

THE AVIATION INDUSTRY AS AN ECONOMIC ENABLER

Air Canada submission to the review
of the *Canada Transportation Act*

February 2015



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I. EXECUTIVE SUMMARY

1. The inaugural flight from Air Canada's predecessor Trans-Canada Air Lines took place on September 1, 1937. The 50-minute flight aboard a Lockheed L-10A carried two passengers and mail between Vancouver and Seattle. By 1964, Trans-Canada Airlines had grown to become Canada's national airline, eventually changing its name to Air Canada.
2. In 1989, the Government of Canada completed Air Canada's privatization, and the deregulation of the air industry continued in the following decades. Today, Air Canada competes with other airlines both domestically and globally.
3. Air Canada welcomes the review of the Canada Transportation Act by the Government of Canada and the panel led by the Honourable David L. Emerson. The path the Government sets with its transportation legislation and policy has the potential to spark economic growth in Canada by removing artificial barriers that are currently preventing the entire Canadian aviation industry – our airlines, our airports, their suppliers and the Canadian travelling public – from reaching its full potential in communities across our great country.
4. For far too many years, governments of all levels in Canada have treated the aviation industry as a revenue source instead of a catalyst for growing the economy and creating jobs. The government's regulatory view of the industry has been too narrow and does not fully acknowledge the important role the country's industry could play on a global scale, as well as the economic potential associated with this role.
5. Canadian transportation policy must look beyond domestic needs, and look at how we can compete against our global competitors. Governments around the world have chosen to support their aviation industries by setting the right policy to create global "hubs" and powerful national carriers with which international passengers, cargo and revenue flow.
6. Unlike Transport Canada, the United States' Department of Transportation, including the Federal Aviation Administration, has a mandate to develop policies and strategic objectives that encourage the country's growth, efficiency and competitiveness within the global aviation industry.¹ With the goal of becoming a world leader in the sector, the Federal Aviation Administration is employing new technology and best practices. It's time for Canada to follow suit.
7. In 2012, global tourism receipts equaled US\$1.075 trillion; more than double what they were in 2000. While Canada once held the prominent position as the second most popular destination in the world in 1970, the country has since struggled to attract global travellers due to uncompetitive transportation and tourism policies.²

¹ For more information on the strategic objectives of the Federal Aviation Administration, please refer to the Administration's 2014 annual report: http://www.faa.gov/about/plans_reports/media/2014-FAA-PAR.pdf

² Deloitte, "Passport to Growth: How International Arrivals Stimulate Canadian Exports," (2013).

Global Rankings for International Tourist Arrivals

	1970	1990	2000	2012
1	ITALY	FRANCE	FRANCE	FRANCE
2	CANADA	USA	USA	USA
3	FRANCE	SPAIN	SPAIN	CHINA
4	SPAIN	ITALY	ITALY	SPAIN
5	USA	HUNGARY	CHINA	ITALY
6	AUSTRIA	AUSTRIA	UNITED KINGDOM	TURKEY
7	GERMANY	UNITED KINGDOM	MEXICO	GERMANY
8	SWITZERLAND	MEXICO	CANADA	UNITED KINGDOM
9	YUGOSLAVIA	GERMANY	RUSSIA	RUSSIA
10	UNITED KINGDOM	CANADA	GERMANY	MALAYSIA
11	NORWAY	SWITZERLAND	AUSTRIA	AUSTRIA
12	ARGENTINA	GREECE	POLAND	HONG KONG
13	MEXICO	PORTUGAL	GREECE	MEXICO
14	LUXEMBOURG	MALAYSIA	PORTUGAL	UKRAINE
15	SWEDEN	CROATIA	MALAYSIA	THAILAND
16				CANADA

Source: United Nations World Tourism Organization

8. Canada has a choice: we can look to places like Amsterdam, Atlanta and Singapore and create our own centres of global travel and economic commerce, or we can follow in the footsteps of countries like Australia, where regulatory policies were pursued and domestic airlines found they could no longer compete against foreign airlines.

9. The aviation industry's ability to grow is highly dependent on the flow of international passengers connecting through Canada. To achieve growth, both our industry and government must set the goal of offering a competitive service and price that meet the needs of passengers and attract people from around the world. With the right policies in place, we could develop our industry's potential, build global hubs in Canada and offer more direct international flights to Canadians and international passengers.

10. The International Air Transport Association estimates a collective US\$19.9 billion net post-tax profit for airlines globally for 2014, which represents a 2.7% margin of profit. On a per passenger basis, this margin means that airlines around the world earned an average of US\$6.02 in 2014 – up from the US\$3.38 earnings per passenger in 2013. These earnings illustrate the difficulty of operating in a highly competitive global industry even at the best of times, as well as the need for Canada to have supportive government policies that meet international standards.³

11. To put Canada's aviation industry on the right path, three key areas must be tackled: uncompetitive taxes and fees; onerous policies that hold us back from developing our airport infrastructure and creating global hubs; and excessive regulation.

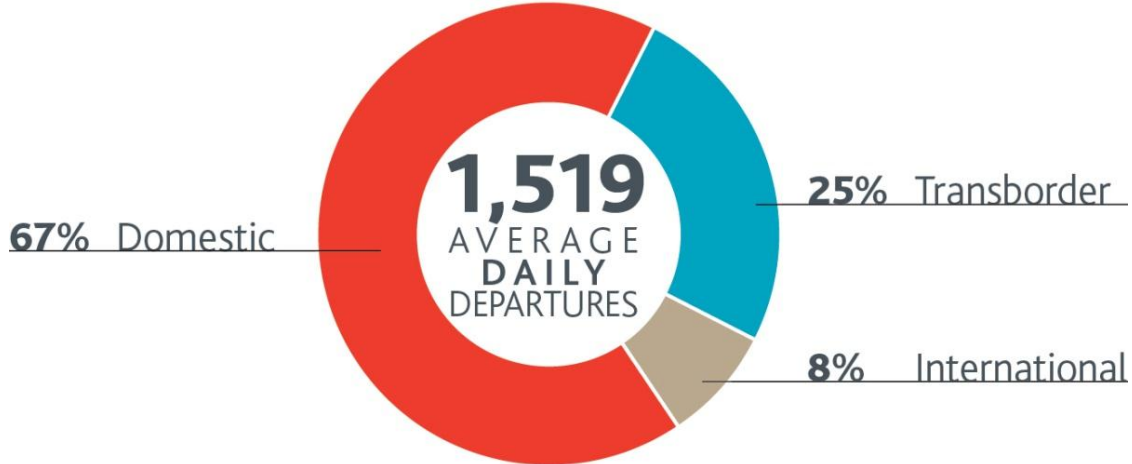
³ International Air Transport Association, "Airline Profitability Improves with Falling Oil Prices," (December 10, 2014), <http://www.iata.org/pressroom/pr/Pages/2014-12-10-01.aspx>

12. Canada should be proud of what it has achieved in the aviation industry. We have connected passengers from major cities to northern towns and back again, and we have opened up routes for the passage of cargo to remote locations.
13. The potential for growth is enormous as Canada has the ideal geography to build world class hubs. We are located on the way to many of the world's busiest routes, between the United States and Asia and the United States and Europe. Now it's time to capture these opportunities, grow our market internationally and create thousands of jobs here in Canada.

RECOMMENDATION 1: As a first principle, acknowledge air transportation as an economic enabler. Strengthen Transport Canada with a formal mandate to develop policies to encourage the Canadian aviation industry's growth, efficiency and competitiveness.

II. BACKGROUND

14. Air Canada is Canada's largest airline and the largest provider of scheduled passenger services in the Canadian market, the Canada-U.S. transborder market and in the international market to and from Canada.
15. In 2014, Air Canada carried 38.5 million passengers together with its Air Canada Express regional partners and Air Canada rouge, its leisure carrier, and its 27,000 employees. The company offered direct passenger service to 186 destinations on five continents, which included: 61 Canadian cities, 50 destinations in the United States and a total of 75 cities in Europe, the Middle East, Asia, Australia, the Caribbean, Mexico and South America.
16. Domestic, U.S. transborder and international departures accounted for approximately 67%, 25% and 8% respectively of the 1,519 average daily departures.



17. Air Canada enhances its domestic and transborder network through capacity purchase agreements with regional airlines, namely Jazz, Sky Regional, Air Georgian and Exploits Valley Air Services Ltd. These carriers operate flights on behalf of Air Canada under the Air Canada Express banner. With their lower cost structure, these carriers allow Air Canada to serve more communities and offer greater services at more attractive pricing for the travelling public.
18. To extend the reach of its network and offer more options to its clients, Air Canada has commercial agreements with several airline partners. For example, Air Canada is a founding member of the Star Alliance® network, which has 27 member airlines. Through this network, Air Canada is able to offer its customers access to approximately 1,321 destinations in 193 countries, as well as reciprocal participation in frequent flyer programs and use of airport lounges and other common airport facilities.

19. Air Canada also participates in a transatlantic joint venture with United Airlines and Deutsche Lufthansa AG through which the carriers provide customers with more choice and streamlined service on routes between North and Central America, as well as Africa, India, Europe and the Middle East. This transatlantic joint venture, including its revenue share structure, was implemented effective January 1, 2010. As well, Air Canada has the ability to create a transborder joint venture with United Airlines.
20. In November 2014, Air Canada concluded a Memorandum of Understanding with Air China Limited. The agreement sets out the main principles for a comprehensive revenue-sharing joint venture that provides for an enhanced partnership on routes between Canada and China. This partnership will stimulate traffic growth between the two countries.
21. The joint venture is expected to come into effect by the end of 2015 subject to Air Canada and Air China making the necessary filings, obtaining competition and other regulatory approvals and finalizing documentation. The joint venture will generate additional service and pricing benefits for consumers travelling between the two countries, and provide for enhanced cooperation between the two carriers in the areas of sales, marketing and airport operations.
22. Based in Montreal and Toronto, Air Canada Vacations operates its business in the outbound leisure travel market (Caribbean, Mexico, U.S., Europe, Central and South America, South Pacific, Australia and Asia) by developing, marketing and distributing vacation travel packages. Air Canada Vacations also offers cruise packages in North America, Europe and the Caribbean.
23. The Air Canada Leisure Group is positioning itself in the highly competitive leisure market, with a strong value proposition and competitive cost structure, while benefiting from Air Canada's widely-recognized and respected brand, operational expertise, extensive global network, strong airport infrastructure and world-class loyalty program.
24. Through Air Canada *rouge*, Air Canada expects to improve margins on leisure routes previously operated by the mainline fleet and pursue opportunities in international leisure markets made viable by Air Canada *rouge's* more competitive cost structure.
25. Air Canada also generates revenue from its Air Canada Cargo division. Air Canada Cargo provides direct cargo services to over 150 Canadian, U.S. transborder and international destinations and has sales representation in over 50 countries. Air Canada Cargo is Canada's largest provider of air cargo services as measured by cargo capacity. Air cargo services are provided on domestic and U.S. transborder flights and on international flights on routes between Canada and major markets in Europe, Asia, South America and Australia.

26. Air Canada is the only international network carrier in North America to receive a Four-Star ranking according to independent U.K. research firm Skytrax. Air Canada was also ranked as Best Airline in North America in 2014 in a worldwide survey of more than 18 million airline passengers for the fifth consecutive year.
27. Overall, Air Canada is among the top 20 largest airlines in the world, while Canada is only about 38th in terms of its population among the world's countries. However, the airline was once within the top 10 back in the 1960s and 1970s, and has fallen in ranking due to advances globally.
28. The company's financial performance has greatly improved over the last few years, largely due to sustainable growth with a laser focus on cost reductions. Air Canada's revenue for 2013 was \$12.4 billion, and its adjusted net income was \$340 million. 2014 was the best financial year in the company history with revenue of \$13.2 billion, and adjusted net income of \$531 million. Even with recent growth, margins in the aviation sector globally will always be challenging, as it is an intensely competitive sector. However, the aviation industry is an area where sustainable growth is possible – if we get the commercial aspects right, and if we are supported by sound government policy.

Air Canada Financial Highlights: 2010-2014



	2010	2011	2012	2013	2014
Revenue	10,786	11,612	12,113	12,382	13,198
Operating Income	279	179	442	619	815
Net income	(23)	(249)	(136)	10	105
Adjusted Net Income	(160)	(201)	55	340	531
Operating Margin	2.6%	1.5%	3.6%	5.0%	6.2%
Profit Margin (On Net Income)	-0.2%	-2.1%	-1.1%	0.1%	0.8%
Profit Margin (On Adjusted Net Income)	-1.5%	-1.7%	0.5%	2.7%	4.0%

III. TAXES AND FEES

a. Introduction

29. In the 1960s and 1970s, Canada's air transportation industry experienced unprecedented growth. Primarily run by the federal government at that time, the industry was unable to respond adequately and efficiently to this new body of consumers and their growing needs.⁴
30. A 2012 report by the Senate Standing Committee on Transport and Communications describes how in 1979 Transport Canada launched a Task Force on Airport Management to examine how principal airports could be run under a new management structure. The Task Force recommended that the government should put in place autonomous airport commissions for each of the principal airports, as it had the highest potential for responding to local needs while reducing system costs.⁵
31. Nothing was done on these recommendations until 1984, when the government formed an Airports Task Force, which reported in 1986. The new Task Force once again recommended the establishment of local authorities, with Transport Canada as a separate entity from airport management. The Minister of Transport would retain responsibility for safety and security within Transport Canada, as well as responsibility for air navigation, air regulation and certification of airports.
32. By 1992, Transport Canada had reached agreements to transfer four of Canada's five busiest airports to airport authorities in Vancouver, Calgary, Edmonton and Montreal.
33. In 1994, the Canadian government introduced the National Airports Policy, which has led to our current airport system. The purpose of this policy was to create "a system that is more effective, more affordable and more realistic in meeting the nation's transportation needs in the 21st century."⁶
34. The Senate Report states that under the National Airports Policy, the government resolved to:
 - Retain ownership of the 26 busiest airports, which handled 94% of air passengers and cargo, but lease the airports to not-for-profit airport authorities to manage and operate.
 - Transfer ownership of regional or local and other smaller airports to regional interests.
 - Continue to support remote airports that serve isolated communities.
 - Continue to regulate air services at all airports.⁷

⁴ The Senate Standing Committee on Transport and Communications, "The Future of Canadian Air Travel: Toll Booth or Spark Plug," (2012), 1.

⁵ Ibid, 2.

⁶ Transport Canada, "National Transport Policy," (1994), <https://www.tc.gc.ca/eng/programs/airports-policy-menu-71.htm> (accessed January 21, 2015).

⁷ Senate Standing Committee, "The Future of Canadian Air Travel," 2.

35. The National Airports Policy has set out a coherent policy framework that has helped respond to regional needs within Canada. However, this policy has also resulted in a “user pay” model, in which passengers end up footing the bill for services such as security and airport infrastructure upgrades without effective constraints on the amount spent. Many of these charges are not found in other transportation sectors, and the majority of the revenue goes into the government’s general revenue instead of being reinvested into the industry.
36. These taxes, fees and charges ultimately make Canada’s National Airport Policy out of step with global norms, including the United States. Being out of step in terms of cost with one’s single largest competitor is a significant problem, particularly in an industry such as aviation where consumers are extremely sensitive to cost.
37. In its report, the Senate Standing Committee noted the following with regard to the large fees imposed on the airline industry:
- The committee heard expert testimony from witnesses throughout the industry. Those with a view to Canada's competitive place in air travel around the world all had similar complaints: Canada's air travel industry is loaded with high costs. There are a multitude of divergent interests working at cross-purposes, leading to inefficiencies throughout the industry. In short, the government does not treat air travel as a tool likely to stimulate economic growth; rather, it is treated as a source for public revenue. Consequently this sector is poorly equipped to compete in an increasingly competitive global market. Worse, Canada's air travel industry is already contributing far less than its potential to Canada's overall economic growth, with serious problems manifesting themselves in the Canadian market – the loss of passengers to U.S. border airports being a symptom.⁸
38. The burdens placed on the Canadian air travel industry explain the emergence and sustained growth of U.S. airports located near the border. These airports attracted approximately five million Canadian passengers in 2011.⁹ There is every reason to believe that this flow of passengers to near border U.S. airports has continued to grow since that time.
39. The Conference Board of Canada argues that Canada can recapture an estimated two million passengers, but only if transportation policy changes.
40. On average, airport fees and navigational fees account for approximately 40% of the total airfare difference between the United States and Canada – and that does not include the difference in after-tax fuel costs.¹⁰

⁸ Ibid, 3-4.

⁹ Conference Board of Canada, “Driven Away: Why More Canadians are Choosing Cross-Border Airports,” (2012).

¹⁰ Conference Board of Canada, “Driven Away,” iii.

41. Therefore, it should be no surprise that Canada was 136th out of 140 countries when it came to ticket taxes and airport charges, as ranked by the 2013 World Economic Forum Tourism Competitiveness Report. In case we think that things are improving in Canada, we were 98th in 2009.
42. Our country's ranking on this issue must improve. While it may be tempting to think that a single tax only adds a few dollars to the cost of airfare for passengers, Canada's transportation policy must recognize the collective burden the numerous taxes and fees impose.
43. Given our geographical proximity, the Canadian air transportation industry is in direct competition with the U.S. industry to attract passengers and build global hubs. As a result, we have to recognize that the United States is the best benchmark for our country's aviation industry.
44. It's time to stop treating the air industry as a revenue source, and instead start treating it as an economic catalyst. Air Canada appreciates that both the federal government and the Review Panel have recognized this issue and have asked stakeholders for recommendations.

b. A Closer Look


45. The Senate Committee's report notes the many fees, taxes and tariffs applied to the aviation industry that greatly harm its competitiveness on an international scale. They are as follows:
 - The "airport rent" that Canadian airports belonging to the National Airports System have to pay to the federal government for the use of Crown land. This rent is a unique feature of Canadian aviation policy, as it places a charge on airports (which are passed along to airlines and eventually to passengers) for which absolutely no services are provided.
 - The Air Travellers Security Charge (ATSC), a mandatory charge for the screening of passengers and their baggage. Canadian charges for security are among the highest in the world, and are not directly connected to the services provided. Moreover, the government intended this charge to be revenue neutral, but instead it is bringing in tens of millions of dollars in surplus revenue – a point we explain further in this document.¹¹
 - Usage fees for NAV CANADA's air traffic control and other related services are funded entirely by users, while in the United States and in many other countries, these fees are heavily subsidized.⁷
 - The Airport Improvement Fees (AIFs), which airport authorities require passengers to pay. These fees primarily fund airport infrastructure projects. In the United States, all airports have access to grants to finance their infrastructure projects, in addition to funds from the Federal Aviation Administration.

