

Bill C-31, Div. 17: *Canada Transportation Act* **Written Submissions**

September 2026

**For the Standing Committee
on Transport and Communications**

by Air Passenger Rights



Halifax, NS • AirPassengerRights.ca

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Executive Summary

In 2017, the air passenger protection framework created by the *Transportation Modernization Act* [*TMA*] was predicted to “double the amount of compensation that passengers are not going to receive.”¹ By 2026, that prediction has proven to be an underestimate, and the Canadian Transportation Agency [CTA] has developed a soaring backlog of over **97,000 passenger complaints**.

This backlog has developed and keeps soaring for two reasons. **First**, the unnecessary and disproportionate complexity of the *Air Passenger Protection Regulations* [*APPR*], the regulations promulgated pursuant to the *TMA*, which cause adjudication of small amounts to require many hours of adjudicative resources. **Second**, the Government of Canada’s failure to implement measures Parliament enacted in [Division 23](#) of the *Budget Implementation Act, 2023, No. 1* to correct some of the *APPR*’s systemic shortcomings.

In Division 17 of Bill C-31, the Government of Canada proposes to remedy the *APPR*’s shortcomings and the untenable 97,000-complaint backlog by:

- shifting responsibility and legal authority from the CTA to the Minister, both on the *APPR*’s contents and on passenger complaint adjudication (clauses 341-350); and
- authorizing the Minister to delegate passenger complaint adjudication to private third parties chosen and paid by the airlines, to render decisions that are binding on the passengers (clause 349).

In our view, the Government of Canada’s proposal to remedy the systemic issues and backlog arising from the existing *APPR* is illusory, ineffective, unprecedented in the Western world, and unfair to passengers.

First, Bill C-31 proposes to merely swap decision makers for passenger complaint adjudication, without remedying the *APPR*’s flawed design that turns simple consumer disputes into complex and evidence-intensive legal proceedings. The European Union’s and the UK’s passenger protection regimes are more efficient, because exceptions are few, narrowly defined, and largely verifiable from public data, and thus eligibility for compensation can be readily determined without requiring hundreds of pages and lengthy adjudication. Without fixing the root causes for the Canadian air travel complaints backlog and harmonizing Canada’s *APPR* with the European Union’s regime, any complaint system—however structured—will perpetuate and grow the backlog.

Second, the government’s claim that Bill C-31 follows the European or the UK model for ADR is untrue, and overlooks the fundamental difference between conciliation and making decisions that are binding on consumers. In no comparable jurisdiction have law makers granted private entities selected by airlines the authority to impose legally binding decisions on passengers.

¹ Standing Committee on Transport, Infrastructure and Communities, [Evidence \(Sep. 14, 2017\)](#) at 1905 (emphasis added).

Third, Bill C-31 proposes a process that violates passengers' right to a fair hearing before an impartial tribunal, guaranteed by s. 2(e) of the *Canadian Bill of Rights*, as the airlines would be choosing private entities to adjudicate complaints against themselves and render legally binding decisions—thereby creating a glaring conflict of interest.

Summary of Recommended Legislative Amendments

Passenger Rights Enacted by Parliament as Primary Legislation

1. Canada's air passenger protection regime should be enacted by Parliament as primary legislation to ensure that Parliament's policy objectives are carried out and not thwarted.

Harmonization with Existing Alternative Dispute Resolution (ADR) Systems

2. In clause 359 of Bill C-31, amend proposed s. 85.24 to read:
 - 85.24 (1)** A complainant may accept or reject the decision of a designated person on a specified complaint.
 - (2)** If the complainant accepts the decision of a designated person on a specified complaint, then the decision is binding on the complainant and the carrier.
 - (3)** If the complainant rejects the decision of a designated person on a specified complaint, then the decision has no force or effect and the decision may not be used in any legal proceeding in relation to the specified complaint.

About *Air Passenger Rights*

Air Passenger Rights [APR] is Canada's independent federal nonprofit organization of volunteers, devoted to empowering travellers through education, advocacy, investigation, and litigation. APR has a track record of successfully predicting shortcomings and loopholes in legislation relating to air passenger rights.

