

MEDIA ADVISORY

**FOR IMMEDIATE RELEASE
TO ASSIGNMENT EDITORS**

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HALIFAX, March 12, 2015

The Federal Court of Appeal will hear a constitutional challenge of the practice of the Canadian Transportation Agency (CTA) to restrict, under the pretext of privacy, public access to evidence and documents received while adjudicating complaints of passengers against airlines. The court hearing is open to the public and the media.

Time: 9:30 am

Date: Tuesday, March 17, 2015

Place: 1815 Upper Water Street, 5th Floor, Courtroom #501
Halifax, Nova Scotia

Air passenger rights advocate Dr. Gábor Lukács says the CTA must obey the constitutionally protected “open court principle” that guarantees public and media access to documents tendered in judicial and quasi-judicial proceedings.

Due to the public importance of this question, the court will also hear from the Privacy Commissioner of Canada and the Attorney General of Canada.

For further information, please contact:

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Issue: Public access to evidence and documents received by the CTA

Background

The “open court principle”

A. Meaning

- proceedings, including evidence and documents tendered, are open to the public;
- decisions are delivered in public or in published form.

B. Scope and limits

- applies to all judicial and quasi-judicial proceedings;
- can be limited to prevent “serious risk” (including identity theft or harm to victims).

C. Constitutional protection

- protected by s. 2(b) of the *Canadian Charter of Rights and Freedoms*.

The Canadian Transportation Agency (CTA)

A. Functions

- adjudicate complaints of passengers against airlines, like a court;
- make determinations and issue licenses and permits, as an economic regulator.

B. Written rules and policies

- CTA is “bound by the constitutionally protected open-court principle”;
- documents filed are placed on the CTA’s “public record” (unless the CTA makes a confidentiality order); and
- “all information filed with the Agency becomes part of the public record and may be made available for public viewing.”

C. Practice

- public can view only redacted documents, even if no confidentiality order was sought by the parties or made made by the CTA;
- CTA claims “personal information” is removed to comply with the *Privacy Act*;
- examples of blacked out information include:
 - names and addresses of lawyers representing Air Canada before the CTA;
 - names of Air Canada employees involved in the complaint;
 - portions of the submissions and evidence of the parties.