¹¹ Transport Canada, "Air Travellers Security Charge," (2010), <https://www.tc.gc.ca/eng/aviationsecurity/page-181.htm> (accessed January 21, 2015).

- Federal and provincial fuel excise taxes are an estimated national burden of \$100 million, according to the Senate Committee report. This estimate does not take into account the substantial increases announced by the Province of Ontario in its latest budget.
 - Municipal taxes or Payments in Lieu of Taxes (PILT) are collected from airports by the municipalities in which they are situated. U.S. airports do not pay property taxes. Instead, they receive subsidies.
 - The goods and services tax (GST) or harmonized sales tax (HST) is applied to the cost of tickets, which are generally higher in Canada than in the United States. This means the government is also asking passengers to pay tax on both the ticket from the airlines and on some of the above fees, including the Airport Improvement Fee and the Air Travellers Security Charge.
46. To quote the expression from the Senate report, this "club sandwich of fees" and other taxes weigh heavily on the shoulders of the industry and unjustly curbs its potential for growth.¹²
 47. This burden puts Canadian carriers at a competitive disadvantage: it artificially increases the cost of air travel in Canada and reduces the ability of Canadian carriers to grow their network and to offer more direct services to Canadians.
 48. One of the direct consequences of this competitive disadvantage is the growth of U.S. border airports. They are currently flourishing at the expense of our Canadian airports marketing themselves to Canadians who cross the border for cheaper travel.
 49. The following four graphics illustrate why millions of Canadian families are choosing to drive across the border and fly with American carriers. The graphics contain the taxes and fees that are directly charged to passengers on routes that originate in Canada versus the United States. However, the taxes and fees within the tables are not exhaustive, as they do not include indirect taxes and fees that have to be assumed by the airlines such as the airport rent, the municipal taxes and fuel taxes.
 50. In the first graphic, if a family of four chooses to take a round trip from Toronto to Orlando, the total amount of taxes, fees and charges add up to \$609.28. In contrast, if that same family of four takes a round trip from Buffalo to Orlando, the taxes are \$278.60. This difference results in a savings of \$330.68 in taxes, fees and charges for a family of four. (All of the figures below are in Canadian dollars, and the fees applicable to the U.S. itinerary have been converted at an exchange rate of 1.14.)

¹² Senate Standing Committee, "The Future of Canadian Air Travel: Toll Booth or Spark Plug?," 10.

Passenger Tax Comparison between Toronto-Orlando and Buffalo-Orlando¹³



TORONTO – ORLANDO ROUNDTRIP*

CANADA FEES		U.S. FEES	
\$25.61 (Federal Sales Tax – GST)	\$3.25 (Harmonized Sales Tax – HST)	\$15.00 (Navigational Surcharge)	\$39.90 (U.S. TRANSPORTATION TAX)
\$12.10 (Security Charge – ATSC)	\$25.00 (Airport Improvement Fee – AIF)	\$57.00 (APPHIS USER FEE)	\$513 (PASSENGER FACILITY)
\$6.38 (SEPT. 11 SECURITY FEE)		\$6.27 (CUSTOM USER FEE)	\$798 (IMMIGRATION USE FEE)
			\$638 (PASSENGER FACILITY)

TAX & FEES

FAMILY OF FOUR
TOTAL TAXES/FEES/CHARGES: \$152.32 x 4 = \$609.28


PASSENGER NAME

Cabin / Cabine
Y

FROM
TORONTO


TO
ORLANDO

Seat / Place
18A WINDOW / HUBLOT



A STAR ALLIANCE MEMBER
MEMBRE DU RESEAU STAR ALLIANCE

* Base fare of \$250 each way.



BUFFALO – ORLANDO ROUNDTRIP*

\$37.50 (U.S. TRANSPORTATION TAX)	\$12.77 (SEPT. 11 SECURITY FEE)
\$10.26 (PASSENGER FACILITY CHARGE)	\$9.12 (FLIGHT SEGMENT TAX)

TAX & FEES

FAMILY OF FOUR
TOTAL TAXES/FEES/CHARGES: \$69.65 x 4 = \$278.60

PASSENGER NAME

Cabin / Cabine
Y

FROM
BUFFALO

TO
ORLANDO

Seat / Place
18A WINDOW / HUBLOT

* Base fare of \$219.30USD each way, (eq. \$250 CA @ \$1.14).

¹³ Effective January 2015, the U.S. Transborder Tax is now US\$ 17.70 each way, with a 7.5% tax on the U.S. domestic flight. The graphics show the 2014 rate for the U.S. Transborder Tax.

Passenger Tax Comparison between Montreal-Fort Lauderdale and Plattsburgh-Fort Lauderdale



MONTREAL – FORT LAUDERDALE ROUNDTRIP*

CANADA FEES		U.S. FEES	
\$26.86 (Federal Sales Tax – GST)	\$24.91 (Quebec Sales Tax – QST)	\$39.90 (U.S. TRANSPORTATION TAX)	\$513 (PASSENGER FACILITY)
\$12.10 (Security Charge – ATSC)	\$25.00 (Airport Improvement Fee – AIF)	\$570 (APHIS USER FEE)	\$798 (IMMIGRATION USE FEE)
\$15.00 (Navigational Surcharge)		\$6.27 (CUSTOM USER FEE)	\$6.38 (SEPT. 11 SECURITY FEE)

TAX & FEES

FAMILY OF FOUR
TOTAL TAXES/FEES/CHARGES: \$152.81 x 4 = \$611.24

PASSENGER NAME

Cabin / Cabine
Y

FROM
MONTREAL


TO
FORT LAUDERDALE

Seat / Place
18A WINDOW / HUBLOT

AIR CANADA 

A STAR ALLIANCE MEMBER
MEMBRE DU RESEAU STAR ALLIANCE 

* Base fare of \$250 each way.



PLATTSBURGH – FORT LAUDERDALE ROUNDTRIP*

\$37.50 (U.S. TRANSPORTATION TAX)	\$12.77 (SEPT. 11 SECURITY FEE)
\$10.26 (PASSENGER FACILITY CHARGE)	\$9.12 (FLIGHT SEGMENT TAX)

TAX & FEES

FAMILY OF FOUR
TOTAL TAXES/FEES/CHARGES: \$69.65 x 4 = \$278.60

PASSENGER NAME

Cabin / Cabine
Y


FROM
PLATTSBURGH

TO
FORT LAUDERDALE

Seat / Place
18A WINDOW / HUBLOT

* Base fare of \$219.30USD each way, (eq. \$250 CA @ \$1.14).

Passenger Tax Comparison between Vancouver-Phoenix and Seattle-Phoenix



VANCOUVER – PHOENIX ROUNDTRIP*

CANADA FEES		U.S. FEES	
\$26.61 (Federal Sales Tax – GST)	\$12.10 (Security Charge – ATSC)	\$39.90 (U.S. TRANSPORTATION TAX)	\$5.70 (APHS USER FEE)
\$20.00 (Airport Improvement Fee – AIF)	\$15.00 (Navigational Surcharge)	\$5.13 (PASSENGER FACILITY)	\$6.27 (CUSTOM USER FEE)
			\$6.38 (SEPT. 11 SECURITY FEE)
TAX & FEES			

FAMILY OF FOUR
TOTAL TAXES/FEES/CHARGES: \$145.07 x 4 = \$580.28


PASSENGER NAME

Cabin / Cabine
Y

FROM
VANCOUVER


TO
PHOENIX

Seat / Place
18A WINDOW / HUBLOT



A STAR ALLIANCE MEMBER
MEMBRE DU RESEAU STAR ALLIANCE

* Base fare of \$250 each way.



SEATTLE – PHOENIX ROUNDTRIP*

\$37.50 (U.S. TRANSPORTATION TAX)	\$10.26 (PASSENGER FACILITY CHARGE)	\$9.12 (FLIGHT SEGMENT TAX)	\$12.77 (SEPT. 11 SECURITY FEE)
TAX & FEES			

FAMILY OF FOUR
TOTAL TAXES/FEES/CHARGES: \$69.65 x 4 = \$278.60

PASSENGER NAME

Cabin / Cabine
Y


FROM
SEATTLE

TO
PHOENIX

Seat / Place
18A WINDOW / HUBLOT

* Base fare of \$219.30USD each way, (eq. \$250 CA @ \$1.14).

Passenger Tax Comparison between Toronto-Chicago and Buffalo-Chicago



TORONTO – CHICAGO ROUNDTRIP*

CANADA FEES		U.S. FEES	
\$256.61 (Federal Sales Tax – GST)	\$3.25 (Harmonized Sales Tax – HST)	\$12.10 (Security Charge – ATSC)	\$25.00 (Airport Improvement Fee – AIF)
\$15.00 (Navigational Surcharge)	\$39.90 (U.S. TRANSPORTATION TAX)	\$513 (PASSENGER FACILITY)	\$570 (APHIS USER FEE)
\$6.38 (SEPT. 11 SECURITY FEE)	\$6.27 (CUSTOM USER FEE)	\$798 (IMMIGRATION USE FEE)	

TAX & FEES

FAMILY OF FOUR
TOTAL TAXES/FEES/CHARGES: \$152.32 x 4 = \$609.28


PASSENGER NAME

Cabin / Cabine
Y

FROM
TORONTO


TO
CHICAGO

Seat / Place
18A WINDOW / HUBLOT



A STAR ALLIANCE MEMBER
MEMBRE DU RESEAU STAR ALLIANCE

* Base fare of \$250 each way.



BUFFALO – CHICAGO ROUNDTRIP*

\$37.50 (U.S. TRANSPORTATION TAX)	\$10.26 (PASSENGER FACILITY CHARGE)	\$9.12 (FLIGHT SEGMENT TAX)	\$12.77 (SEPT. 11 SECURITY FEE)
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TAX & FEES

FAMILY OF FOUR
TOTAL TAXES/FEES/CHARGES: \$69.65 x 4 = \$278.60

PASSENGER NAME

Cabin / Cabine
Y

FROM
BUFFALO

TO
CHICAGO

Seat / Place
18A WINDOW / HUBLOT

* Base fare of \$219.30USD each way, (eq. \$250 CA @ \$1.14).

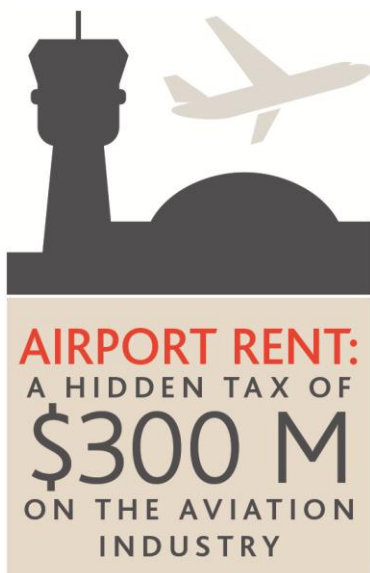
51. The fees charged directly to passengers do not take into account all of the other indirect taxes and charges that impact the cost of air travel, such as airport rent, payment in lieu of taxes and fuel taxes. As more fully explained later in this chapter, these indirect costs are imposed by the government on airports and airlines, further increasing the cost of air travel in Canada.
52. In fact, depending on the type of aircraft, Air Canada landing and terminal fees in major Canadian airports are 35% to 75% higher than in major U.S. airports. When factoring in the difference between the Airport Improvement Fee and its U.S. equivalent (Passenger Facility Charge) that are paid by passengers, airport-related costs are on average 83% higher per departing seat in Canada than in the U.S.

53. This uncompetitive cost environment is not only causing the leakage of Canadian passengers to the United States, but also the loss of international traffic travelling to or via Canada. This loss reduces our ability to position our country as an international gateway and to grow our airlines and our airports.
54. Furthermore, this unbalanced treatment creates a situation that is contrary to the intent and spirit of the policies and agreements negotiated to liberalize and harmonize the U.S.-Canada market, including the North America Free Trade Agreement (NAFTA) and the bilateral Air Transportation Agreement, which incidentally clearly sets out that "each party shall allow fair and equal opportunity for the designated airlines of both parties to compete and provide the international air transportation governed by this Agreement."¹⁴ (emphasis added)
55. To ensure competitiveness, Canada should match the tax levels in the United States aviation industry.

RECOMMENDATION 2: Ensure that Canada's overall taxes and fees applicable to the air transportation industry are globally competitive, in particular with the United States.

RECOMMENDATION 3: Ensure any taxes or fees taken from the industry are either directly related to services for passengers or otherwise reinvested into the industry.

c. Airport Rent



56. Under the 1994 National Airports Policy, the government determined that it would retain ownership of the 26 busiest airports in Canada. However, Canadian Airport Authorities (CAAs) would lease these National Airport System (NAS) airports from the federal government:

Through this commercialization of the [National Airport System (NAS)] airports, each individual NAS airport will be operationally self-sufficient within five years. Collectively, these lease arrangements with [the Canadian Airport Authorities] will improve the federal government's financial position.¹⁵ (emphasis added)

¹⁴ Government of Canada, "Air Transport Agreement Between the Government of Canada and the Government of the United States of America," <http://www.treaty-accord.gc.ca/text-texte.aspx?id=105086> (accessed February 6, 2015).

¹⁵ Transport Canada, "National Airports Policy." <https://www.tc.gc.ca/eng/programs/airports-policy-nas-1129.htm>

57. Originally, the rent formula was based on the number of passengers who passed through the airport. Today, the rent formula is calculated on the gross receipts of the airports, but is equivalent to around 12% of the airports' revenue. The Senate Committee report states that this formula "makes [the revenue] more akin to a tax than a true rent."¹⁶ As a result, the formula acts as a disincentive for airports to generate non-aeronautical revenue, as the tax makes it difficult for other business ventures to succeed.
58. The rent is nothing less than a hidden tax on airport development. It applies to all revenues, including revenues generated by investments made by the Airport Authorities and businesses after the government transferred the airports.
59. The table below provides examples of the 2013 rent charged to airports belonging to the National Airports System.¹⁷

Airport Authority	Airport Rent – 2013
Greater Toronto Airports Authority	\$126,751,741
Aéroports de Montréal	\$45,605,739
Vancouver International Airport Authority	\$42,271,909
Calgary Airport Authority	\$34,761,391
Edmonton Regional Airports Authority	\$15,342,865
Ottawa Macdonald Cartier International Airport Authority	\$7,449,215
Winnipeg Airports Authority Inc.	\$6,399,000
Halifax International Airport Authority	\$5,938,000
Aéroport de Québec Inc.	\$2,659,041
Saint John's International Airport Authority	\$1,656,938
Saskatoon Airport Authority	\$1,007,254
Regina Airport Authority	\$857,781
Victoria Airport Authority	\$777,868
Thunder Bay International Airports Authority Inc.	\$103,902
Prince George International Airport Authority	\$75,016
Greater London International Airport Authority	\$60,605
TOTAL	\$291,718,265

¹⁶ Senate Standing Committee, "The Future of Canadian Air Travel," 7.

¹⁷ The source for the rent for each airport comes from the annual reports of each Airport Authority.

60. Since the airports were transferred, they have generated \$2.5 billion in revenues from airport rent for the federal government.¹⁸ Last year alone, the government collected close to \$300 million in airport rent. Air Canada found that airport rent, passed down from Airport Authorities, increases the company's airport fees by approximately \$100 million per year.
61. When collecting airport rent, the government places this money into general revenue and does not reinvest any of it back into airport infrastructure. This practice of using airports as a revenue tool instead of an opportunity for investment is in stark contrast to what the United States and other governments do.
62. Numerous reports have dispelled the fear that if the government eliminates airport rent, it would lose significant revenue. The opposite is true. Eliminating airport rent would help to generate economic activity, which would in turn generate tax revenue in other areas. In a study prepared by *InterVISTAS* Consulting and published in 2009, it was estimated that the elimination of airport rent nationwide would have a net positive annual economic impact of \$720 million.¹⁹

RECOMMENDATION 4: Abolish airport rent. At the very least, reduce airport rent by fixing the rent calculation formula and ensure non-aeronautical revenue and terminal and airside improvements that were made subsequent to the transfer of the airport under the lease are not included in the calculation. Ensure that any rent collected is reinvested in Canadian airport infrastructure on a proportional basis to the source airport.

¹⁸ Senate Standing Committee, "The Future of Canadian Air Travel," 2.

¹⁹ InterVISTAS Consulting, "The Elimination of Airport Rent: Return on Investment," (2009), 9.

d. Airport Improvement Fees and Infrastructure Funding

63. To pay for capital infrastructure projects, a number of airport authorities charge every passenger an Airport Improvement Fee (AIF).

Examples of Airport Improvement Fees at Major Canadian Airports

Airport	Airport Improvement Fee (Per Passenger)
Calgary	\$30
Edmonton	\$30
Halifax	\$25
Montréal	\$25
Ottawa	\$23
Québec	\$30
Toronto – Lester B Pearson Intl, Ont.	\$25 – Originating Passengers; \$4 – Connecting Passengers
Vancouver	\$5 – Travel within B.C./Yukon; \$20 – Travel outside B.C./Yukon
Victoria	\$10
Winnipeg	\$25

64. The U.S. equivalent of the Airport Improvement Fee is the Passenger Facility Charge, which is currently legislated at US\$4.50 per passenger. Air Canada remitted more than \$450 million, collected from passengers, in Airport Improvement Fees in 2013. On a passenger basis, this amount represents approximately three times the amount collected in the U.S. for the Passenger Facility Charge.
65. The Government of Canada provides some funding for infrastructure through the Airports Capital Assistance Program, but this program is targeted to smaller airports whose passenger levels and fees cannot raise enough capital for infrastructure projects. In 2013-14, approximately \$12.9 million in funding was used to assist eligible airports in funding safety-related capital projects.²⁰

²⁰ Government of Canada, "2014 Public Accounts," <http://www.tc.gc.ca/eng/corporate-services/planning-rpp-2014-2015-1099.html> (accessed January 21, 2015).

