The legislative framework that governs air travel is primarily designed to address relatively localized and short-term disruptions."

That said, I don't know what happened after 9/11(or, grant it, to a lesser extent), the Iceland volcano, but perhaps there is some experience on which to draw in terms of a broad scale disruption of air traffic. I think what will set this one apart will be the duration.

Commented [LD2]: Definitely would nix this language, as I can see individuals coming back to say that this is putting their personal survival at risk – not good optics. Maybe you could replace with:
... take steps that threaten their overall economic viability;
or
... take steps that threaten their continued operations.

Amanda Hamelin

From: Scott Streiner
Sent: Sunday, March 22, 2020 1:59 PM
To: +_EC
Subject: FW: Letter from Jean-Marc Eustache
Attachments: 20-03-22 Scott Streiner.pdf

Importance: High

Hi, all. Some of these items were covered in our discussion on Friday or the call I have with several of you this morning. Others weren't. We'll talk about all of them tomorrow.

S

From: Jean-Marc Eustache
Sent: Sunday, March 22, 2020 1:52 PM
To: Scott Streiner
Cc: mintc@tc.gc.ca; Marcia Jones ; miled.hill@tc.gc.ca; lawrence.hanson@tc.gc.ca; colin.stacey@tc.gc.ca; George Petsikas ; Jean-Marc Eustache
Subject: Letter from Jean-Marc Eustache
Importance: High

Dear Mr. Streiner,

Please find enclosed a letter from Mr. Jean-Marc Eustache.

Best Regards,

Francine Giroux

Adjointe au président
Assistant to the President

T 514-987-1660, 4055





Transat A.T. inc.
300, rue Léo-Pariseau, bureau 600
Montréal (Québec) H2X 4C2

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March 22, 2020

Transmission by e-mail
scott.streiner@otc-cta.gc.ca

Mr. Scott Streiner
Chairman and Chief Executive Officer
Canadian Transportation Agency
15 Eddy Street, 17th Floor
Gatineau, Quebec J8X 4B3

RE: Request for further public clarification of air carrier obligations per the *Air Passenger Protection Regulations* ("APPR") in the context of the current extraordinary circumstances

Dear Mr. Streiner:

As you are aware, the global air transport and tourism industries are dealing with a wholly-unprecedented collapse in world travel demand, as well as with the resulting operational and financial calamity in terms of drastically cutting capacity and preserving liquidity in an attempt to prevent our businesses from failing and putting tens of thousands of Canadians out of work. Obviously, Transat A.T. and our subsidiary travel units, including Air Transat and Transat Holidays, have not been spared the brunt of this disaster.

Indeed, we have recently announced, as a result of borders closing, the suspension of all outbound travel sales on our flights and the imminent grounding of almost all of our fleet until April 30, 2020, except for the small remainder of our flights that are conducting emergency repatriation operations of Canadians abroad in coordination with the federal government. Furthermore, we are confronted to making extremely difficult decisions where an important number of employees will be put on leave until the situation stabilizes and until we can hopefully and eventually contemplate a return to some sense of normalcy in the future.

In the meantime, while our industry fights to survive, we urgently need the federal government and our oversight authorities such as the CTA to provide assistance, both in the form of financial support and relief in terms of the substantial easing of existing regulatory costs and burdens. I have already written to Ministers Garneau and Morneau with regards to the first objective, and I am now hereby addressing myself to you with respect to the second.

Please be assured that I appreciated the Agency's efforts on March 13, 2020 to provide much-needed clarification to both industry and consumers concerning the application and enforcement of certain provisions of the APPR in the context of the current extraordinary circumstances.



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However, we need more to be done on an urgent basis in order to establish proper certainty and support the industry's impact mitigation efforts to date.

Specifically, I hereby request that the Agency publicly and unequivocally recognize the uncontrollable nature of the crisis and that all changes to schedules and capacity reductions are measures needed to manage the devastating losses this crisis is causing. Quite simply, these changes are not within the control of air carriers and our regulator should be clear to this end, as well as for the purposes of the application of the APPR.

Furthermore, the limited scope of the exemption on March 13, 2020 is problematic as our personnel have almost no ability to provide alternative travel arrangements at this time given the above-mentioned folding of flight schedules. Consequently, and as additional support and relief, I hereby request the following:

- Clearly recognize that all delays, cancellations, and denied boarding occurring at this time of crisis are outside of Air Transat's control;
- Clarify that the uncontrollable nature of the crisis means that no refunds to passengers are required under the APPR. This is essential to avoid unnecessary confusion among consumers and to pre-empt a spike in the increase of complaints and lawsuits;
- Recognize the offering of travel voucher options in lieu of cash refunds as an acceptable means to address consumer requests for refunds which, in turn, would allow credit card companies and their processors to deny customer chargeback claims and thereafter cease otherwise resulting and destructive financial guarantee demands on air carrier merchants;
- Exempt airlines from the obligation to respond to compensation claims within 30 days;
- Exempt airlines from all obligations to provide alternate travel arrangements; and
- Ensure that all exemptions ordered by the Agency, including those found in Determination No. A-2020-42, are in effect until such time as the industry has fully recovered, which is expected to take longer than April 30, 2020, and at the very least, 90 days.