- In 2017, APR appeared before the House of Commons Standing Committee on Transport, Infrastructure and Communities [TRAN] and submitted [a brief](#), cautioning that the *Transportation Modernization Act* (Bill C-49) was inadequate.
- In 2018, APR appeared before the Standing Senate Committee on Transport and Communications and submitted [a brief](#), again cautioning that the *Transportation Modernization Act* was inadequate.
- In 2019, APR published a 52-page report entitled “[Deficiencies of the Proposed Air Passenger Protection Regulations](#)” about how airlines would exploit the *Air Passenger Protection Regulations*'s shortcomings and loopholes.
- In 2020, APR appeared before the TRAN and in 2021 submitted a brief entitled “[Withheld Passenger Refunds: A Failure by Design](#)” on the refunding of flights cancelled by airlines.
- In November 2022, APR appeared before the TRAN and in December 2022, mere days before the 2022 holiday season air travel meltdown, APR submitted a 29-page brief entitled “[From the Ground Up: Revamping Canada's Air Passenger Protection Regime](#)” setting out detailed recommendations for legislative amendments, including higher administrative monetary penalties for airlines that violate passengers' rights.
- In 2023, following the 2022 holiday season air travel meltdown, APR appeared before the TRAN again as part of the study of the *Air Passenger Protection Regulations*.
- In 2025, APR obtained an injunction prohibiting Canada's second-largest airline from misleading passengers about their entitlement to reimbursement for meals and accommodation in the event of certain flight disruptions: *APR v. WestJet Airlines Ltd.*, [2025 BCSC 155](#).
- In 2025, APR published a 29-page report entitled “[Analysis of the Proposed Amendments to Canada's Air Passenger Protection Regulations](#).”
- In 2026, APR obtained a [court order](#) declaring that s. 85.09(1) of the *Canada Transportation Act* infringes the freedom of expression guaranteed by s. 2(b) of the *Charter* and reading it down so that confidentiality **does not** apply to adjudicative records: *APR v. AGC*, [2026 ONSC 3983](#).
- In 2026, APR also secured a ruling that the Canadian Transportation Agency's jurisdiction to adjudicate passenger complaints is not exclusive: *APR v WestJet Airlines Ltd.*, [2026 BCCA 357](#).

APR's key predictions about the shortcomings and loopholes created by the *Transportation Modernization Act* and the *Air Passenger Protection Regulations* have been validated in the years that have passed since the regulations came into force. APR's success in predicting shortcomings and loopholes in consumer protection legislation in the air travel sector is grounded in three factors: (1) **Experience based.** APR's predictions and submissions are based on the expertise and experience accumulated through assisting passengers daily in enforcing their rights. (2) **Independent.** APR takes no government or business funding. (3) **No business interest.** APR has no business interest in the aviation sector.

Gábor Lukács, PhD (President)

APR was founded and is led by Dr. Gábor Lukács, a Canadian air passenger rights advocate who volunteers his time and expertise for the benefit of the travelling public. Dr. Lukács holds a PhD in mathematics from York University (2003), and taught financial mathematics at Dalhousie University. Since 2008, Dr. Lukács has filed more than two dozen successful complaints with the Canadian Transportation Agency [CTA], challenging the terms, conditions, and practices of air carriers, resulting in orders directing them to amend their conditions of carriage and offer better protection to passengers. In 2013, the Consumers' Association of Canada awarded Dr. Lukács its Order of Merit for singlehandedly initiating legal action resulting in the revision of Air Canada's unfair practices regarding overbooking. In November 2023, the Public Interest Advocacy Centre (PIAC) awarded Dr. Lukács the Harry Gow Award for Transportation and Competition to Connect Communities.