66. In the United States, all airports have access to grants to finance their infrastructure projects, in addition to funds from the Federal Aviation Administration. As well, U.S. airports can access tax-free bonds to help finance their projects.²¹
67. The Association of Canadian Travel Agencies estimates that the U.S. Government invested about \$4.5 billion in airport infrastructure alone in 2010.²² When accounting for the difference in market size between the two countries, the Association stated that Canada should have spent at least \$450 million in 2010 alone.
68. The Government of Canada recently announced its New Building Canada Plan, which will provide \$53 billion over the next decade for provincial, territorial and municipal infrastructure. The intent of the project is to “support infrastructure projects that foster economic growth, job creation and long-term prosperity.”²³ Canada’s air industry is eager to add to this economic growth, but to achieve its full potential the industry must be able to access infrastructure grants such as those provided through the New Building Canada Plan.
69. By making key infrastructure investments, the government can help ensure Canada’s aviation industry is competing on a level playing field. Moreover, the government will ensure Canada does not fall behind other countries whose governments are making large infrastructure investments with the goal of becoming industry leaders.



RECOMMENDATION 5: Include all Canadian airports, including National Airports System airports, as eligible for infrastructure funding under the Building Canada Plan.

²¹ Conference Board of Canada, “Driven Away,” 11.

²² Gerry McCartney. *Canada’s Airports Need a New Deal*. London Free Press (August 8, 2011). <http://www.lfpress.com/money/businessmonday/2011/08/08/18523871.html>

²³ Infrastructure Canada, “The New Building Canada Plan: The largest and longest federal infrastructure plan in Canadian history,” (June 23, 2014), <http://www.infrastructure.gc.ca/plan/nbcp-npcc-eng.html>

e. Air Travellers Security Charge

70. Canada established the Canadian Air Transport Security Authority (CATSA) after the September 11, 2001, terrorist attacks.
71. Passengers pay for CATSA through the Air Travellers Security Charge (ATSC). The ATSC charge covers pre-board screening of passengers and their belongings, as well as checked baggage screening and other related security services provided by CATSA.

Security Fees for Canada and the United States

	Canada	United States
Domestic	\$7.12 each way (to a maximum charge of \$14.25)	\$5.60 each way (to a net of \$12.10 round trip) ²⁴
Transborder	\$12.10 each way (to a maximum charge of \$24.21)	Subsidized by the U.S. Government
Other international	\$25.91	Subsidized by the U.S. Government

72. According to the federal government's budget documents, the ATSC revenue received from passengers exceeds the CATSA budget. In 2013-14 for example, approximately \$662 million²⁵ in revenue was collected directly from passengers, while the total expenses for CATSA were approximately \$539 million.²⁶ This difference left a surplus of \$123 million. In the 2013 calendar year, Air Canada collected approximately \$215 million from its passengers for the ATSC, which would have helped create a \$50 million surplus.

²⁴ Transportation Security Administration, "September 11 Security Fee," <http://www.tsa.gov/stakeholders/september-11-security-fee-passenger-fee> (accessed January 21, 2015).

²⁵ Government of Canada, "Public Accounts of Canada," (2014), 61. <http://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/2014/pdf/2014-vol2-eng.pdf>

²⁶ Canadian Air Transport Security Authority, "Annual Report 2014," (2014), 56, <http://www.catsa.gc.ca/sites/default/files/imce/AnnualReport2014.pdf>

2013:
SECURITY FEES
FOR CANADA
AND U.S.:
\$215 M
 COLLECTED FROM
 AIR CANADA
 PASSENGERS



73. In its 2010 Budget, the federal government stated that the ATSC fee was intended to be revenue neutral over the course of the next five years. At the time, the projected revenue surplus for 2013-14 was \$42 million for the ATSC²⁷ – far lower than the actual \$123-million surplus.

74. Even having passengers pay for the full cost of CATSA is a departure from what every other country does with air security. It is also a departure from how we treat other forms of transit. For example, motorists are not expected to cover the cost of highway patrols. Economist Fred Lazar makes a pointed argument that Air Canada adopts: security is a national issue. Therefore, the cost of it in the air industry should not be borne by passengers alone.²⁸

75. In the United States, the government pays for a portion of the cost of security. Only 30% of security costs are passed on to air travelers, with the government providing funding for 63% of the costs.²⁹ The U.S. government also invests directly in new technology for screening passengers under the *American Recovery and Reinvestment Act*.

76. Ultimately, the services CATSA provides relate to public safety, and therefore CATSA fees must be tied to the level of service provided. Moreover, the government’s allocation of CATSA services to airports must also be proportional to each airport’s passenger flow to keep service standards consistent across the country.
77. Air Canada is embarking on an unprecedented growth plan over the next 10 years. As a result of the new business, the revenue generated by the ATSC will grow significantly. To ensure the aviation industry can reach its growth potential, the government should reinvest these funds into the industry, instead of directing the revenue elsewhere.

RECOMMENDATION 6: Ensure Canadian fees from the Canadian Air Transport Security Authority (CATSA) match our U.S. competitors. At the very least, ensure the fees do not exceed the cost of the service provided.

²⁷ Transport Canada, “Air Travellers Security Charge,” (2010), <https://www.tc.gc.ca/eng/aviationsecurity/page-181.htm>

²⁸ Fred Lazar, “The Economic Impacts of the Member Carriers of the National Airlines Council of Canada,” (Schulich School of Business, 2012).

²⁹ National Travel and Tourism Association, “Looking to 2020: The Future of Travel and Tourism in Canada,” (2010).

RECOMMENDATION 7: Use the revenue from the Air Travellers Security Charge (ATSC) to fund direct security services at Canadian airports proportional to the passenger volumes at each airport.

f. Taxes on Aviation Fuel

- 78. In addition to the above taxes, airlines also face taxes on fuel. The federal excise tax of fuel is set at 4.0 cents per liter and applies to domestic travel. Provinces also charge fuel excise taxes on domestic travel, as well as on international travel in some cases.
- 79. For example, for flights originating from Ontario, a provincial 3.7 cents per litre excise tax applies to international flights – making Canada less competitive on a global scale.


Current Aviation Fuel Taxes – Canada and Provinces (cents per litre)³⁰

	<i>Domestic</i>	<i>International</i>		<i>Domestic</i>	<i>International</i>
Federal	4	0	Newfoundland & Labrador	0.7	0*
Quebec	3	0	Prince Edward Island	0.7	0.7
British Columbia	2	0	Nova Scotia	2.5	2.5
Alberta	1.5	0	Manitoba	3.2	3.2**
New Brunswick	2.5	0	Ontario- now	3.7	3.7
Saskatchewan	1.5	0	Ontario – 2017	6.7	6.7

*International flights are exempt, except for flights to the United States.
 ** 0 cents per litre for U.S. and international cargo flights.

- 80. Economist Fred Lazar emphasizes the point that the federal excise tax was introduced originally to finance airport infrastructure, yet was maintained to help eliminate the budget deficit. He states that “for much of the period since the mid-1990s, the original policy objective of this tax has disappeared. Yet, the tax persists!”³¹

³⁰ This chart has been updated from its source report: “The Case for Eliminating the Government of Ontario Tax on Aviation Fuel on Transborder and International Flights.” Economist Fred Lazar prepared the March 2013 report for the National Airlines Council of Canada.
³¹ Fred Lazar, “Economic Impacts,” 31.

81. Fuel taxes are also being used as a means to help balance provincial budgets. In the 2014 Ontario Budget, the government raised its tax on aviation fuel. Upon full implementation in 2017, its fuel excise tax will be 6.7 cents per litre of fuel – an increase of 4.0 cents, or 148%, from its previous rate of 2.7 cents per litre. This increase will place an additional burden on the industry – a burden that is being implemented to finance other modes of transportation. For Air Canada alone, this increase will represent close to \$50 million in extra costs per year.
- 
82. Again, these taxes will place Canadian carriers at competitive disadvantage with their U.S. counterparts, as no comparable fuel taxes are charged for transborder and international flights in and out of the United States.

RECOMMENDATION 8: Reinvest revenue received from the domestic fuel tax into the air transportation industry and remove any international fuel excise taxes for competitive reasons.

g. Payments in Lieu of Taxes

83. In addition to paying airport rent, airports located on federal government lands in Canada must also make payments to municipalities in lieu of property taxes (PILTs). Regional airports operated by municipalities are exempt from municipal taxes, but most independent airport societies do have to pay municipal taxes.

Examples of Payments in Lieu of Taxes (PILTs) at Major Canadian Airports³²

Airport Authority	PILTs
Greater Toronto Airports Authority	\$ 28,953,000
Vancouver Airport Authority	\$ 15,725,000
Aéroports de Montréal	\$ 40,500,000
Calgary Airport Authority	\$ 7,841,000
Edmonton Airports	\$ 6,176,000
Winnipeg Airports	\$ 1,609,000
Ottawa International Airport Authority	\$ 5,048,000
Halifax International Airport Authority	\$ 1,418,000

³² Figures were drawn from the 2013 annual reports of the corresponding Airport Authorities.

84. The rate of the PILTs for airports is not tied to services provided by municipalities. In fact, many municipalities provide no service at all to airports, as they are located on federal lands. In some cases, this practice creates large discrepancies in the amount paid to various municipalities and any benefit received by airports.



85. As well, many airports must make additional payments for municipal services, such as policing. For example, the Edmonton Airports paid over \$7.1 million for policing and security for 2013-14.³³

86. In the United States, almost all airports do not pay land taxes or payment in lieu of taxes as they are municipally owned.

87. As Canadian airports pass these fees along to airlines, Air Canada estimates that PILTs increased its airport fees by an amount exceeding \$35 million in 2013.

RECOMMENDATION 9: Tie Payments in Lieu of Taxes (PILTS) with the level of services provided by municipalities, such as policing and road repairs. Ensure there is an appropriate level of reinvestment by the municipality in airport-related infrastructure to offset these payments.

h. Other Taxes and Fees and the Need for a Global Benchmark Exercise

88. The above examples of taxes and fees are not exhaustive. For instance, GST/HST and QST are applied to the cost of air tickets (depending on the passengers' itinerary), which means that passengers pay tax not only on the fare levied by the airline, but they also pay tax on many of the fees listed above. As an example, a transborder trip to the United States, GST is applied to base fare and the security charge. As well, GST/HST and QST are applied to the Airport Improvement Fee.
89. Aircraft navigation fees also place Canada at a competitive disadvantage. While many governments have applied the "user pay" principle and made their air navigation services financially self-supporting, only Canada and the United Kingdom have privatized their air navigation services.
90. When the federal government privatized NAV CANADA in 1996, the corporation assumed the \$1.5 billion debt payable to the government and the annual interest associated with it. To pay down its debt and to recoup the cost of providing civil air navigation services, NAV CANADA charges airlines navigation fees based on aircraft weight and distance flown. (In the interest of accountability, NAV CANADA provides airlines with full financial transparency on the services it provides.)

³³ Edmonton Airports, "2013 Annual Report," 59, <http://flyeia.com/sites/default/files/Files/Reports%20and%20Publications/eia-2013annualreport.pdf> (accessed February 6, 2015).

91. NAV CANADA's fees are passed down to passengers in the form of a surcharge. For example, the charge on domestic Air Canada flights ranges from \$12 to \$23 per ticket based on the distance flown. The surcharge on transborder flights is fixed at \$7.50 per ticket.
92. In the United States, the Federal Aviation Administration (FAA) provides air traffic control services. The federal government funds about a quarter of its budget, while the rest is provided through the Airport and Airway Trust Fund. The Fund receives revenue from aviation fees and taxes, which are reinvested directly into the industry.
93. By privatizing navigational services, the Government of Canada has imposed an additional cost on airlines that is not found in other jurisdictions, creating a less competitive environment for the Canadian aviation industry.
94. While each individual charge taken separately may not seem like an extravagant amount of money, it is important to remember that the numerous small taxes, fees and charges the air industry faces altogether account for 40% of the cost difference between American and Canadian flights.
95. As mentioned earlier, North America is in effect one harmonized market and the agreements negotiated with the United States, including NAFTA and the bilateral Air Transportation Agreement, were concluded with the intent of providing an environment of fair and equal opportunity for competition. Yet Canadian policy has put our carriers at a distinct disadvantage.
96. The government must review all taxes, fees and charges levied on passengers and the aviation industry, and ensure that as a whole they are competitive globally, in particular with the United States, our closest competing jurisdiction.

RECOMMENDATION 10: Remove the requirement to apply GST, HST and QST on all fees charged to passengers, such as the Airport Improvement Fee and the Air Travellers Security Charge.

RECOMMENDATION 11: Create a global benchmark every five years to compare Canada's taxes, fees and charges against other countries, with the objective of making Canada the most competitive country to further the development of the aviation industry.

IV. BUILDING GLOBAL HUBS AND DEVELOPING STRONG AIRPORT INFRASTRUCTURE

a. Introduction

97. Connecting traffic is the lifeblood of the modern airline industry. In our globalized world, airlines compete to connect the international flow of traffic through their airport hubs in their home country. In any location, the challenge is for a network airline to capture this traffic along with locally-originating traffic to fill its planes and expand its route network and frequencies.
98. This fact is particularly crucial for countries with a small population like Canada, for which the locally-originating traffic offers steady but limited growth potential.
99. Other countries have successfully built hubs and increased the flow of traffic through their airports. One example is Amsterdam's Schiphol Airport. Holland is a country of only 16 million people, yet over 52 million passengers travel through Schiphol each year.³⁴ For Amsterdam, this traffic flow means increased economic activity for the country, greater business for the airport and more choice for travellers because airlines can sustain routes from Amsterdam that local traffic alone could not support.
100. In fact, more than 70% of the traffic carried by KLM, Netherland's national airline, is international traffic connecting in Amsterdam.³⁵ With all of this connecting traffic, KLM is able to maintain a network of more than 132 international destinations from Amsterdam, the most global European hub, located in a city that is half the size of Montreal. Moreover, KLM employs over 32,000 people.³⁶
101. Canada has four main hubs located in Toronto, Vancouver, Montreal and Calgary. Each location provides extensive access to domestic, transborder and international markets and each exploits Canada's favourable geography – located next to the largest aviation market in the world (the United States) and favorably positioned between Asia, Europe and South America. This geography reduces the overall travel duration for passengers choosing to connect through Canada's hub airports:
 - **Toronto Pearson International Airport** is the largest hub in Air Canada's network and is a significant airline origin and destination market in North America. Air Canada's presence at Toronto Pearson has historically served as a strong transit link for Canadians travelling domestically between Canadian cities and intra-Ontario regions. Since 2010, Air Canada has significantly grown its International direct flights and, with its transborder network, the flow of

³⁴ Schiphol Group, "Amsterdam Schipol Airport," <http://www.schiphol.nl/SchipholGroup/Company1/Profile/Activities/AmsterdamAirportSchiphol.htm> (accessed February 4, 2015).

³⁵ KLM Royal Dutch Airlines, "KLM network makes Schipol into a Mainport," https://www.klm.com/corporate/en/images/008372%20Factsheet%20network_tcm729-342204.pdf (accessed February 4, 2015).

³⁶ KLM Royal Dutch Airlines, "Company Profile," <http://www.klm.com/corporate/en/about-klm/profile/> (accessed February 4, 2015).

passengers choosing to fly from the United States through Toronto and onward to their international destination. This flow of traffic has become a material revenue opportunity for the airline, the airport, the City and Canada at large.

- **Vancouver International Airport** is the second largest hub in Air Canada's network and provides connectivity to the Pacific Rim and Europe. Like Toronto, Vancouver is well positioned to attract U.S.-originating passengers connecting through to their final international destination.
- **Montreal International Airport** is the third largest hub in Air Canada's network and operates similarly to Toronto and Vancouver, adding the unique opportunity to link Europe and the global francophone markets.
- **Calgary International Airport** is Air Canada's fourth largest hub and acts as Air Canada's primary international airport for Canada's rapidly growing Prairie provinces, offering direct services to both Europe and Asia.

102. The economic potential of growing these airports into global hubs is enormous for Canada. For example, Air Canada currently carries about 0.8% of traffic that originates from the United States and flies to international destinations in Europe and Asia on foreign airlines. If this share could grow to a reasonable 1.5%, the increase in traffic would translate into an incremental \$600 million in annual revenue.³⁷ This increase would result in new route possibilities from Canadian hubs, along with additional jobs being created and other related opportunities.
103. We know that new route possibilities, better links and the resulting hubs attract opportunities like conventions, head offices for businesses and greater tourism. For example, Singapore would not be the financial centre and world-class tourist destination that it is without the Changi Airport hub.
104. To compete globally, we cannot continue to lose traffic to other globally competitive hubs. Instead, we must be better equipped to attract a greater share of the global market to our Canadian hubs.
105. To succeed in this goal, the aviation industry need only convince travellers to connect through one of our Canadian hubs instead of the United States. For example, we need to persuade passengers from San Francisco that they would prefer to connect through Vancouver on their way to China, as opposed to connecting in Seattle. People travelling from Sao Paulo to Tokyo should connect through Toronto instead of Chicago. And passengers from Athens must want to travel to Boston through Montreal, instead of Paris.
106. Our geography plays to our advantage when passengers are deciding on how to connect to their final destination, but cost can be a significant driver of these decisions.

³⁷ This number was calculated by using the Quality Service Index (QSI) model, which takes into account the schedule and the product of Air Canada in the U.S. market.

107. To improve the competitiveness of our products for customers, Air Canada has made numerous investments in the recent years. For example, we have renewed our fleet and created a new executive class product. Improvements to our services have led to Skytrax ranking Air Canada as a four-star airline and as the best airline in North America for five years in a row now.³⁸
108. However, the industry cannot reach its full growth potential without supportive government policies. Our public policy must focus on attracting more connecting traffic through international expansion and its four main airport hubs. This focus will help expand Canada's airlines and airports and increase our accessibility to the world.
109. The governance structure of our country's air industry must also encourage innovation, collaboration and economic growth. The success of Canadian airports requires that every government agency that operates within the air industry to work together to improve service levels, to create seamless connection experiences and to establish the reputation of Canada's hub airports as being the preferred airports through which global passengers travel.
110. Economist Fred Lazar notes that "international gateway airports generate more value for their respective regional and national economies than national hubs, regional hubs, or stub airports."³⁹ For Canada, this means greater connectivity and economic spinoffs – all the more reason for Canada to promote international expansion for our hubs.

b. Building Successful Hubs

111. Along with supportive government policy, the four key ingredients to building successful hubs include: location, efficient infrastructure and competitive fees, a network carrier aimed at international growth, and a smooth facilitation process that provides a high level of customer experience.
112. Being at a crossroads where people and goods naturally converge is a necessity. For example, Toronto is well located in the heart of the continent. Vancouver is a gateway to the Pacific Rim. Montreal has a natural connection with Europe and other francophone markets. Finally, Calgary is the primary international airport for Canada's rapidly growing Prairie provinces.
113. First, all hubs need efficient infrastructure and competitive fees and charges – a topic we discussed in the previous section. Cost competitiveness influences passengers' choice of which hubs to connect through and which airline to fly on.