I would also like to take this opportunity to request a minimum one-year suspension of enforcement action and the levying of fines for non-compliance per the APPR and ATPDR. Again, we are not trying to conveniently avoid our obligations *in normal circumstances*, but rather to ensure that our reduced levels of human resources going forward are able to focus on actively



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managing the crisis and minimizing as much as possible disruptions to the system and our eventual efforts at recovery.

I wish to thank you in advance for your understanding and expeditious consideration of the present request. Also, please accept my best wishes for the continued health and well-being of yourself, your loved ones and your staff in these unimaginably difficult times.

Sincerely,

Jean-Marc Eustache
Chairman, President and
Chief Executive Officer

c.c. Hon. Marc Garneau, PC, MP – Minister of Transport
Marcia Jones, Chief Strategy Officer - CTA
Miled Hill, Office of the Hon. Marc Garneau, PC, MP
Lawrence Hanson, Assistant Deputy Minister of Transport (Policy)
Colin Stacey, Director General of Air Policy – Transport Canada
George Petsikas, Senior Director, Government and Industry Affairs – Transat A.T. Inc.

Amanda Hamelin

From: Scott Streiner
Sent: Sunday, March 22, 2020 2:57 PM
To: +_EC
Subject: Revised statement
Attachments: Statement.docx

Hi, all. The attached version reflects feedback from Members. Please let me know this afternoon if you have any additional comments.

Valérie, let's have the secretariat ready to translate the statement and a s.64 decision tomorrow morning.

Thanks,

S

Scott Streiner

Président et premier dirigeant, Office des transports du Canada
Chair and Chief Executive Officer, Canadian Transportation Agency
scott.streiner@otc-cta.gc.ca - Tél. : 819-997-9233 - ATS/TTY: 1-800-669-5575

The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but typically have clauses that relieve the airline of such obligations in *force majeure* situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger concerns and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance and must find other ways of getting home should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time.

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

Amanda Hamelin

From: Scott Streiner
Sent: Sunday, March 22, 2020 4:42 PM
To: Lenore Duff; Liz Barker; Mark MacKeigan; Heather Smith; Mary Tobin Oates; Gerald Dickie
Subject: RE: Statement

Thanks for the quick replies. Most of the suggestions have been incorporated. I'll explain more during our call on Tuesday.

S

----- Original message -----

From: Lenore Duff
Date: 2020-03-22 1:11 p.m. (GMT-05:00)
To: Scott Streiner , Liz Barker , Mark MacKeigan , Heather Smith , Mary Tobin Oates , Gerald Dickie
Subject: Statement

Hi Scott & Liz (and colleagues):

Thank you for the opportunity to comment. I have taken a look at this and have a few comments. A couple are for clarity, and one is a “communications” concern, but I have tried to respect the content and format that you and Liz have taken. Please feel free to ignore any or all of my comments – afterall, I will not be around to deal with the fall out from the current crisis when we finally turn the corner. And by not be around, I mean at the Agency rather than on the earth, I hope!

Beyond that, I was wondering about two things:

- What happened in the past with respect to large scale disruptions of air travel, as in 9/11 and the Iceland volcano in Europe. I have noted that in my comments, but was wondering if what we are saying now is consistent with that. I realize it does not have to be consistent and the current crisis is worse, but it might prove useful.
- I am wondering about the timing of this statement. Are we responding to questions from the airlines or the public – if so will be saying something like “in response to concerns/questions raised by the industry and the public... .” I just would want to be careful to not be looking to set a policy standard, which may appear more favourable to industry, without some context. You mention in your email that you have been discussing with other federal colleagues, so this may be a more coordinated federal response, so that may address that concern.

Hope this is helpful, no need to answer my questions, they are largely rhetorical.

Lenore

Amanda Hamelin

From: Liz Barker
Sent: Sunday, March 22, 2020 6:42 PM
To: Scott Streiner; +_EC
Subject: RE: Revised statement

This looks good Scott.
Liz

From: Scott Streiner
Sent: March-22-20 2:57 PM
To: +_EC
Subject: Revised statement

Hi, all. The attached version reflects feedback from Members. Please let me know this afternoon if you have any additional comments.

Valérie, let's have the secretariat ready to translate the statement and a s.64 decision tomorrow morning.

Thanks,

S

Scott Streiner
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Chair and Chief Executive Officer, Canadian Transportation Agency
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