Dr. Lukács's advocacy in the public interest and his expertise and experience in the area of passenger rights have been recognized by the transportation bar,² the academic community,³ and the judiciary.⁴ Dr. Lukács has appeared before courts across Canada, including the Federal Court of Appeal and the Supreme Court of Canada,⁵ in respect of air passenger rights. He successfully challenged the CTA's lack of transparency and the reasonableness of the Agency's decisions. In 2020, the Federal Court of Appeal allowed Dr. Lukács to intervene in the airlines' challenge to the *Air Passenger Protection Regulations*, noting that he "would defend the interests of airline passengers in a way that the parties cannot."⁶ In 2024, the Supreme Court of Canada allowed Dr. Lukács to intervene and present written and oral arguments in the airlines' challenge to the *Air Passenger Protection Regulations*, in which the high court most decisively sided with consumers.⁷

In 2025, Dr. Lukács was awarded the King Charles III Coronation Medal for his service to the community, to Nova Scotia, and to Canada.

² Carlos Martins: Aviation Practice Area Review (September 2013), WHO'SWHOLEGAL.

³ Air Passenger Rights Advocate Dr. Gabor Lukacs lectures at the IASL, Institute for Air and Space Law, October 2018; and [Second Annual Business Ethics Conference: Ethics in the Aviation Industry](#), McGill University, November 2024.

⁴ *Lukács v. Canada*, 2015 FCA 140 at para. 1; *Lukács v. Canada*, 2015 FCA 269 at para. 43; and *Lukács v. Canada*, 2016 FCA 174 at para. 6.

⁵ *Delta Air Lines Inc. v. Lukács*, 2018 SCC 2.

⁶ Order of the Federal Court of Appeal (Near, J.A.), dated March 3, 2020 in File No. A-311-19; see also *International Air Transport Association v. Canadian Transportation Agency*, 2022 FCA 211 at para. 8.

⁷ *International Air Transport Association v. Canada (Transportation Agency)*, 2024 SCC 30.

1. The Backlog: Causes and Persistence

In 2017, the air passenger protection framework created by the *Transportation Modernization Act* [*TMA*] was predicted to “double the amount of compensation that passengers are not going to receive.”⁸ By 2026, that prediction has proven to be an underestimate, and the Canadian Transportation Agency [CTA] has developed a soaring backlog of over **97,000 passenger complaints**.

This backlog has developed and keeps soaring for two reasons. **First**, the unnecessary and disproportionate complexity of the *APPR*, where adjudication of small amounts requires many hours of labour. **Second**, the Government of Canada’s failure to implement measures Parliament enacted in [Division 23](#) of the *Budget Implementation Act, 2023, No. 1* in an attempt to correct some of the *APPR*’s systemic shortcomings.

A. Causes

In October 2025, the Director of the National Air Services Policy at Transport Canada testified under oath:

139. Q. Okay. Do you happen to know how many decisions are rendered in, say, like a typical week or a business day or anything like that?

A. Uh, so, on average, each C.R.O. deals with one complaint every day.⁹

Bill C-31 may leave the reader with the incorrect impression that the CTA’s Complaint Resolution Officers’ [CROs] low productivity or inadequate skills are to blame for the complaint adjudication’s glacial pace; however, in our view, the *APPR*’s shortcomings and loopholes are responsible, in part, for the backlog.

Under the existing *APPR*, a passenger’s entitlement to standardized compensation depends on whether the flight disruption is classified as “within the carrier’s control, but not required for safety reasons.” Determining whether a disruption falls into this category requires complex and evidence-intensive hearings, which creates barriers to access to justice, as the Nova Scotia Small Claims Court has aptly stated:

2. When consumer protection is the intended outcome of a regulatory regime, it should be assumed the regime will be in plain language, easy to understand and supports a simple claims process. The APPR, which was intended to accomplish enhanced passenger rights, accomplishes none of these. The language is complex and legalistic; one needs detailed or specific knowledge to invoke the claims system; and the process to seek compensation, once invoked, does not lend itself to quick resolution. This case illustrates that complexity, as lengthy pre-hearing processes involved the issuance of subpoenas to obtain detailed records from the Defendant about aircraft fleet information, maintenance records and other matters to support the Claim.

⁸ Standing Committee on Transport, Infrastructure and Communities, [Evidence \(Sep. 14, 2017\)](#) at 1905 (emphasis added).