³⁸ Skytrax is an independent United Kingdom-based research firm, which conducts airline and airport reviews and rankings.

³⁹ Fred Lazar, "The Economic Impacts," 7.

114. A hub must also be a base for a strong network carrier with sizeable operations, an appetite for international growth and an expansive route network to give customers choice. Without a network carrier bringing passengers into the airport to connect to destinations beyond it, all that is left is local traffic. Air Canada fills this role in all four locations.



115. Air Canada operated more than 332 daily departures from Toronto, 144 daily departures from Vancouver, 137 from Montreal, and 105 from Calgary in 2014. These departures include our Air Canada “mainline” operations and our Air Canada Express partners – airlines that operate on a contracted basis for Air Canada and Air Canada rouge, our wholly-owned leisure airline. With this network, we offer direct passenger service to 186 destinations on five different continents.

116. Hub networks translate into an abundance of connectivity and a wide selection of non-stop routes for local customers in these “hub” cities – well beyond what would be possible if airlines were merely relying on local traffic. As well, hub networks mean better connections within Canada and the same abundance of connection options for passengers from ‘spoke’ cities that connect directly to the hub.

117. Finally, hubs need a smooth facilitation process and efficient service delivery that prioritizes a high level of customer experience. Unnecessary paperwork, long queues and delays will deter global travellers from travelling through a hub. This fact means that government transportation policy cannot focus solely on domestic travellers on national routes. Instead, it must also include a focus on the global traveller and so-called “sixth freedom” traffic.⁴⁰

⁴⁰ Freedoms of the air relate to the type of international services permitted by airlines. For example, think of passengers travelling from Cleveland to Beijing. These customers lack direct service and will need to connect somewhere. If we have the right policies, transiting through Canada becomes an option for these passengers, also known as “sixth freedom” traffic.

118. The global competitive landscape for network airlines and hub airports is cutthroat. Canadian airlines compete with the largest and best capitalized airlines in the world, as do Canadian airports. In some cases these competitors (airlines and hub airports) are recognized by their governments as an economic driver for the country and the communities they serve. This recognition results in a highly-focused strategy that is fully integrated into all government policies.
119. Nowhere is this more evident than with the processing of connecting passengers. With limited exceptions, in cases where foreign nationals require a visa to come to Canada for business, to visit family or for tourism, these same nationalities require the same visa to simply take a connecting flight in Canada. Many other countries around the world have a starkly different requirement. For example, the Netherlands, Qatar, Singapore and Australia recognize that the ability for passengers to transit their respective countries easily is a benefit to their national airlines and airports.
120. All policies and processes that improve the connectivity of passengers and their baggage are also instrumental to the development of hub airports, including Transit Without Visa, sterile connection and gate areas, and Satellites Primary Inspections Lines (SPIL) – a point we will expand upon later in this section.

RECOMMENDATION 12: Recognize the importance of developing global hub airports by:

- Setting the objective to make Canada a competitive jurisdiction for the development of international air services and the transit of international passengers and cargo traffic via Canada within the National Transportation Policy contained in section 5 of the *Canada Transportation Act*.
- Giving Transport Canada a mandate to develop policies corresponding to the four pillars that drive the growth of hub airports: (1) location; (2) cost competitiveness; (3) the development of network carriers; and (4) smooth facilitation with a focus on customer service.

c. Canada's Blue Sky Policy

121. The Government of Canada negotiates rights for the air transportation industry with foreign jurisdictions through the use bilateral agreements. The government seeks to negotiate and conclude Air Transport Agreements when it is in the country's overall best interest, including for airlines, airports and the travelling public. As a result, these agreements on traffic rights are, in some small way, not unlike trade agreements with other countries that must take the interests of Canada's airline sector into account. Other countries certainly view air traffic negotiation as a means to benefit their own airlines and aviation industry, including in some cases government-owned airlines and airports.

122. As an example, the Government of Canada signed an updated Air Transport Agreement with China in November 2014. The negotiated changes to the bilateral agreement increases the number of flights permitted between Canadian and Chinese airlines and increases the number of destination points in each others' territory, among other improvements to encourage using Canada's airports as connecting hubs to other destinations and providing greater flexibility and certainty in regards to code sharing.⁴¹
123. Under the revised bilateral agreement, each carrier can offer code-share service to up to 12 destinations in the other country. Air Canada currently offers code share service on Air China's flights to: Chongqing (CKG), Chengdu (CTU), Shenyang (SHE), Wuham (WUH), Xi'an (XIY) and Guangzhou (CAN). Air China currently offers codes share service on Air Canada flights to: Edmonton (YEG), Ottawa (YOW), Montréal (YUL), Calgary (YYC), Toronto (YYZ) and Winnipeg (YWG).
124. This agreement follows the Government of Canada's Blue Sky Policy, which it adopted in November 2006. The policy seeks to promote connectivity between all Canadian regions and the world. As well, it seeks to provide Canadian consumers with greater choice in terms of destinations and direct flights.
125. Transport Canada states:
The Blue Sky Policy calls for a proactive approach to the liberalization of Air Transport Agreements (ATAs). In particular, it seeks to negotiate reciprocal Open Skies-type agreements when it is in Canada's overall interest to do so. It does not advocate a "one-size-fits-all" undifferentiated approach to air transport negotiations and recognizes that, in some instances, it is justified to be more prudent, especially where there are level-playing field concerns or where new services run the risk of destabilizing existing ones valued by Canadian communities.⁴²
126. Air Canada supports the continued promotion of the Government's Blue Sky Policy, and notes that it has brought significant growth to Canadian airlines and airports, resulting in better air services for all Canadian communities. Specifically, Air Canada favours liberalization when it provides benefits to everyone involved. This position is why we have consistently pushed for improved bilateral access to large and important markets such as the European Union, Brazil, Japan and China, asking for increased capacity, frequencies, access to new destinations and access to new code sharing opportunities, among other benefits.

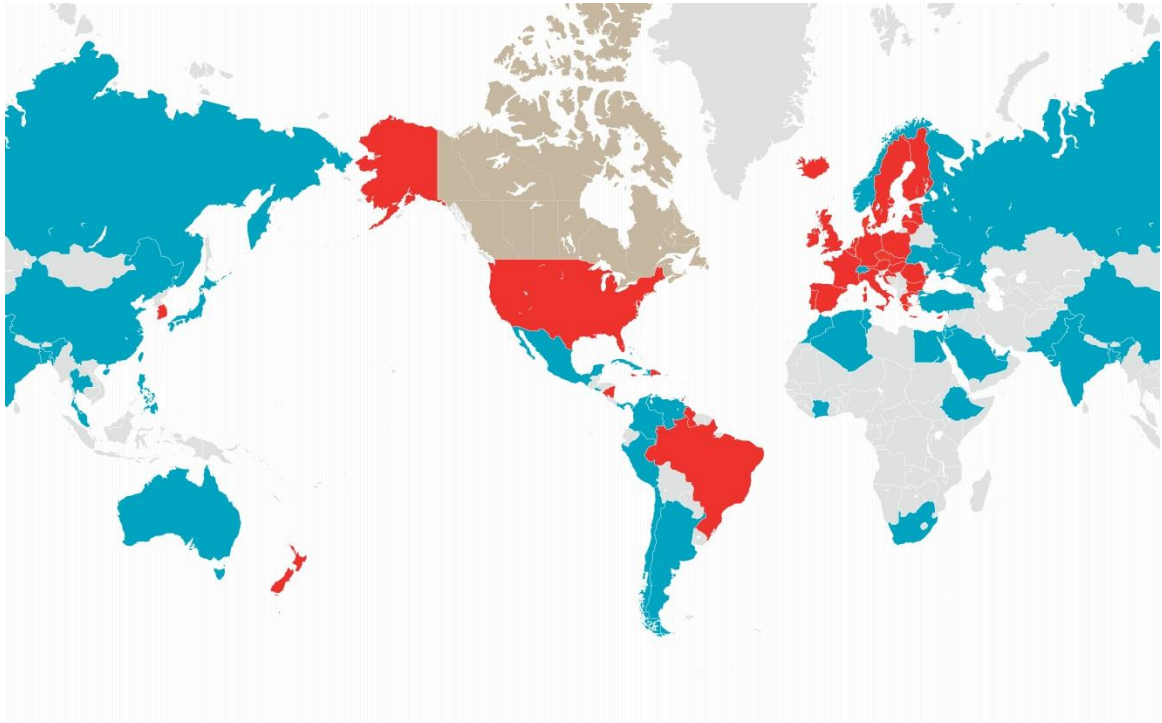
⁴¹ Code sharing is a type of air service through which an air carrier uses its designator code (such as "AC" for Air Canada) on a flight operated by another carrier in order to market and sell an air service to passengers. For example, in accordance with the bilateral agreement between Canada and China, Air Canada may use its code on Air China flights to Shenyang and market them as Air Canada services.

⁴² Transport Canada, "The Blue Sky Policy: Made in Canada for Canada," <http://www.tc.gc.ca/eng/policy/air-bluesky-menu-2989.htm> (accessed December 18, 2014).

127. Through the increasing liberalization of our air industry, our country has made a number of achievements. Since 2006, Canada has concluded Air Transport Agreements with over 80 countries, and the number of bilateral partners has gone from 73 to 112.
128. We have Open Skies-type agreements with close to 50 countries, such as the United States, the countries of the European Union, Brazil, New Zealand, Jamaica and South Korea. Canada also has expanded agreements with 20 countries that include China, India, Japan, Colombia, Peru, Turkey, Egypt, Singapore and Mexico. There are new first-time agreements with 21 countries, such as Ecuador, Uruguay, Bangladesh and Ethiopia.
129. Canada has made tremendous efforts to liberalize its Air Transport Agreements in order to provide Canadians with greater choice in terms of destination and direct flights. However, in some cases where Canada has offered increased rights for airlines to operate services, airlines (foreign and Canadian) have chosen not to use these rights. In other cases, Canada has offered Open Skies-type agreements to certain countries, but these countries do not have the policy to support moving to an Open Skies agreement with Canada. In other words, there are often other obstacles – outside of the Canadian government’s power – to achieve incremental liberalization under Canada’s Blue Sky policy.
130. It is worth noting that only 3% of Canada’s overall international passenger traffic falls under agreements that impose practical constraints on airlines’ commercial plans in Canada.⁴³
131. Over 70% of the traffic to and from Canada is with a country where Canada has a bilaterally negotiated Open Skies-type agreement. This rate climbs to well over 90% when factoring in bilateral agreements where capacity is available but Canadian and foreign airlines have not fully used the available capacity.
132. The following map shows the countries with which Canada has bilateral agreements, under which additional capacity could be added (marked in blue), as well as countries with which Canada has Open Skies-type agreements (marked in red), for which there is no limit on capacity.

⁴³ Transport Canada, “Blue Sky Policy,” <http://www.tc.gc.ca/eng/policy/air-bluesky-menu-2989.htm> (accessed February 4, 2015).

Countries with Available Capacity Under Current Agreements



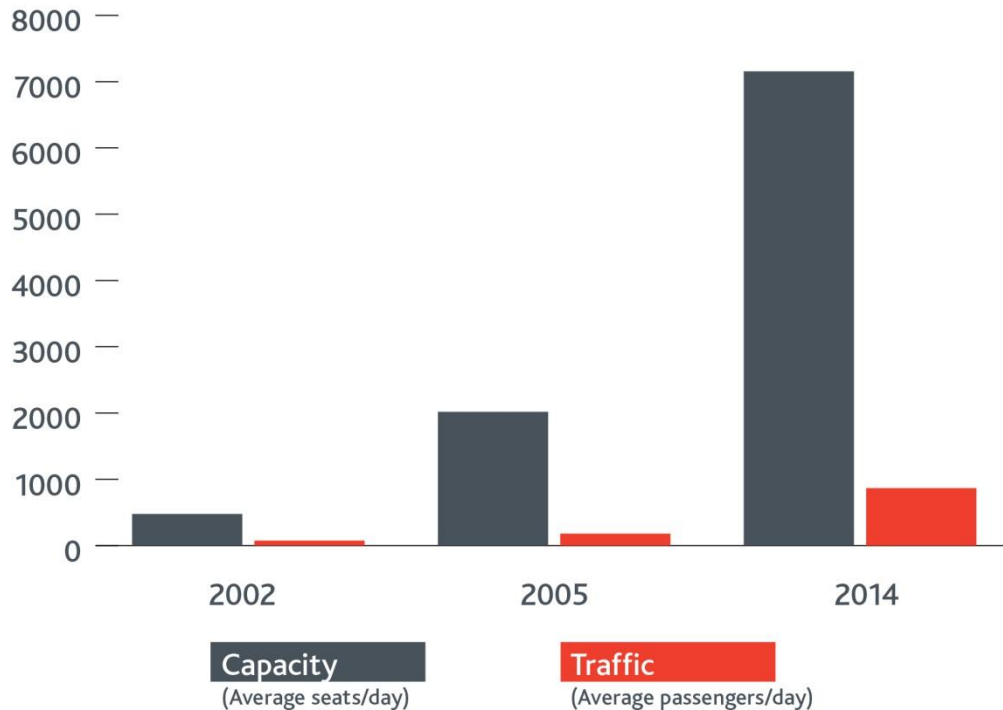
133. These agreements are why the World Economic Forum has ranked Canada within the top 10% of the 144 countries surveyed when it comes to air access.
134. In addition to these achievements, Canada has helped to protect services for local passengers through the use of the Blue Sky Policy. For example, direct services to Europe from markets like Halifax and Ottawa, and even Montreal and Toronto, could be jeopardized without the balanced approach sought by the Blue Sky Policy.
135. Despite the success of the Blue Sky policy, some continue to advocate for greater liberalization. However, an across the board, “one-size-fits-all” approach to the negotiation of Open Skies would have detrimental effects. Without ensuring that agreements are based on a level playing field and will have balanced benefits for both countries, local airline services and passengers will be affected negatively.
136. As an example of the impact of the implementation of an “Open Skies” approach – we can use the example of Australia. In 2002, the country signed the Australia-United Arab Emirates (UAE) Air Transport Agreement, which allowed for capacity that was significantly in excess of the market demand.
137. Prior to the agreement in 2000, Australia enjoyed services to nine European cities aboard five carriers (Qantas, British Airways, KLM, Austrian and Alitalia).

Australia's Direct European Routes before Open Skies (July 2000)



138. From 2002 to 2005, the Dubai to Australia flight capacity increased from 476 seats per day to 2018 seats per day. From 2005 to 2014, flight capacity increased further to 7155 seats per day. However, UAE-Australia bilateral traffic only averaged 866 passengers per day in 2014.

Capacity vs. Traffic between Australia and the UAE



139. In a bilateral or multilateral trade agreement, when one country is shipping product far in excess of its usual market share, the impact it will have on domestic pricing is referred to as “dumping.” In the case of airlines, it is no different. The discrepancy between capacity and bilateral traffic means that UAE carriers are “dumping” excessive amounts of capacity in the Australian market. This practice is masked by the fact that the UAE carriers are employing an accepted practice of flying connecting passengers from Australia through to the UAE before taking them to their final destination in another country. Yet when the quantities are of the scale that we see above, the impact is the same as any other case of product dumping.
140. The medium-term impact is now clear: direct service between Australia and the European Union has dropped by over 51% since 2002. These service cuts have happened despite strong demand, with the amount of passengers travelling between Australia and the European Union actually increasing during this period. That traffic and the associated benefits now flow through the UAE, as UAE carriers are able to undercut incumbent carriers due to the subsidies and other forms of support the UAE carriers receive from their respective governments.
141. Since 2002, 11 Australian and Continental European operators have terminated service. Today, the only carriers left serving Australia are British Airways and Qantas. They operate to just one European city: London.

Australia’s Direct European Routes after Open Skies (July 2014)



142. As a result of its inability to compete with the UAE carriers, Qantas has had to lay off thousands of employees over the last few years. In February 2014, the company announced its latest round of layoffs, affecting 5,000 employees.
143. Carriers in the United States have also raised serious concerns with their government's approach with respect to air transportation agreements, and are now calling on their government to review its liberalized approach with countries from the Gulf. For example, United Airlines Chief Executive Jeff Smisek has called for U.S. government limits on Gulf airlines. Smisek's counterpart at American, Doug Parker, told an airline conference this fall that the Gulf carriers were his "biggest business concern." Chief Executive of Delta Airlines Richard Anderson has said "a number of those [Gulf] carriers are not airlines. They are governments."⁴⁴
144. The Gulf carriers (Emirates, Etihad and Qatar) have denied receiving subsidies from their governments and claim to be commercial entities. The fact is they are 100% stated owned and are not listed on any stock market or subject to any financial disclosure requirement.
145. Moreover, being backed by the State, they can reduce their borrowing costs below market rates by taking advantage of their government shareholders' sovereign borrower status. This practice provides them with access to virtually unlimited funding.
146. Despite the fact the Gulf carriers claimed to having not received government subsidies, May 2014 leaked documents show Etihad Airways had access to an interest-free \$3 billion loan from the Abu Dhabi ruling family. The interest-free loan does not have to be repaid until 2027.⁴⁵ In addition, the leaked documents suggest the government paid subsidies for routes and covered the cost for Etihad's sponsorship of the English Premier League team Manchester City, valued at more than US\$730 million.
147. To date, Canada has been prudent with its air access agreements with the Gulf Countries, and it must continue to do so. If Canada repeats the Australian experience, the resulting impact on our country's air transportation industry would be devastating.
148. The Gulf carriers rely disproportionately on connecting traffic for their flights. They see an opportunity to pick up passengers in Canada and fly them to their Gulf hubs. Once there, they can connect these passengers to flights operated elsewhere by these same Gulf carriers.

⁴⁴ The Wall Street Journal, "Emirates, Etihad and Qatar Make Their Move on the U.S.," (November 6, 2014), <http://www.wsj.com/articles/emirates-etihad-and-qatar-make-their-move-on-the-u-s-1415226589?tesla=y>

⁴⁵ Booz & Co, "Strategic Review – Booz & Co." This leaked presentation is available on the *Financial Review* website at: http://www.afr.com/rw/2009-2014/AFR/2014/05/22/Photos/e3c9acf6-e14c-11e3-a8d8-d38106e7fd5f_PresentationV2.pdf (accessed February 4, 2015).

149. Currently, the Gulf carriers together share nine weekly flights to Canada equally. These flights are currently being operated to Toronto and Montreal. More importantly, these nine flights already provide more than enough capacity for current traffic between Canada and the United Arab Emirates (UAE) and Qatar, as well as any growth in traffic for the foreseeable future.
150. As an example, Emirates has been open about their plans to expand services in Canada. The carrier's website states:
- Direct air services are a vital component of this type of economic achievement. However, we are currently restricted to just three flights per week between Dubai and Canada. The relationship between Emirates and Canada to date has been encouraging, with services to Toronto thriving since launch, but we are eager to introduce more frequent flights to Canada. At the very least, we would like to offer our business and leisure travelers a daily service to Toronto in the near future. We would also like to expand our services to other Canadian cities, such as Calgary and Vancouver, in the same way that we have grown in other markets, such as Australia, Germany, the United States, and the United Kingdom.⁴⁶
151. The expansion of UAE direct air service to Canada would impact Air Canada negatively by tens of millions of dollars. As in Australia, this loss of revenue would impact the number of flights the domestic airlines could offer, greatly affecting service provided to Canadians as more and more people would have to connect through Dubai.
152. The issue is do we want our airports to be global hubs for Canadian carriers or a simple spoke that feeds a foreign carrier hub. As an example, the images below provide a comparison of international routes available from Toronto (YYZ) as a hub, as opposed to Toronto as simply a spoke for other foreign hubs.

⁴⁶ Emirates, "Our customers are key to this winning route," <http://www.emirates.com/ca/english/about/int-and-gov-affairs/government-affairs/emirates-and-canada/emirates-and-canada.aspx> (February 4, 2015).

Toronto Pearson International Airport as a Global Hub



The Same Airport as a Spoke for a Foreign Carrier



RECOMMENDATION 13: Continue to implement the Blue Sky Policy to further liberalize air access with countries for which there are mutual benefits and level playing-field conditions that offer growth potential for the airlines and aviation consumers of both countries.

d. Facilitation Requirements

153. The growth of Canada's hubs and our potential to be a global player in the marketplace rely on both our ability to connect international and domestic passengers and cargo efficiently to reduce their total travel time, as well as a competitive airline environment.
154. As part of our global strategy, Canada must recognize how transportation policy and service affect the flow of passengers and cargo, as well as the various ways in which international passengers connect through our airports.⁴⁷ For example, how does our facilitation policy impact passengers connecting between two points within Canada, as opposed to people who connect in Canada between two international points?
155. Canada's domestic aviation marketplace is relatively mature, and therefore significant growth requires attracting international passengers. To this end, sixth freedom traffic remains the key to growing Canada's airline industry and airports. Sixth freedom traffic relates to passengers and cargo that connect through an airline's hub on their way from one foreign location to the next. For example, this type of traffic could include passengers who fly on Air Canada from anywhere in Asia and connect through Canada on their way to South America. These are passengers who have no connection to Canada other than selecting a Canadian airline and airport as convenient through-points.

Freedoms of the Air

Freedoms of the Air are privileges or rights relating to scheduled international services granted to airlines.

The International Civil Aviation Organization characterizes all "freedoms" beyond the Fifth as "so-called" because only the first five freedoms have been officially recognized by international treaty.

First Freedom Right – granted by one State to another State or States to fly across its territory without landing.

Second Freedom Right – granted by one State to another State or States to land in its territory for non-traffic purposes.

Third Freedom Right – granted by one State to another State to put down, in the territory of the first State, traffic coming from the home State of the carrier.

Fourth Freedom Right – granted by one State to another State to take on, in the territory of the first State, traffic destined for the home State of the carrier.

⁴⁷ This point relates in particular to sixth freedom traffic. Freedoms of the air relate to the type of international services airlines are permitted to provide. For example, think of passengers travelling from Cleveland to Beijing. These customers lack direct service and will need to connect somewhere. If we are price competitive and facilitation requirements are convenient, transiting through Canada becomes an option for these passengers.

Fifth Freedom Right – granted by one State to another State to put down and to take on, in the territory of the first State, traffic coming from or destined to a third State.

Sixth Freedom Right – relates to transporting, via the home State of the carrier, traffic moving between two other States.

The so-called Sixth Freedom of the Air, unlike the first five freedoms, is not incorporated as such into any widely recognized air service agreements such as the "Five Freedoms Agreement."

Seventh Freedom Right – granted by one State to another State, of transporting traffic between the territory of the granting State and any third State with no requirement to include on such operation any point in the territory of the recipient State, i.e. the service need not connect to or be an extension of any service to/from the home State of the carrier.

Eighth Freedom Right – relates to the right to transport cabotage (domestic) traffic between two points in the territory of the granting State on a service that originates or terminates in the home country of the foreign carrier or outside the territory of the granting State. The Eighth Freedom Right is also known as "consecutive cabotage."

Ninth Freedom of The Air – relates to the right to transport cabotage traffic belonging to the granting State on a service performed entirely within the territory of the granting State. The Ninth Freedom Right is also known as "stand alone" cabotage.

Source: *Manual on the Regulation of International Air Transport* (Doc 9626, Part 4)

156. Air Canada has been trying to grow its sixth freedom passenger traffic, and the Canadian government has been supportive with its Transit Without Visa (TWOV) Program and the China Transit Program (CTP), which currently operate at the Vancouver International Airport and at the Toronto Pearson International Airport. However, these programs have significant limitations, especially as many passengers still need visas. This situation is slowly improving, but the current system still imposes a significant burden on sixth freedom passengers, discouraging many travellers from connecting through Canada.
157. A loss of market share has been the result. A report by InterVISTAS Consulting shows that in 2005, airlines carrying passengers connecting through Canada to travel between South America and Asia had a four per cent share. By 2013, this market share had dropped to two per cent.⁴⁸ This loss of market shifted entirely to airlines

⁴⁸ InterVISTAS Consulting Inc., "Transit Without Visa: Phased Expansion 2014-16 & Economic Benefits," May 26, 2014, 6.

offering a connection through their hubs where a visa is not required in order to connect. These airlines include Air France in Paris, KLM in Amsterdam, and Emirates in Dubai.

158. Under the *Beyond the Border Action Plan* with the United States, the federal government is planning to implement a system of Electronic Travel Authorizations (eTAs). The proposed regulations would apply to all international passengers travelling to or via Canada, including those who are simply making a connection at one of our hubs and originating from countries for which no visa is currently required.
159. Facilitation requirements have an impact on an airline's ability to attract passengers making international to international connections through its hubs. Therefore, these eTAs could pose a problem if the government does not implement them in a way that promotes connecting traffic. eTA requirements have the potential to put Canadian carriers at a competitive disadvantage and impact their ability to grow their network and build hubs.
160. However, there is an opportunity with eTAs to increase efficiencies not only for passengers who are connecting to Canada, but also for passengers who are travelling to Canada. For low-risk countries, Canada could move to replace burdensome paper visas with eTAs. Canada also needs to implement a system in which transit growth is protected by expanding the Transit Without Visa Program and China Transit Program to include waivers for eTAs.
161. Moreover, under the *Beyond the Border* agreement, Canada and the United States could create a North American perimeter area in which passengers would not be subject to two distinct facilitation regimes for obtaining travel authorization.
162. The perimeter practice already takes place in Europe under what is known as the Schengen visa. According to the program:

Schengen visa is the document issued by the appropriate authorities to the interested party for visiting/travelling in and within the Schengen Area. The Schengen Area is comprised of 26 countries that have agreed to allow free movement of their citizens within this area as a single country. Of the 26 countries bound by the Schengen agreement, 22 are part of the [European Union] and the other 4 are part of the [European Free Trade Association].⁴⁹
163. The perimeter area with the United States would not only accelerate the legitimate flow of people, goods and services, but it would also enhance security.
164. As a first step towards a North American perimeter area, the U.S. Electronic System for Travel Authorization (ESTA) should be accepted for travel to and via Canada. ESTA is an automated system that determines the eligibility of visitors to travel to the United States under the Visa Waiver Program, similar to the eTA

⁴⁹ "Schengen Visa Information," *Schengen Visa Info*, (2014), <http://www.schengenvisainfo.com/>

165. The government must also improve the process for issuing visas, for which Citizenship and Immigration Canada is responsible. The timeframe for visa issuance is currently inconsistent, with the process varying from 5 days to more than 70 days,⁵⁰ depending on the point of service. As well, passengers often receive different standards of service at the same location during the year, depending on staffing levels and the volume of requests. These delays result in unpredictable situations for passengers, which can affect their travel choices and lead them to travel on foreign carriers and through hubs not located in Canada (in the case of connecting passengers).
166. Together, these changes will encourage the growth of our international hubs and aviation industry.

RECOMMENDATION 14: Ensure efficient implementation of Electronic Travel Authorizations (eTAs) in terms of cost and ease of use for the passenger, and begin to use them to replace burdensome paper visas in low-risk countries.

RECOMMENDATION 15: Implement a system whereby transit growth is protected through the expansion of the Transit Without Visa Program and the China Transit Program. Include waivers for eTAs for passengers travelling as part of these expanded programs.

RECOMMENDATION 16: Establish a common North American “perimeter” authorization – similar to the Schengen Visa – as part of the next stage of the Canada-United States Beyond the Border Agreement. The perimeter approach will help accelerate the legitimate flow of people, goods and services.

RECOMMENDATION 17: Reduce and standardize, as much as possible, the delay for visa issuance. In particular, ensure limited variation in processing times at the different points of service.

⁵⁰ “Processing times for temporary resident visa applications processed by visa offices outside Canada,” *Government of Canada*, (November 14, 2014), www.cic.gc.ca/english/information/times/temp/visitors.asp

e. Increasing Connectivity

167. The seamless flow of passengers and baggage also has an important impact on carriers' ability to compete on the global scale. Along with geography, efficient connection time is a factor that affects passengers' travel decisions, as it reduces their total travel time.
168. The airports system and airline schedule must be built to enhance passengers' connectivity and their ability to connect. Service from every team within an airport must be seamless, easy, and without unnecessary delays, with each group working towards the collective goal of helping to grow the airport.
169. Therefore, high service level standards from all stakeholders involved in helping passengers travel from one point to another is the key to growing Canada's aviation industry.
170. Passenger security screening is one example of an area where higher service standards would help make our aviation industry more competitive. At its core, security screening is focused on the safety of our industry, and this priority must not change. However, the level of service experienced during screening influences whether or not passengers decide to connect through our hub airports. This service experience includes wait times, friendliness, assistance to families and mobility-restricted customers, professionalism, grooming and ability to communicate, among others.
171. Successful hubs around the world, including the London Heathrow, London Gatwick and Copenhagen airports, have placed a high priority on service quality when it comes to screening passengers. For example, service quality impacts on-time performance of airlines, which costs millions of dollars annually, and creates less-than-optimal infrastructure requirements such as large queuing spaces.
172. Yet despite these facts, screening passengers for security is one issue that continues to affect service quality in Canada's airports, especially in the area of rescreening passengers.
173. If passengers are travelling onward to a domestic point in Canada after arriving from an international point of departure, they must first clear Canada Border Services Agency (CBSA) and then have the Canadian Air Transport Security Authority (CATSA) rescreen them. The re-screening happens despite the fact that all passengers would have already been screened at their point of departure and were cleared to fly to Canada.
174. For example, a passenger travelling on Air Canada from Dallas to Montreal via Toronto is subjected to security screening in both Dallas and Toronto. In contrast, a passenger travelling on an American carrier from Dallas to Montreal, via Chicago, only clears security once in Dallas. On the reverse route, the passenger again only

clears security once through CATSA in Montreal. The requirement of re-screening passengers and their baggage fosters customer inconvenience, as well as increased costs for airlines and CATSA. Ultimately, it makes the connection time longer, reducing the competitiveness of Canadian carrier services compared to global competitors.

175. Air Canada fully supports an expedited effort to review regulations and policies to find a solution to this re-screening issue that will allow Canada to accept the screening from the origin country and eliminate the duplicated costs of re-screening passengers again in Canada. This process is already currently underway in the on-going CBSA project on baggage transfer, and we fully support the expansion of the concept to include passengers.
176. At present, Canada is highly competitive with connecting sixth freedom passengers. Travellers who arrive in Canada from either an international or U.S. point of departure are not re-screened if they are travelling onward to another international destination, except for passengers travelling to the U.S. This process minimizes connection times and provides a seamless connection process for customers.
177. In airports with sterile transfer gate areas, passengers who are transferring between two international flights (excluding U.S. departures) are continuously contained within a restricted, secure area. Maintaining this practice within Canada as much as possible will be a critical strategic element to growing our aviation industry, as it helps to ensure faster connections for passengers.
178. However, Canada's transportation policy must also consider the different requirements for international airports that are hubs. For example, it is important that Transport Canada maintains Satellite Primary Inspection Lines (SPIILs) at hub airports, which allow connecting passengers to be efficiently processed through customs and immigration and to access their next flight more rapidly. SPIILs facilitate the connection and the flow of passengers as passengers do not have to travel to the main customs hall. If SPIILs are removed, a reduction in service quality will inevitably lead to a reduction in connecting passengers.
179. If there is a need to adjust the security process for passengers transferring between two international flights, the Canadian aviation industry and government must retain a high standard of service when processing the flow of passengers between their connections. High service standards will ensure Canada's aviation industry's ability to be the best in the world at connecting sixth freedom passengers through our hub airports.
180. To ensure we maintain high standards, Canada must establish and be transparent about its service level targets to passengers. London Heathrow Airport publishes its target of a 10-minute security processing time on its website. Airports in the European Union, such as those in Brussels and Amsterdam, have even faster targets for processing time.

181. Air Canada recommends that the government set initial targets that can be shortened over time, and monitor performance levels on an hourly basis instead of a daily average. Examples of suitable targets for agencies could be:
- Canada Border Services Agency (CBSA): 90% of connecting passengers processed within 10 minutes, and 90% of local-originating traffic (non-connecting passengers) processed within 20 minutes.
 - Canadian Air Transport Security Authority (CATSA): 90% of connecting passengers processed within 7.5 minutes, and 90% of local-originating traffic (non-connecting passengers) processed within 15 minutes.
182. To reach these targets, a potential service delivery solution is to have airports contract for security screening, instead of having CATSA sub-contract other companies to perform this service. This change would allow airports to determine how to best meet the individual needs of their location in order to ensure a high level of service quality for passengers. For example, airports could choose where to locate Satellite Primary Inspection Lines.
183. There are other areas where service standards could be improved to decrease passengers' travel time. For example, the failure to de-ice planes efficiently impacts airlines' flight schedule, causing substantial delay and cost to both carriers and passengers. Canada must ensure this additional requirement imposed by our climate does not unduly affect our aviation industry's ability to compete with global competition, especially with foreign carriers whose airport hubs are not in countries where de-icing is an issue.
184. We must set measurable standards – instead of vague goals – for all stakeholders involved in connecting passengers and build on the industry's annual and five-year reviews. The performance of our hubs must be measured against global standards and we must make sure that our performance is not only comparable, but better than competing jurisdictions.

RECOMMENDATION 18: Prioritize the development of policies, regulations and expedited processes for the connection of passengers and their baggage at hub airports, including:

- Maintaining and adding sterile areas and Satellite Primary Inspections Lines at strategic locations,
- Streamlining and/or eliminating passenger security requirements, and
- Ensuring Canada Border Services Agency staffing levels and technical solutions reduce passenger wait times.

This combination of initiatives will enable Canadian hub airports to become international gateway airports and Canadian airlines to grow their global network.

RECOMMENDATION 19: Monitor, measure and report performance levels on an hourly basis instead of a daily average. As an example, standards for connecting passengers should include:

- Canada Border Services Agency (CBSA): 90% of connecting passengers processed within 10 minutes.
- Canadian Air Transport Security Authority (CATSA): 90% connecting passengers processed within 7.5 minutes.

For local-originating traffic, standards should include:

- CBSA: 90% of non-connecting passengers processed within 20 minutes.
- CATSA: 90% of non-connecting passengers processed within 15 minutes.

All performance reports should be made public.

RECOMMENDATION 20: Include performance assessments of all federal government agencies, crown corporations and departments in industry performance reports if they are either operating at or contributing to the performance of airports and the issuance of visas.

The list should include Airports, the Canada Border Services Agency (CBSA), Canadian Air Transport Security Authority (CATSA) and Citizenship and Immigration Canada.

All performance reports should be made public.

RECOMMENDATION 21: Expand the annual and five-year government industry reviews to include performance reports measured against global benchmarks. Enable input from airline stakeholders in the performance reviews.

f. Cargo Transiting Canada

185. Travel requirements also affect Canada's market share of cargo transiting through the country. Approximately 22% of Air Canada cargo revenue comes from moving product that originates outside of Canada and ends up outside of Canada. Examples of cargo include:

- Fruit transiting from Lima, Peru, through Toronto, to Narita, Japan.
- Textiles moving from Shanghai, China, through Toronto, to Chicago, U.S.
- Machine parts from Frankfurt, Germany, through Montreal, to Chicago, U.S.

186. Canada Customs currently has a proposal to change the reporting requirements for freight forwarders who have cargo transiting through the country. The change would make it more likely for companies to use another route that excludes Canada's hubs.

187. Take the example of cargo transiting from Frankfurt to Lima, with a connection in Toronto. Currently, Air Canada can report the cargo to Canada Customs on behalf of the freight forwarder. However, Customs wants to make it mandatory for the freight forwarder to declare the cargo themselves in Canada.

188. This proposed change would be problematic if implemented because many freight forwarders do not have offices or personnel in Canada. The simplest solution for these companies would be to reroute their cargo through another country, which would result in a large loss of economic activity for Canada.
189. The best solution for Canada would be to maintain the current requirements for freight forwarders.