⁹ [Mr. Vincent Millette’s Cross-Examination Transcript \(Oct. 22, 2025\)](#), Q139 (emphasis added).

3. Few individuals would undertake such efforts to seek a few hundred dollars in compensation. Even if they wanted to, fewer could undertake such a claim. Close to 1000 pages of paper were exchanged, in a \$400 claim.¹⁰

In sharp contrast, under the European Union's and the UK's passenger protection regimes,¹¹ eligibility to standardized compensation can be determined in the vast majority of cases in a matter of minutes, because these jurisdictions define "exceptional circumstances" very narrowly and in a manner that can largely be verified using easily accessible public resources.

B. The Government's Resistance to Fixing the System

In 2023, Parliament recognized that the *APPR*'s existing framework, created by the *Transportation Modernization Act* in 2018, is incapable of providing Canadians with meaningful protection, and falls short by a large margin compared to the European Union's gold standard. The House of Commons Standing Committee on Transport, Infrastructure and Communities recommended:

That the Government of Canada review the process by which flight delays or cancellations may be categorized as within an air carrier's control but required for safety purposes, and that it consider harmonizing the *Canada Transportation Act* and the *Air Passenger Protection Regulations* with European regulatory schemes in this regard.

That the Government of Canada require the costs for investigating and resolving *APPR* complaints be borne by the airlines in cases where the Canadian Transportation Agency reverses the airline's decision, as a way to incentivize better customer service and fewer complaints.

That the Government of Canada both raise the maximum and set mandatory administrative monetary penalties for violations of the *Air Passenger Protection Regulations*, so that the cost of violating the regulations is higher than the costs of abiding by them.¹²

In response to these recommendations, Parliament passed [Division 23](#) of the *Budget Implementation Act, 2023, No. 1 [BIA2023]* to implement measures to correct some of the *APPR*'s systemic shortcomings. Regrettably, the Government of Canada has thwarted the implementation of Parliament's policy objectives.

Rebranding Existing Loopholes in the 2024 Proposed APPR Amendments. In *BIA2023*, Parliament amended subsection 86.11(1) of the *Canada Transportation Act* by making air carriers' obligation to pay standardized compensation to passengers for inconvenience caused by flight disruptions the general rule, and authorizing the CTA to prescribe exceptions to this general obligation ("exceptional circumstances").

¹⁰ *Geddes v. Air Canada*, 2021 NSSM 27 at paras. 2-3 (emphasis added); aff'd: 2022 NSSC 49.

¹¹ *Regulation (EC) 261/2004*.

¹² "Strengthening Air Passenger Rights in Canada," Report of the Standing Committee on Transport, Infrastructure and Communities (Apr. 2023): Recommendations 2, 12, and 20.

In 2024, the CTA published in the *Canada Gazette*, Part I [proposed amendments](#) to the *APPR* that would perpetuate the *status quo* in two of the existing *APPR*'s most significant loopholes. For example, Proposed Section 18 defined “exceptional circumstances”—which relieve the carrier from paying standardized compensation to passengers for their inconvenience—in a manner that **deems the majority of flight disruptions to be due to “exceptional circumstances.”** The Regulatory Impact Analysis Statement candidly acknowledges that **more than one-half** (53%) of flight delays and **more than two-thirds** (69%) of flight cancellations would fall in this category. Similarly, Proposed Subsection 1(3) defined “denial of boarding” in a manner that deprives many passengers of compensation even when the airline prevented them from travelling due to the airline’s own error or actions.

It turns out that two consecutive transport ministers insisted that the loopholes must be perpetuated.¹³ Consequently, the proposed *APPR* amendments did little but rebrand existing loopholes.

Stalling Implementation of the Cost Recovery Fee. In the *BIA2023*, Parliament ordered the CTA to establish fees by airlines to recover all or part of the costs the CTA incurs in dealing with air travel complaints brought against each airline [**Cost Recovery Fee**].¹⁴ In 2024, the CTA held a public consultation to determine the Cost Recovery Fee’s amount; however, ultimately, no Cost Recovery Fee was ever imposed.