RECOMMENDATION 22: Maintain the current reporting requirements for cargo that is transiting through Canada. Specifically, permit carriers to report on behalf of freight forwarders to ensure the air industry can continue to grow this market.

g. Governance Structure

190. Canada became an outlier globally when the federal government adopted the *Airport Transfer (Miscellaneous Matters) Act* in 1992. The country was embarking on a path of transferring its airports to private, not-for-profit airport authorities, while governments around the world were heavily investing in their air industry to provide economic stimulus
191. In 1992, Transport Canada transferred four of the five busiest airports to private, not-for-profit airport authorities under long-term leases. In 1994, the government introduced the National Airports Policy, which has led to our current airport system. As mentioned earlier, the Senate Committee report outlined the government's decision to:
- Retain land ownership of the 26 busiest airports, which handled 94% of air passengers and cargo, but lease the airports to not-for-profit airport authorities to manage and operate;
 - Transfer ownership of regional or local and other smaller airports to regional interest;
 - Continue to support remote airports that service isolated communities; and
 - Continue to regulate air services at all airports.⁵¹
192. The government's goal was to have a more business-like structure for its airports. This endeavour has to a large extent succeeded. Airports are generally well run and Canada ranks well in terms of our airport infrastructure.⁵² In fact, the World Economic Forum has ranked Canada first out of 140 economies on airport infrastructure. However, the new governance structure has had unintended consequences.

⁵¹ Senate Standing Committee, "The Future of Canadian Air Travel,"2.

⁵² World Economic Forum, *The Travel and Tourism Competitiveness Report 2013: Reducing Barriers to Economic Growth and Job Creation*, (2013).

193. For one, Canada's airports are far more expensive and less competitive than their global counterparts due to the lack of government subsidies. This fact makes competing in a global market much more difficult, as it puts more pressure on air industry partners to make careful financial and infrastructure decisions. Yet, there are currently no extensive requirements for airport authorities to publicly provide details on financial matters or to agree with stakeholders on landing fees or Airport Improvement Fee (AIF) increases.
194. Air Canada would encourage the government to make improvements to the governance structure of airports, which would enable better business planning for all stakeholders involved in the air industry.

h. Airport Authorities

195. According to Transport Canada, our National Airports System "includes those airports considered essential to Canada's air transportation system, supporting both domestic prosperity and international competitiveness."⁵³
196. Canadian Airport Authorities (CAAs) operate and manage the 26 busiest airports that make up this national system. The 1994 National Airports Policy describes the airport authorities and their board appointment procedure as follows:

CAAs are not-for-profit corporations headed by boards of directors. Those directors are nominated by different levels of government and other participating organizations such as boards of trade and labour organizations. The federal government may also appoint up to three directors. Directors cannot be elected politicians or government employees.⁵⁴
197. For example, the Greater Toronto Airport Authority's Board has 15 members nominated by the four regional municipalities, the City of Toronto, the province and the federal government. The following groups can also nominate a board member: the Boards of Trade or Chamber of Commerce in the Greater Toronto Area, the Law Society, the Chartered Accountants and the Association of Professional Engineers
198. In Saint John, the Airport Authority's Board consists of 12 directors nominated by the following entities: federal, provincial, and municipal governments, plus the Saint John District Labour Council, Saint John Board of Trade, Saint John Airport, and Enterprises Fundy, Charlotte and Saint John.
199. There are no requirements for any Airport Authority board members to have airline experience or knowledge. As air carriers and other businesses located at the airports do not have a direct say in appointing members to the board, there is an even greater chance that members without this experience will be appointed. Some

⁵³ Transport Canada, "National Airport System Policy," <https://www.tc.gc.ca/eng/programs/airports-policy-nas-1129.htm>

⁵⁴ Ibid.

airports have sought individuals with airline backgrounds for their boards, but others have not.

200. In contrast to Canada's airports, NAV CANADA's governance structure reflects its four founding groups: commercial air carriers, the federal government, business and general aviation. NAV CANADA's board has 15 directors that come from these four founding groups and properly represent the aviation industry. Industry representatives are appointed on the advice of the national association for the air carriers, the National Airlines Council of Canada (NACC). These representatives bring an industry voice to the board table, but they are ultimately accountable to the corporation as fiduciaries.
201. NAV CANADA's governance structure should be replicated for Airport Authorities. The structure would be a positive opportunity, as air carriers and other businesses could provide valuable input when it comes to making Canada's air industry more effective for all of the players involved.
202. Although Airport Authority Boards conduct stakeholder consultations, there is no requirement to follow stakeholder advice – even when faced with a consensus or when making major infrastructure decisions.
203. For example, carriers have repeatedly stated their disagreement with the most recent terminal expansion project put forward by the Quebec International Airport Authority and the associated raise in the Airport Improvement Fee charged to passengers. It is our understanding that carriers have been unanimous in this objection. Nevertheless, the Airport Authority has pursued its expansion project and raised its Airport Improvement Fee to \$30 per embarking passenger, making it one of the most expensive airports for passengers in Canada.
204. Yet, there is no process that guarantees air carriers will be able to provide views on how these fees should be spent and have those opinions considered. As well, there is no way to review spending decisions made by Airport Authorities and there is no requirement for them to provide full financial transparency.
205. In this regard, airports are not unlike utilities – they hold a natural monopoly. In every Canadian province, there are transparent processes to review and approve fee increases for utilities. While Canadian airports generally spend the money they collect from airlines and their passengers wisely, there must be greater accountability.
206. There are opportunities to remedy these issues. First, the role of the Airline Consultation Committee could be reviewed to provide it with the power to approve all capital investments related to aeronautical projects worth more than \$10 million at Class I airports and more than \$1 million at all other airports.

207. Currently, the Committee's responsibilities are limited to reviewing and potentially endorsing the use of Airport Improvement Fee funds, which the airlines have collected from passengers and remitted to the Airport Authority. However, even if airlines withhold their endorsement, capital projects may proceed without consent as the Airport Authorities' obligation to them is limited.
208. Airport Authority Boards would also have to implement an airline consultation process that provides airlines with the ability to provide constructive feedback. One way of soliciting feedback could be through annual surveys, with the results published. Surveys could include questions focused on core areas of operational performance metrics, financial integrity, effective consultation, safety, sustainability and strategic vision.
209. As well, there should be an independent mechanism available to review and approve projects if the Committee or any interested stakeholder disagrees with a proposed expansion project that requires capital investment and the use of the Airport Improvement Fee funds.
210. In order to avoid the creation of new bureaucracy, the Canadian Transportation Agency already holds a great deal of knowledge of the sector, along with a quasi-judicial function – and Air Canada believes that they could easily incorporate this mandate. For instance, the Agency can hear appeals made in regards to fees that NAV CANADA charges for air navigation services. A similar review process could be considered for major capital improvements with pre-defined criteria set out to assist the Agency in exercising such jurisdiction.
211. In addition, given the importance of the Airport Authorities' budgets and their public source of funding, greater transparency should be required from them. All information related to their costs, spending and revenues, including complete details of investments and revenue related to non-core business ventures (such as commercial non-aeronautical business development) should be detailed and accessible to the public.
212. Airport governance should also be standardized. The Toronto City Centre Airport is unlike all other airport authorities in Canada. The governing body, the Toronto Port Authority, was established under the *Canada Marine Act*, which was intended to deal with the management of port operations, not airports. Therefore, there are no clear rules applicable to the management of the airport operation by the Toronto Port Authority.
213. The three levels of government appoint nine board members to the Toronto Port Authority's board of directors. However, the Federal Court of Appeal has ruled that decisions made by the Toronto Port Authority pertaining to the operations and management of the Toronto City Airport cannot be reviewed by the Courts, as they do not fall under the Authority's core mandate pursuant to the *Canada Marine Act*, which is to operate a port.

214. Future policy needs to prohibit a mandated monopoly for a carrier at any airport, even a regional one. No airline-related company should be permitted to own an interest in a terminal located on public assets, as this arrangement creates an unfair competitive advantage over other airlines.
215. Finally, the business planning process for air carriers is further impacted by the structure of the federal government’s lease agreements with airports. The typical length of a head lease between the government and airport authorities is 50 to 60 years, with many expiring in the next 30 to 40 years. This structure means that air carriers are unable to negotiate a lease for properties on the airport grounds beyond the length of the head lease – making it difficult for businesses to securely plan into the future or make significant investments. Moreover, at the end of a lease, an airport authority can choose not to renew a lease with a carrier, or to create a new lease with completely different terms.
216. Vesting clauses within leases are also problematic. Contract terms force air carriers to turn over any infrastructure improvements to airport authorities when a contract expires *without* any proper compensation. Hypothetically, this means that the Airport Authority in Montreal could take over Air Canada’s head office when the contract expires, the value of which exceeds \$120 million based on the municipal value assessment.
217. The contract states that when the lease expires in 2051, any buildings on the land that Air Canada is renting – regardless of whether or not they were built during the lease – “shall remain the absolute ownership of the Lessee [Airport Authority].” Air Canada would receive the “the sum of one dollar.”
218. The government must update outdated terms of contract like these, as well as the governance structure of airports. Otherwise, Canadian airports will not be able to fulfill their economic potential.

RECOMMENDATION 23: Review the Airport Authorities’ governance structure to make sure the airline industry is properly represented on their boards of directors.

RECOMMENDATION 24: Require all Airport Authorities to strengthen the role of the Airline Consultative Committee, as well as implement a mandatory consultation and approval regime with air carriers before making any capital improvements that would increase landing fees or the Airport Improvement Fee.

RECOMMENDATION 25: Give the Canadian Transportation Agency the authority to review and approve or reject proposed major capital improvements on application from the Airport Authority, with criteria set out by Transport Canada to help encourage responsible spending with appropriate growth. All stakeholders should be able to seek standing in this process.

RECOMMENDATION 26: Mandate greater financial transparency from Airport Authorities, ensuring they provide: detailed annual reports; lists of investments in non-core business ventures; detailed allocation reports of Airport Improvement Funds (AIF); and detailed revenue reports from non-aeronautical sources.

RECOMMENDATION 27: Establish a mandatory requirement to conduct stakeholder surveys and publicly share the data.

RECOMMENDATION 28: Transfer the Toronto Island Airport to the Greater Toronto Airport Authority to ensure consistent and professional management of the airport, and to ensure this airport's governance is harmonized with the structure established for other airports in Canada.

RECOMMENDATION 29: Provide guidance and authorization to Airport Authorities through the *Canada Transportation Act* to negotiate leases beyond the term of their head lease. This change will enable stakeholders and operators to continue investing in long-term capital improvements that are necessary to sustain the industry.

RECOMMENDATION 30: Eliminate vesting clauses in leases that force a company to turn over assets to airport authorities if the assets are not required to be demolished for other airport improvements.

V. AN EFFICIENT REGULATORY SYSTEM

a. Introduction

219. To compete effectively on a global scale, the Canadian government must reduce the regulatory burden on our country's aviation industry. Whether dealing with passenger data, flight operations or aircraft maintenance, excessive and overly complex rules that deviate from international best practices cost both time and money without producing any substantive safety improvement or other benefit.
220. Our country also needs an efficient process for determining new aviation policy and rules – one that is able to keep pace with the rapidly evolving technology and operations of the industry. With a backlog of over 900 notices of proposed amendments to regulations – some dating back to 1997 – Canada is failing on this issue.
221. Clear and consistent guidance from the government on matters of policy will also help the aviation industry. Multiple government bodies and agencies with competing mandates and separate views on policy are not only creating confusion within the industry, but also resulting in different rules for different carriers and leading to an undesirable, unlevel playing field.
222. On the global level, there are organizations and associations such as the International Air Transport Association, the International Civil Aviation Organization and the World Customs Organization. These groups develop standards and recommended practices that help harmonize policies and procedures in the air industry around the world. Canada should take greater advantage of these standards and recommended practices.
223. "An Efficient Regulatory System" begins with a look at how the overlapping policy-making roles of the Canadian Transportation Agency and Transport Canada affect the aviation industry. We make the argument for clearly separated roles for the two organizations, which would result in a more effective and efficient policy-making process.
224. The last three parts of this chapter look at specific ways that the federal government can reduce the unnecessary regulatory burden on the air industry. This can be done by: simplifying regulations; aligning regulations with the United States or globally; and reducing policy-related costs directly imposed on the air industry that do not carry a corresponding safety or other benefit.

b. The Mandate of the Canadian Transportation Agency

225. Under the current regulatory system, the Canadian air industry effectively has two policy-making bodies: Transport Canada and the Canadian Transportation Agency.

226. Transport Canada is the government department officially responsible for setting transportation policies and programs. Its mandate is to promote safe, secure, efficient and environmentally-responsible transportation.
227. The Canadian Transportation Agency has multiple roles. It is an independent administrative body of the Government of Canada, and it also acts as a quasi-judicial tribunal. The agency resolves a range of commercial and consumer transportation-related disputes, such as complaints about federal transportation services, rates, fees and charges, and accessibility issues. Finally, the Agency works as an economic regulator. Its role is to make determinations and to issue authorities, licenses and permits related to the air transportation industry.
228. In this way, the Canadian Transportation Agency's role currently overlaps with Transport Canada's mandate, as the former ends up creating policy or guidelines on an ad hoc basis through its complaints-based regulatory process.
229. Over the years, the Agency has made numerous decisions that have created onerous obligations for certain carriers, without any proper stakeholder or industry consultation. For example:
- Air Canada and WestJet were separately ordered to offer an extra seat on all domestic itineraries, free of charge, for attendants who accompany passengers with a disability, as well as for passengers who have a disability and require an extra seat (including people who are obese).
 - Air Canada was also ordered in a separate case to provide extra seating or space, at no cost, for service animals.
 - Air Canada was ordered to provide medical oxygen at its own expense to passengers travelling on domestic itineraries, even though Air Canada accepts a wide range of passenger-provided oxygen concentrators that are allowed under the Commercial and Business Aviation Advisory Circulars.
 - The Agency decided that tariff rules that stated carriers were not liable for damages to valuables and fragile goods packed in checked luggage were not applicable. Passengers are warned before their flights to pack these items in their carry-on luggage.
 - The maximum monetary amount WestJet is liable to cover for baggage lost or damaged on domestic flights was significantly increased to the level for international flights. The decision was made on the basis that WestJet could not demonstrate that it was not unreasonable to do so.
 - The Agency set Air Canada's new denied boarding compensation amounts at a rate that often exceeds the price of the ticket. Denied boarding compensation amounts are now paid in relation to the delay at arrival when a carrier moves passengers to a flight other than their originally booked flight.
230. These decisions more closely resemble regulatory changes than a quasi-judicial decision. At the same time, this complaints-based process differs significantly from the policy-making that the government typically conducts.

231. Decisions from the Canadian Transportation Agency only affect the individual carrier against whom the complaint was brought. This ad hoc method of creating rules for the air industry has resulted in inconsistent rules for different air carriers and creates an unlevel playing field among all carriers operating in Canada. In other cases, a carrier is subject to different rules on the same issue at different airports. There is no clear way to ever change the results of these quasi-judicial processes, other than appealing, on limited grounds, to the Federal Court of Appeal.
232. As well, the Agency has set rules that are out-of-line with policy with international best practices. For example:
- The buffer zone for passengers who have an allergy to nuts applies only to Air Canada. The buffer zone for passengers who have an allergy to cats applies only to Air Canada and WestJet.
 - The “one passenger one fare”⁵⁵ rule only applies to Air Canada and WestJet. The rule does not apply to any other domestic carrier. As well, Canada is the only country in the world to have this rule.
 - Due to separate complaints, the Agency has required Air Canada to have different types of complementary wheelchairs at different airports in Canada.
 - In another case, Air Canada was required to put a policy in place with regards to allergies to dogs that puts the carrier in contravention of the United States’ law. In January 2015, the Federal Court of Appeal struck down this decision, stating the Canadian Transportation Agency made the ruling without sufficient evidence and without considering Air Canada’s argument that it could employ a less intrusive solution.⁵⁶
233. All of these situations are creating serious issues within Canada’s aviation industry. In making these policy decisions, the Canadian Transportation Agency rarely asks for input from industry associations, other interested airlines or even Transport Canada, which could provide policy guidance.
234. This complaints-based regulatory approach is fundamentally unsound. By lacking all of the consultative processes and opportunities for input from all stakeholders including industry associations that the regular regulatory process involves, this process can result in an inconsistent landscape across carriers – something that serves no purpose whatsoever.
235. In other cases, the Canadian Transportation Agency has taken on the role of advocating for certain policies. As its decisions can only apply to the carriers involved in a specific complaint, the Agency has taken steps to influence what other carriers do by issuing material on decisions, recommended codes of conduct, notices to

⁵⁵ The Canadian Transportation Agency implemented the “one passenger one fare” rule in 2008. It applies to people with a disability who fly domestically with an attendant as well as passengers who are obese and require more than one seat.

⁵⁶ The Canadian Press, “Court nixes rule requiring Air Canada to separate dogs, allergic fliers,” (January 6, 2015,) <http://www.ctvnews.ca/canada/court-nixes-rule-requiring-air-canada-to-separate-dogs-allergic-fliers-1.2176023>

industry and guidelines. As well, the Agency has issued brochures, such as the Fly Smart Brochure, which are directed to consumers with policy-driven considerations.

236. These actions mean the Agency has taken on incompatible roles – both advocating for passenger rights in an ombudsman-like role, while being a quasi-judicial tribunal. This dual role is not tenable.
237. Examples of the resulting impact of this dual role are as follows:
- The Canadian Transportation Agency issued guidelines entitled Travelling with an Attendant in the Federal Transportation System, which notably sets out that carriers should not require passengers who are both completely deaf and completely blind to travel with an attendant.⁵⁷ We believe that this is fundamentally contradictory to Transport Canada's position on this matter, to the Agency's own decision in this matter, and it is certainly contrary to Air Canada's position where we would strongly prefer an attendant travel with a blind or deaf passenger.⁵⁸ The issue relates to safety, which is of the exclusive jurisdiction of Transport Canada.
 - In June 2012, the Agency made decision against Air Canada⁵⁹ and subsequently against WestJet and Transat regarding the re-protection⁶⁰ of passengers. It requires that, under certain circumstances, the airlines put passengers on the fastest available route, even when this route might be operated by a direct competitor with which Air Canada does not have an interline or re-protection agreement. This rule goes significantly beyond the policies established by Transport Canada in its Code of Conduct of Canada's Airlines.
 - Furthermore, such policy-based decisions made by the Agency through a complaints-based process create an unlevel playing field between carriers operating within Canada and internationally. Some carriers have the obligation to re-protect on direct competitors if subject to an Agency order. Others will have no such obligation.
 - Since these rulings the Agency has issued a notice to industry recommending carriers to adopt similar tariff provisions, but it has no binding effect.
238. The above example illustrates that, at times, the same individuals assisting the Agency in the analysis of a complaint and potentially drafting a decision are the ones who are also advocating "policy" changes. This practice is similar to the former structure of the Canadian Human Rights Commission and Tribunal, which have since been separated.
239. Furthermore, general policy directions should be done by regulations with the proper consultation mechanism beforehand and should be implemented across the industry.