CBC Go Public’s investigation revealed that Transport Canada, under two different transport ministers, repeatedly intervened in the CTA’s work to stall implementation of the Cost Recovery Fee.¹⁵

Failure to Implement and Impose Meaningful Penalties. In [s. 466](#) of the *BIA2023*, Parliament also amended the *Canada Transportation Act* to increase the amount of maximum Administrative Monetary Penalties [AMP] that the CTA can impose on airlines that violate the *APPR* from \$25,000 to \$250,000 (per passenger, incident, violation). Yet, the cap for AMP has remained at \$25,000, because the Government of Canada failed to amend the *APPR* to implement Parliament’s will. In practice, the AMPs imposed for *APPR* violations typically do not exceed a few thousands of dollars per violation, although the CTA tends to report aggregate amounts issued for a few dozens of violations.¹⁶ Consequently, systematically breaking the *APPR* and occasionally paying a small fine remains the economically rational choice for airlines.

Recommended Legislative Amendments

1. Canada’s air passenger protection regime should be enacted by Parliament as primary legislation to ensure that Parliament’s policy objectives are carried out and not thwarted.

¹³ “Meeting between the minister of transport and the chief executive officer (CEO) of the Canadian Transportation Agency (CTA),” Scenario Note to the Minister of Transport (November 20, 2024) — obtained under the *Access to Information Act*.

¹⁴ *Canada Transportation Act*, [s. 85.16](#).

¹⁵ [“Government documents suggest Ottawa stalled airline fee meant to fund passenger complaints system,”](#) CBC Go Public (January 12, 2026); [“CTA to lower air passenger complaints fee after pressure from airlines, transport minister, documents show,”](#) CBC Go Public (March 31, 2026).

¹⁶ [“Federal report slams WestJet for regulatory violations that left 170 passengers stranded. So why the light fine?”](#) The Star (June 13, 2025).

2. The Government's Proposed Solution

In Division 17 of Bill C-31, the Government of Canada proposes to remedy the *APPR*'s shortcomings and the untenable 97,000-complaint backlog by:

- shifting responsibility and legal authority from the CTA to the Minister, both on the *APPR*'s contents and on passenger complaint adjudication (clauses 341-350); and
- authorizing the Minister to delegate passenger complaint adjudication to private third parties chosen and paid by the airlines, to render decisions that are binding on the passengers (clause 349).

Clause 349 proposes to create an Alternative Dispute Resolution (ADR) process for air travel complaints where the Minister would designate and publish a list of pre-approved ADR providers:

85.2 (2) The Minister must cause a list of designated persons to be published on a website.

Airlines would be required to enter into an agreement with and pay the fees of an ADR provider:

85.21 (1) Every carrier that offers an air service to, from or within Canada must, within 90 days after the day on which an order is made under subsection 85.19(1), enter into an agreement or arrangement with a designated person for the purposes of resolving specified complaints against the carrier.

(3) His Majesty is not liable for any costs related to the agreement or arrangement.

Decisions rendered by the airline-chosen ADR provider would be binding not only on the airline, but also on passengers:

85.24 A decision of a designated person on a specified complaint is binding on the complainant and the carrier.

Division 17 offers no appeal mechanism for decisions rendered by the airline-chosen ADR providers, leaving an application for judicial review in the Federal Court the only recourse for affected passengers and airlines, with the latter having far more resources to engage in complex and costly litigation.

The Government of Canada has repeatedly claimed that its proposal follows the European and British models for air travel complaints. As explained in the next chapter in greater detail, the Government of Canada's claim is **untrue**.

3. Shortcomings of the Government’s Proposal

In our view, the Government of Canada’s proposal to remedy the systemic issues and backlog arising from the existing *APPR* is illusory, ineffective, unprecedented in the Western world, and unfair to passengers.

Illusory and Ineffective

Bill C-31 proposes to merely swap decision makers by replacing CTA’s Complaint Resolution Officers [CROs] with private ADR providers; however, as explained earlier, the bottleneck is not the low productivity or inadequate skills of the CROs, but rather the *APPR*’s flawed design that turns simple consumer disputes into complex and evidence-intensive legal proceedings. An additional cause for the soaring complaint backlog is the Government of Canada’s failure to implement measures that would make the cost of non-compliance with the *APPR* exceed the cost of compliance for airlines.