⁵⁷ Canadian Transportation Agency, "Travelling with an Attendant in the Federal Transportation System," www.otc-cta.gc.ca/eng/publication/travelling-with-an-attendant (accessed February 6, 2015).

⁵⁸ Canadian Transportation Agency, "Decision No. 435-AT-A-2005," (July 8, 2005), <https://www.otc-cta.gc.ca/eng/ruling/435-at-a-2005> (accessed February 6, 2015).

⁵⁹ Canadian Transportation Agency. "Agency Decisions Increase Rights and Remedies for Passengers Travelling with Air Canada, WestJet and Air Transat," (June 28, 2012), www.otc-cta.gc.ca/eng/agency-decisions-increase-rights-and-remedies-passengers-travelling-air-canada-westjet-and-air-trans

⁶⁰ Re-protection of passengers relates to cancelled or overbooked flights.

i. *Simplifying the Conditions and Tariff Document*

240. Over the years, the mandate of the Agency has not kept up with the changing market for the air industry and the government's decision to deregulate domestic air travel. One such example is the Agency's broad jurisdiction to review the minute details of airlines' conditions of carriage, also known as tariff rules. The scrutiny of the conditions' of carriage has resulted in an unnecessary administrative burden for both the carriers and the Agency.
241. An air carrier's tariff is a document that contains its published fares, charges and all specific related terms and conditions of carriage applicable to air services. It contains information such as the compensation limits for lost baggage and the deadlines for boarding and checking luggage.
242. Tariffs have grown extraordinarily long over the years, resulting in a document that may seem challenging to read. Moreover, all detailed information related to conditions of carriage is available on a carrier's website, which is where the vast majority of passengers find any travel information needed.
243. Despite this fact, legislation still requires airlines to update these documents and to file a request for amendment whenever a minor change in policy occurs. For international services, this requirement leads to a review process by the Canadian Transportation Agency before carriers can use the updated conditions of carriage. This requirement of filing tariffs in advance no longer exists for the domestic market, which has been deregulated.
244. This approach imposes an artificial administrative burden on carriers, preventing their ability to change their conditions of carriage in a timely and efficient manner without providing any benefits to the travelling public. It is contrary to the approach taken in jurisdictions like the United States and countries within the European Union, where all detailed information is available on the airlines' website, but does not necessarily have to be filed with a public authority.

ii. *Domestic and International Conditions of Carriage*

245. The fact that domestic and international conditions of carriage are different further complicates issues with tariffs.
246. Under the Montreal Convention of 1999, the *Carriage by Air Act* provides guidelines for addressing passenger claims and carrier's liability for international travel by air. The Act applies only for international travel and ratifies international treaties. It does not apply for claims made for domestic itineraries.
247. Claims for domestic itineraries are settled either under the carriers' tariffs or the applicable local law. At times, this may make it difficult to determine what set of rules from which province apply, both for the passenger and the carrier.

248. The Canadian Transportation Agency often takes the position of trying to align carriers' terms and conditions for domestic carriage with those outlined for international travel. This position can result in confusion and create an unbalanced regime amongst carriers, as the Agency's rulings are typically issued against one specific carrier.
249. To simplify and align Canada's carriage rules with other countries, the international carriage rules regarding claims and carrier's liability should apply to domestic carriage.⁶¹

iii. **Statutory Filing Requirements**

250. The *Canadian Transportation Act* sets the filing requirements for new fare rules for airlines, which in certain cases provide for a delay of 45 days before the fares take effect.
251. This rule applies to the international market, as airlines are no longer required to file fares on the domestic market. However, airlines must still provide for a delay of 45 days when making changes to general airline rules on some international markets.
252. Over the years, the Canadian Transportation Agency has removed the statutory filing requirements for fares, or significantly reduced the filing delay, for many countries based on bilateral Air Transport Agreements. In these cases, air carriers are not subject to this administrative requirement to establish their base fares, subject to the provision negotiated in bilateral air transport agreements between Canada and foreign countries.
253. Yet, unless otherwise stipulated in bilateral agreements, the Agency still requires a delay of 45 days when filing new fares on international routes. In general, the Canadian Transportation Agency allows airlines to ignore the requirement to file fare reductions, as lower fares are generally considered to benefit passengers. However, airlines must file all other fare changes.
254. There is enough competition to provide customers with many fare options, and the Canadian Transportation Agency rarely refuses requests by airlines to review fare changes. For example, Air Canada does not know of any new fares that were rejected within the last two years.
255. The filing requirement has failed to keep up with the rapidly changing and more competitive market in the air industry. As a result, it creates unnecessary paperwork for both the Canadian Transportation Agency and airlines, making for a less efficient air industry.

⁶¹ To apply international carriage rules to domestic travel, an amendment to the *Carriage by Air Act* would be needed. This change would specifically relate to the *Convention for the Unification of Certain Rules for International Carriage by Air* signed at Montreal in May 1999 (the "Montreal Convention of 1999"), which is Schedule VI of the *Carriage by Air Act*.

RECOMMENDATION 31: Clearly redefine the Canadian Transportation Agency’s mandate to ensure that it does not play a role in policy or regulation development in Canada, which should be exclusively under the purview of Transport Canada. In cases where regulatory change is considered necessary, the Canadian Transportation Agency should make the findings and refer the matter to Transport Canada.

Furthermore, the Government should consider splitting the adjudicative arm of the Canadian Transportation Agency from its administrative arm.

RECOMMENDATION 32: Apply rulings by the Canadian Transportation Agency (CTA) to all carriers, as opposed to setting up different rules for different carriers. To this point, amend the CTA process to allow input by all carriers and associations on matters that would impact them.

RECOMMENDATION 33: Simplify tariff rules by alleviating obligations to file highly detailed conditions of carriage in tariffs and allow the Canadian Transportation Agency to take into account all information available to passengers on a carrier’s website when assessing the validity of the said general conditions of carriage.

RECOMMENDATION 34: Align domestic conditions of carriage regarding claims and a carrier’s liability with international rules outlined under the Montreal Convention. This change will simplify the rules of liability and protect passengers.

RECOMMENDATION 35: Remove the requirement to file and seek approval from the government for international fare and general rule changes 45 days in advance, unless otherwise required under bilateral agreements.

c. Transport Canada’s Role in Developing Regulations

256. The lack of clear policy direction on many issues for the aviation industry is one of the main reasons why the Canadian Transportation Agency has stepped in to fill in the blanks as complaints have arisen.

257. As an example, air carriers have never received a comprehensive, clear policy on what the government believes carriers need to do to accommodate the needs of people with disabilities. Carriers have tried to be proactive, ensuring there are guidelines in place surrounding the services that employees must provide. Some of Air Canada’s requirements include:

- Having a nurse assess whether a person with a disability requires an attendant from a safety perspective. Air Canada will provide an attendant if necessary.
- Helping people with mobility issues with luggage or moving from an assistive device to a seat.

- Providing safety instructions in Braille or large print and providing individual safety briefings if required.
 - Periodically checking on passengers with disabilities if requested.
258. The Canadian Transportation Agency's legislated mandate includes ensuring that no "undue obstacle" creates inaccessible transportation for people with disabilities. This mandate is extremely broad, with no real policy guidance from the government. Even though the *Canada Transportation Act* provides the Agency with the power to adopt regulations, the Agency has not done this since 1996.
259. Instead, the Agency has issued "Codes of Conduct," which are not regulations. The Code is the Agency's interpretation of legislative intent, which they rely on when making decisions on complaints.
260. As mentioned before, the end result is that the Agency is able to make policy-related rulings for individual carriers, without any real stakeholder consultation or consideration to how that ruling impacts the industry. In some cases, this situation has led to policy that no one else in the world requires – as with the "one passenger one fare" rule, where free, additional seats are offered to accommodate passengers.
261. By working through a complaints-based model instead of through the regulatory process, the Agency has created an unlevel playing field for carriers, as well as a lack of clarity as to what is required.
262. Air Canada strongly believes that it is possible to meet both the needs of people with disabilities while ensuring that Canada's air industry is able to remain competitive. To do this, the government must put in place proper policy-making procedures for the air industry.
263. This area is where Transport Canada could have an expanded role. Transport Canada has played a critical role in helping Canada's air industry clarify other policy issues, such as wet leasing, and there are other areas of policy where the organization could play a bigger role.

i. Wet Leasing

264. Wet leasing is the practice where one carrier obtains aircraft and crew from another carrier to operate services in accordance with the former's license. Wet leasing is intended to accommodate short-term and unforeseen shortfalls in aircraft availability due to technical or mechanical issues, or to manage aircraft fleets between affiliated companies. These companies may be local or foreign.
265. Wet leasing is intended primarily for short periods of time. However, some carriers were able to find loopholes within the original policy, enabling them to obtain approval from the Canadian Transportation Agency to use wet leasing agreements for aircraft that substantially expanded the airline's fleet and for long periods of time.
266. In 2013, Transport Canada stepped in and introduced new requirements to help resolve this issue.
267. Some loopholes to the original intent of wet leasing in Canada still exist, and others will be found in the future. For example, currently the policy assesses the need for a wet lease agreement based on the size of a carrier's fleet at the time of application. This policy allows a carrier to tactically make an application months or even years in advance of when the wet-leased aircraft is "needed." A company's fleet could be larger at the time of application, even temporarily, than what would be needed when the agreement is required.
268. By definition, in such a case the aircraft would not be used due to a short-term shortfall of aircraft and crew. Instead, the carrier would be using the agreement as a regular form of business planning to seasonally expand their fleet using foreign aircraft with foreign crews, none of which are subject to Canadian regulatory standards.
269. A proposed solution would be to go back to the principles underlying the wet leasing policy and base approval on a year-round fleet size, as opposed to a previous season's peak fleet size or a planned fleet size for the application period.
270. This policy will help to protect jobs, promote investment in quality training programs within Canada and ensure a competitive air industry for Canada, with the added benefit of ensuring that passengers who are choosing to fly on Canadian airlines can rest assured that the aircraft and crew are meeting all applicable Canadian regulated standards.

RECOMMENDATION 36: Transport Canada should continue to look for and close loopholes in the wet lease policy to ensure the legislation and policy's principle is carried out. Wet lease agreements should be mainly for short-term agreements, and not a basis for seasonal fleet planning. As well, applications should consider the permanent, year-round Canadian-registered aircraft fleet. Transport Canada should be given legislated authority to be part of the review and approval process for decisions under the wet lease policy.

ii. **Joint Ventures**

271. The approval of joint ventures is another policy area in which Transport Canada could play a bigger role. For context, Transport Canada has taken a supportive policy role in facilitating the growth of airline partnerships since the 1980s by focusing on including language in air transport agreements during negotiations to encourage the use of code share services. These rights now form the basis for today's alliances and joint ventures in Canada's airline industry.
272. Joint ventures between global carriers have become increasingly common over the last two decades with the increasing liberalization of the air industry, including the negotiation of Open Skies-type agreements. These ventures provide numerous benefits for carriers and consumers, allowing a virtual merger without a complete unification of two companies.
273. For example, partnerships between airlines provide economies of scale, and can allow greater access to growing markets. We operate in a world where there are airline foreign ownership restrictions, including limits on foreign investment and control of airlines, and in an industry faced with thin revenue margins. Joint ventures are used to maximize the reach and competitive potential of airlines, something that should be encouraged.
274. Over time, Canada has adopted an increasingly liberal policy in international air services, as it started to enter into Open Skies-type air service agreements in the 1990s and 2000s. Following the privatization of airlines and industry domestic deregulation, the Canadian Competition Bureau (CCB) gained interest and decided to play a more active role in air transport.
275. Initially, there were no conflicting issues with the involvement of the CCB and Transport Canada in the development and the implementation of policies related to air transportation. However, this fact changed in 2010 when Air Canada and United Continental Holding announced their decision to enter into a proposed revenue sharing joint venture in the Canada-United States transborder market. CCB expressed concern and filed an application with the Competition Tribunal in June 2011.
276. The CCB's application sought to:
- Oppose the conclusion of the joint venture between Air Canada and United Continental Holding; and
 - Unwind the long-standing commercial cooperation of 15 years between Air Canada and what was formerly United Airlines. (After a merger, the company became United Continental Holding.)
277. The CCB made the application without consulting Transport Canada, which had demonstrated support for airline partnerships through its policy and negotiating mandates for many years. The CCB also did not take into consideration previous positions held by Transport Canada and the Department of Foreign Affairs and International Affairs in similar cases, especially in regards to the Air Treaty of 2007

("Open Skies Agreement") with the United States. Unusually, this was also opposite the view of the United States authorities who, in looking at the same transaction, granted anti-trust immunity.

278. Eventually the CCB reached a consent agreement with Air Canada and United Continental in 2012. This agreement closed the legal application made by the Bureau with the Competition Tribunal.
279. The conflicting positions between the two Canadian government bodies should be resolved on a policy level. Uncertainty created by conflicting positions impacts commercial negotiations which could be expected to proceed under the assumption that Canadian policy would remain in favor of Open Skies and competition. The separate roles on matters related to competition policy within international air transport and joint ventures also create uncertainty and ineffectiveness and should be resolved.
280. Cooperative ventures in the airline industry are a growing phenomenon and have a significant economic impact for the participating airlines. Having a regime that promotes the transportation policy adopted by the Canadian government will offer a better degree of visibility and predictability from a Canadian regulatory point of view.
281. Furthermore, cooperative joint ventures between international airlines are well developed in different regions of the world. Without legislative and policy support for these ventures, the Canadian aviation industry will inevitably be at a distinct disadvantage in regards to the growing trend of airline consolidation (and the formation of "mega-carriers"), as well as other global airline joint ventures.
282. In order to ensure that the aviation sector and its unique circumstances are made part of the decision making process, Air Canada strongly believes there should be legislated involvement by Transport Canada as part of all reviews and approvals regarding joint ventures.

RECOMMENDATION 37: Legislate the involvement of Transport Canada in the review of all joint ventures by airlines and approval processes undertaken by the Government of Canada. Specifically, Air Canada recommends that Transport Canada have the final authority in this area, with the Canadian Competition Bureau in a supporting role. This change would make the roles similar to the allocation of responsibility in the United States between the Department of Transportation and the Department of Justice.

d. A Simplified Regulatory Process

283. A simplified regulatory process will ease the administrative burden on the air industry and government bodies. Increased efficiencies will result in a more competitive market, as well as benefits for passengers.

284. The following sections are specific case examples of how the government can help to simplify the regulatory process.

i. Computer Reservation Systems

285. Airlines use computer reservation systems (CRS) as a distribution channel to travel agents selling on their behalf, providing information about their air services, such as fare information, seat availability and flight schedules. Travel agents earn commissions from airlines and incentive rebates from CRSs.⁶²

286. The *Canadian Computer Reservation Systems Regulations* took effect in 1995. The regulations guide how air services should be displayed or sold. When the legislation was passed, the intent was to ensure that "air carriers offering passenger air services that are displayed or sold in Canada are guaranteed fair and neutral presentation of those services in any computer reservation system operated in Canada for the purpose of displaying or selling air services."⁶³

287. CRSs were once the main way air services were sold. Today, there are many alternatives channels available for selling and purchasing air services, such as direct sales via the Internet, and sales to agents through an airlines' intranet. These alternative channels represent a substantial share of today's sales.

288. In 2004, the government passed amendments to the CRS regulations, with the following rationale:

The amendments to the Regulations lessen the current regulatory requirements and recognize that greater reliance on market forces in the distribution system could lead to market efficiencies, greater innovation and work to minimize the costs of distribution and sales for airlines. Consumers will benefit from a more competitive and efficient airline industry and from the broad choice offered by the various distribution channels.⁶⁴

289. However, the regulations continue to prevent air carriers from going to different travel agents and providing them with varying levels of incentives to use one reservation system over another. In other words, the commission provided to all travel agents must be the same, and there is no incentive to travel agents to minimize their costs and margins for the benefit of consumers.

290. Given that there is new technology producing even greater competition in the marketplace compared to 10 years ago, the regulations concerning computer reservation systems are no longer needed. Regulations should now focus on helping Canadian companies grow, instead of restricting their ability to create a more efficient and competitive airline industry.

⁶³ Government of Canada, "Canadian Computer Reservation Systems (CRS) Regulations," <http://laws-lois.justice.gc.ca/eng/regulations/sor-95-275/page-1.html> (accessed January 21, 2015).

⁶⁴ Canada Gazette, "Regulations," (2004), 4.

291. In the United States, the Government allowed the regulations governing its airline reservation systems to completely expire in 2004.⁶⁵ This move recognized the new competitive market in which passengers could access Internet travel sites and directly access airlines' websites. Canada should follow the United States' example.

RECOMMENDATION 38: Remove regulations relating to the Canadian Computer Reservation Systems. This change will bring Canada in line with the United States and allow the air industry the flexibility to respond appropriately to market conditions.

ii. *Passenger Data*

292. The *Aeronautics Act* specifically permits Canadian air carriers to transmit passenger data to the United States government. This data includes information such as date of birth, gender, booking details and more. This process occurs through:
- The distribution of Advance Passenger Information (API), through an electronic data interchange system established by U.S. Customs and Border Protection, and
 - The distribution of Passenger Name Record (PNR) data, containing records in the database of airline computer systems including the itinerary and associated details for a passenger or a group of passengers travelling together. This data is sent by way of an electronic data interchange system established by U.S. Customs and Border Protection.
293. This practice is now standard, and many countries have followed the lead of the United States government. Carriers from Canada and other countries are now required to provide passenger data to many governments for flights to and from a country and even flights that cross over their territories (referred to as 'over flights'). These requirements are made by each country's respective national laws and regulations.
294. While the *Aeronautics Act* does not prevent air carriers from providing this passenger data to governments as required, there is no specific authorization to do so. The applicable regulation regarding the provision of passenger data to foreign states has not been kept current and is outdated. In contrast, the United States has ensured this sharing of passenger data is permitted through legislation. Canada's outdated regulation creates an unusual legal situation our country where a now accepted practice is clearly legal when it comes to the United States, but less clear in other situations.