A private ADR provider—acting diligently and based on genuine human judgment—will not render decisions any faster than the CROs. AI-based adjudication is unlikely to result in reliable and accurate outcomes in legal matters, because the existing *APPR* does not lend itself to clearly delineated and algorithmically decidable outcomes. Instead, the crux of the disputes necessitates making findings of fact and law that require human experience as context.

In sharp contrast, the European Union’s and the UK’s passenger protection regimes lend themselves to algorithmic decision making, because the exceptions (“extraordinary circumstances”) are few, narrowly defined, and largely verifiable from public data, and thus eligibility for compensation can be readily determined without requiring hundreds of pages and lengthy adjudication.

Without fixing the root causes for the Canadian air travel complaints backlog and harmonizing Canada’s *APPR* with the European Union’s regime, any complaint system—however structured—will perpetuate and grow the backlog.

Unprecedented in the Western World. The government’s claim that Bill C-31 follows the European or the UK model for ADR overlooks the fundamental difference between conciliation and making decisions that are binding on consumers. Germany’s “Schlichtung - Reise und Verkehr” provides only conciliation:

What happens after conciliation?

- If an agreement is reached, you will receive the payment due to you from the company.
- If no agreement can be reached, you can still take legal action, for example by going to court.¹⁷

In the UK, ADR providers’ decisions are only binding on airlines; passengers are free to accept or reject them:

¹⁷ “FAQ,” *Schlichtung - Reise und Verkehr* (emphasis added).

The adjudicator’s decision is generally final and cannot be appealed to either the ADR provider or the CAA. However, if you are unhappy with the decision for any reason, you do not have to accept it, and you still have the option to take legal action against your airline or airport through the courts.¹⁸

Similarly, in Canada, the ADR scheme operated by the Commission for Complaints for Telecom-television Services (CCTS), lacks binding authority over consumers, and stipulates that decisions are binding on the service providers, but consumers are free to accept or reject them.¹⁹

In no comparable jurisdiction have law makers granted private entities selected by airlines the authority to impose legally binding decisions on passengers.

Unfairness to Passengers. Bill C-31 proposes a process that violates passengers’ right to a fair hearing before an impartial tribunal, guaranteed by s. 2(e) of the *Canadian Bill of Rights*, as the airlines would be choosing private entities to adjudicate complaints against themselves and render legally binding decisions.

In our view, this is a glaring conflict of interest, because airlines that can choose between multiple ADR providers will have financial leverage over the ADRs. A provider that is perceived as not sufficiently friendly to the airlines may lose the airlines’ business, and airlines may opt to hire other—more airline-friendly—ADR providers from the pre-approved list.

We believe that no impartial adjudicator can emerge where the adjudicator’s livelihood depends on the airlines’ continued goodwill. Adopting Bill C-31 in its current form would create the most airline-friendly passenger protection regime in the Western world, surpassing even the Canadian Transportation Agency, whose impartiality and independence has been called into question by Parliamentary committees.²⁰

Recommended Legislative Amendments

2. In clause 359 of Bill C-31, amend proposed s. 85.24 to read:

85.24 (1) A complainant may accept or reject the decision of a designated person on a specified complaint.

(2) If the complainant accepts the decision of a designated person on a specified complaint, then the decision is binding on the complainant and the carrier.

(3) If the complainant rejects the decision of a designated person on a specified complaint, then the decision has no force or effect and the decision may not be used in any legal proceeding in relation to the specified complaint.

¹⁸ “Alternative Dispute Resolution,” UK Civil Aviation Authority (CAA).

¹⁹ “Annotated Guide to the CCTS Procedural Code,” CCTS (Version 2.1, updated July 2024), p. 52.

²⁰ “Emerging from the Crisis: A Study of the Impact of the COVID-19 Pandemic on the Air Transport Sector,” Report of the Standing Committee on Transport, Infrastructure and Communities (June 2022): Recommendation 21.