RECOMMENDATION 39: Amend the *Aeronautics Act* to be clear that air carriers are permitted to provide passenger data to all foreign governments when required by national laws of the respective countries.

⁶⁵ Fred L. Smith Jr. and Braden Cox, "Airline Deregulation," *The Concise Encyclopedia of Economics*, (2008), <http://www.econlib.org/library/Enc/AirlineDeregulation.html> (accessed January 13, 2015)

iii. Canadian Aviation Regulation Advisory Council – Rulemaking Procedures

295. The Canadian Aviation Regulation Advisory Council (CARAC) became part of the Civil Aviation rulemaking process in 1993. Transport Canada states that CARAC’s mandate is “to assess and recommend potential regulatory changes through cooperative rulemaking activities.”⁶⁶
296. A number of organizations from the aviation community work with Transport Canada to represent the overall viewpoint of the industry. For example, these groups include management and labour organizations that represent operators and manufacturers, as well as professional associations.
297. The air industry appreciates the opportunity to provide input into new or amended rules, and the CARAC process does a good job of consultation. However, the rulemaking procedures involving CARAC and the Department of Justice do not address the industry’s regulatory concerns in a timely and effective manner.
298. Currently, there is a backlog of over nine hundred notices of proposed amendments (NPA). These amendments, which still need approval, date back to almost a decade. In fact, many of these proposed amendments are now out of date.
299. For example, one NPA still in the queue from 1997 and which is no longer relevant relates to recurrent training for dispatchers. Another such example of a now defunct NPA that is still in the queue from 2005 involves pilot qualification and training on aircraft.
300. Due to the delays, the significant advances in technology and methods in the air industry are not being addressed. With rules concerning safety compliance not keeping pace with these advances, Canadian carriers are now at a disadvantage compared to foreign counterparts. In urgent cases and in cases where safety could be compromised, exemptions are routinely granted, but this is a poor substitute for proper rulemaking, and it is far less transparent.
301. In terms of stakeholder consultation for non-regulatory solutions, the CARAC Management Charter process does not require the organization to include the aviation industry’s concerns and comments into the publications outlining solutions. Moreover, Transport Canada is not required to provide the air industry with appropriate consultation or the reasons why feedback was not included in decisions.
302. Due to the lengthy delays in the regulatory process, a form of oversight is being imposed on the air industry through these non-regulatory solutions and decisions.

⁶⁶ Transport Canada, “Canadian Aviation Regulation Advisory Council,” (August 14, 2014), <https://www.tc.gc.ca/eng/civilaviation/regserv/affairs-carac-menu-755.htm>

RECOMMENDATION 40: Transport Canada must expedite the rulemaking procedure to address the significant technological and methodological advances in the airline industry, and ensure the appropriate resources are applied to this effort.

iv. *Exemptions to Regulations*

303. Regulations are rarely updated to account for exemptions, further frustrating the rulemaking process for carriers. As a result, when exemptions expire and are still required, the carrier must apply for the exemption all over again. As well, exemption validity periods are inconsistent. All of these issues add unnecessary work for both carriers and Transport Canada.
304. Given the over-reliance on exemptions to compensate for a backlogged regulatory process, it would be preferable to eliminate the validity periods for exemptions until a more expedited process is in place for passing new aviation rules through the Canadian Aviation Regulation Advisory Committee.

RECOMMENDATION 41: Eliminate the validity period for exemptions relating to regulations until the rulemaking procedures have been fixed and the process expedited.

v. *Inconsistent Interpretation and Application of Regulations and Standards*

305. The air industry relies heavily on the interpretation and guidance provided by government bodies for ensuring it acts within rules and regulations. Unfortunately, the guidance provided by different authorities is at times inconsistent. For example, there have been instances when a regional Transport Canada office applies an interpretation in a manner that conflicts with the head office.
306. This conflict can occur if Transport Canada inspectors insist on specific outcomes from airlines, even though these outcomes are outlined only in guidance material. For example, Air Georgian operates on behalf of Air Canada. When the former took ownership of a fleet of CRJs to operate Air Canada routes, it required a new 705 license in addition to its existing 704 license. Regional Transport Canada offices did not want to accept the existing Flight Operator Manuals (FOM) from Air Georgian and unnecessarily delayed the issuance of the operating certificate for Air Georgian. These manuals contained procedures currently approved by Transport Canada in Air Canada's Flight Operator Manual and they should not have been questioned for use by Air Georgian.
307. Furthermore, Transport Canada's regional branches are governing nation-wide complex air carriers. There is a growing concern within the air industry regarding inconsistent expectations that come out of the regional branches compared to National Operations. Specifically, there is concern that air carriers governed by National Operations may be held to a higher standard.

- 308. The end result is inconsistent practices between air carriers, which can create an unlevel playing field in terms of process and cost burdens. For example, it can extend timelines for approvals and implementation of changes for certain airlines. In such a cost-competitive business, the added burden of any kind that not all participants share creates a competitive disadvantage.
- 309. As well, many regulations have associated standards, which in turn have advisory circulars, guidance material and policy letters, just to name a few. The intent of the regulations can become unclear when associated with numerous other documents. This lack of clarity causes unintentional non-compliance, confusion and delay.
- 310. To help correct these issues, Transport Canada should provide interpretations to the entire aviation industry when they are made. Currently, only the organization that requested the clarification receives the interpretation. In addition, a “one-stop shopping” or “one-window access” approach to regulatory interpretation would reduce confusion and increase efficiencies. The change in procedures would help all stakeholders understand the true intent of some regulations and standards and help Transport Canada provide more consistent interpretations and applications.

RECOMMENDATION 42: The government should implement a one-window approach or introduce a single publication that addresses interpretations of and provides guidance on regulations.

RECOMMENDATION 43: Communicate decisions to the entire aviation community when Transport Canada provides interpretations of a regulation to an organization. This action will help to ensure consistent practice across the industry.

vi. *Canadian Aviation Regulations vs. Occupational Health and Safety Regulations*

- 311. Certain technical aspects of our operations can be regulated by both the scope of the Canadian Aviation Regulations (CARs) and the Occupational Safety and Health Regulations – specifically, the Canada Labour Code Part II (CLCII). This potential overlap can cause issues, as the CLCII takes a starkly different approach to the management of safety than do modern aviation Safety Management Systems (SMS) under Transport Canada and its Canadian Aviation Regulations.
- 312. The primary issue is that the CLCII and CARs have different regulatory approaches and processes. As a result, there can be overlap between CARs and CLCII, thereby causing administrative issues that unnecessarily burden the aviation industry.
- 313. For example, the CLCII forces airlines to undertake rigorous, inflexible approaches to low-risk issues that detract focus and resources from higher safety priorities. In one case, a Cabin Safety Inspector deemed a flight attendant’s jump seat unsafe, even though the seat was fully compliant with all the safety requirements set forth by CARs. The flight attendant’s jump seat is designed in such a way as to face passengers and is equipped with a five-point harness that provides additional safety in the event of an incident. This design ensures that flight attendants can assist passengers in an emergency. In a case like this one, the specialized equipment should not be subject to the review of an additional regulatory authority when it has met all the safety standards provided by CARs.

314. There can also be overlap and potentially conflicting directions between Health and Safety Officers cabin safety inspectors and Ministry of Transport inspectors, without clear guidelines as to who has higher regulatory authority. The existing memorandum of understanding between Health Canada and Transport Canada Civil Aviation does not adequately address this issue.
315. This overlap results in significant redundancy with respect to internal safety management processes, creating added administration and complexity to the overall system.
316. Air carriers must also use legal resources to appeal directives issued by Health and Safety Officers in situations that are fully compliant with CARs. Arguably all safety issues associated with the use of regulated equipment should be identified and addressed in the regulatory approval process and carriers should not be subject to additional regulatory compliance regimes after the equipment has been approved and installed on an aircraft.
317. Conflicting directives ultimately detract from the effectiveness of safety within aviation. In the United States, the government has given preference to its equivalent aviation safety framework over its general health and safety framework. Canada should do the same, but allow employees to address safety concerns through either Occupational Health and Safety or Transport Canada.

RECOMMENDATION 44: Harmonize the regulatory processes provided under the Canadian Aviation Regulations and the Occupational Health and Safety Regulations to ensure that all equipment approved under the Canadian Aviation Regulations are not subject to additional regulatory review or approvals.

vii. *Safety Management System*

318. Safety Management System (SMS) has been a great tool in improving safety culture and reporting at Air Canada. To further support the system, Transport Canada should create and formalize a framework to guide the review and assessment process for inspectors and SMS as a whole.
319. For example, current site visits to review our SMS require inspectors to refer to Transport Canada staff instructions to evaluate practices and norms. These staff instructions have no framework to promote a consistent assessment but instead allow inspectors a range in which to judge airlines' compliance.
320. Our experience shows that one inspector might have no concerns in one area, while another could have several concerns. Without a proper framework to guide the review and assessment by inspectors we will continue to see inconsistencies in the process. The addition of a framework would make SMS an even stronger tool for safety in the industry.

RECOMMENDATION 45: Require Transport Canada to create and formalize a framework to guide the development, operation and inspection or assessment of an advanced comprehensive Safety Management System for air operators in Canada. This framework should include specific standards and performance metrics to guide the actions of both the operator and the Transport Canada inspection staff.

viii. Aviation Documentation

- 321. In 2008, Transport Canada issued the Aviation Document Booklet to every licensed pilot in Canada. The booklet includes the pilot’s license, ratings and medical certificate. The intent of the booklet was to simplify documentation by having one document that contains all three critical pieces of certification. However, the booklet has creates unintended issues relating to the validity and renewal of these three pieces of certification.
- 322. The pilot’s license and medical certificate each have their own expiry date, and the Aviation Document Booklet now has its own expiry date separate and apart from these documents. The booklet’s expiry date has no added value in terms of measuring or monitoring pilot qualification, yet it now directly affects the validity of a pilot’s license and medical certificate.
- 323. This situation means that even if pilots have a valid license and medical certificate, yet they forget to renew their booklets, they are not allowed to operate aircraft. The result has been extra administration for Air Canada and pilots to track and monitor this expiry date, which costs time and money to update software. This administrative process has no added value, but it does have a very real cost.
- 324. To access Canada’s airports, pilots must have a Restricted Access Identification Card (RAIC), which has photo identification. Air Canada recommends removing the photo and expiry date from the Aviation Document Booklet, and instead tying the validity of the booklet to the RAIC.
- 325. Employees or pilots would then be required to renew the RAIC and the booklet. This change would lessen the paperwork pilots are required to do.
- 326. RAICs must also be simplified. Currently, RAICs for a single airport are valid for five years. In contrast, RAICs are only valid for one year for pilots, flight attendants and employees who need a Canada-wide pass. Having to renew the Canada-wide RAICs on an annual basis creates a massive administrative burden.

RECOMMENDATION 46: Amend the Aviation Document Booklet requirements to omit the picture and the validity date, and instead tie the validity of the Aviation Document Booklet to the holder possessing a valid Restricted Access Identification Card (RAIC).

RECOMMENDATION 47: Extend the validity period of all Canada-wide RAICs to five years to match those issued by individual airports.

e. Regulatory Alignment with Other Jurisdictions

327. Aligning Canada’s aviation regulations with the United States or internationally will help to promote best practices, increase safety and reduce the administrative burden on the aviation industry. By focusing on areas where there are unique considerations for the Canadian context or in areas where Transport Canada develops a particular expertise, we can also better focus the department’s limited resources. The following cases are examples where the government could align regulations with other jurisdictions.

i. *Customs Act (AMPS/Penalty structure)*

328. The Canada Border Services Agency (CBSA) describes the Administrative Monetary Penalty System (AMPS) as “a civil penalty regime that secures compliance with customs legislation through the application of monetary penalties.”⁶⁷

329. Through the *Customs Act*, AMPS allows the CBSA to assess monetary penalties against airlines in accordance with the *Customs Act* and the *Customs Tariff*. Depending on the type, frequency and severity of the infraction, the CBSA may impose penalties. Penalty levels take into consideration the client’s compliance history.

330. Originally passed in 1985, the *Customs Act* now has an archaic framework that is not efficient. Currently, the Canada Revenue Agency and the CBSA work independently when managing penalty payments and the *Customs Act* respectively. This system results in confusion, additional work and extra expenses.

331. Airlines have experienced administrative burdens that include:

- Cheques that are currently required to be submitted by mail for interest amounts as small as \$5.
- Recourse Directorate appeal reviews and decisions that can take between 8-12 months.
- Matters such as a simple address change that becomes an administrative challenge.

332. A review of the *Customs Act* would allow for the adoption of important elements within the *Canada Transportation Act*. As well, this review could be an opportunity to add clarity and alignment with the United States’ method, which provides a more flexible and efficient mitigation process.

333. The review should address these administrative burdens and include the following elements:

- Revamped Notice of Penalty Assessments (more details and the issuing officer’s remarks field).
- Monetary penalties reflective of potential risk to Canada.
- Alignment with the U.S. as it relates to the mitigation process.

⁶⁷ Canada Border Services Agency, « The Administrative Monetary Penalty System, » <http://www.cbsa-asfc.gc.ca/trade-commerce/amps/menu-eng.html> (accessed February 5, 2015).

- The ability to specify the name of the individual who contravened. Penalties paid by airlines currently only specify whether they apply to a passenger or crew member.

RECOMMENDATION 48: Review the Administrative Monetary Penalty System and penalty structure in the *Customs Act* and align with the United States' method.

ii. Facilitation (Automation/Passenger data)

334. Within the air industry, information technology (IT) development is necessary for new initiatives relating to immigration and security, such as projects involving passenger data regulations. Often, these initiatives are related to the *Immigration and Refugee Protection Act* and related legislation and regulations, such as the *Customs Act*.
335. This IT development is costly to airlines, with the largest costs incurred when the Canadian government and its agencies require "non-standard" approaches, which often include requests for program features that do not align with international or the United States' standards.
336. For example, since 2013, Air Canada spent more than \$6 million to comply with new government requirements for transmitting information on passengers.
337. The Electronic Travel Authorization already has a minimum cost to Air Canada of \$500,000 for IT software development plus an additional cost of \$1.2 million for recurring annual transmission and yearly subscription. It should be noted that this system is not standardized with the already existing United States' Electronic System for Travel Authorization (ESTA), which has essentially the same data transmitted for similar passengers and which has its own implementation costs.
338. The government must seek alignment with either international standards or the United States at a minimum. This action would reinforce the perimeter approach envisioned by the Beyond the Border Action Plan, as well as minimize IT development expenditures for air carriers.

RECOMMENDATION 49: Fully align new initiatives such as passenger data regulations with international standards. At a minimum, seek alignment with the United States' standards. This alignment would minimize IT development expenditures for all air carriers.

iii. **Flight Data Monitoring**

339. In 2005, the International Civil Aviation Organization (ICAO) issued a formal policy on Flight Data Monitoring programs. The intent was to help streamline flight data monitoring procedures around the world by providing an advanced and proactive safety program. Flight data management programs are mandated by ICAO for airline operations where aircraft have a gross operating weight of 27,000 kilograms or more.
340. Flight data monitoring can offer tremendous insight into the operation of an aircraft. It not only helps to identify undesired operations, but records all types of in-flight information, such engine performance, control inputs, turbulence and weather. It can also identify commercial and maintenance issues that the carrier needs to address. In cases where flight data monitoring is fully employed, carriers can share information to address issues not only within a carrier's fleet, but also across a specific aircraft fleet owned by multiple carriers.
341. Transport Canada requires airlines to use flight data management programs to bolster their Safety Management System, yet it has never formally accepted or rejected the ICAO policy on Flight Data Monitoring. The lack of a clear stance means there is no Canadian policy on how airlines can use data collected from these programs, including no policy on whether airlines can use the data to correct or improve pilots' techniques.
342. The lack of clarity has created a barrier for airlines that wish to increase safety and coordinate their programs with systems used by other countries, as some stakeholders within the aviation industry fear the data will be used to take punitive measures against employees.
343. Air Canada has made a considerable investment into Flight Data Monitoring. We have equipped aircraft, developed aircraft data maps and implemented formal Flight Data Monitoring programs to our wider safety systems.
344. However, without a formal Transport Canada policy on Flight Data Monitoring (FDM), the use of this system is limited. For example, Transport Canada does not have appropriate regulations or policies in place to permit Flight Data Monitoring data to be employed by the airline to determine the operational status of the aircraft. The data cannot be used to support maintenance activities, to highlight in-flight events or to direct corrective actions for any fault found.
345. Equally, Transport Canada does not formally recognize FDM data or permit it to be used to verify the operation or status of onboard recorders despite the fact FDM data is reviewed almost daily and onboard recorders are reviewed only on an annual basis. In fact, Transport Canada maintenance protocols and directives are silent as to the existence or use of FDM data and as a result, this source of information cannot formally be used to address aircraft issues. To their credit, progressive airlines continue to develop FDM programs and actively monitor their operations despite the fact that the lack of policy and direction unnecessarily limits the effective use of the data.

346. FDM programs offer an in-depth review into the operation of an aircraft in routine line operations. To ensure this capability continues to exist, and as a result, to allow a progressive comprehensive review of airline operations while increasing safety for the airline and its passengers, Canada must develop and implement a modern, robust and coordinated policy for FDM.
347. Such a policy must incorporate the lessons learned throughout the industry over the past twenty-five years and allow airlines to employ the data to address all relevant aspects of their operation, but without the fear of the data being used for administration and enforcement actions. Industry partners, such as the National Airlines Council of Canada, have offered a path forward for Transport Canada to work in partnership with the airlines to develop and implement an industry-leading program, and Transport Canada is now encouraged to take this step.

RECOMMENDATION 50: Introduce a comprehensive, coordinated and integrated policy on Flight Data Management programs and ensure our systems are aligned with international best practices. This change would allow for the collection and analysis of data without fear of reprisals for the individuals involved, enabling airlines to better train crews and improve fleet performance.

iv. *Aligning Safety Protocols*

348. Originally, ETOPS stood for “Extended Range Operation with Two-Engine Airplanes.” For over twenty years, ETOPS policy provided guidance for how far a two-engine airplane could fly from potential diversion airfields.⁶⁸ This guidance was intended to reduce the risk of what would happen in the rare event of an engine failure.
349. International policy on ETOPS has evolved along with advances in technology and reliability. The policy guiding “Extended Operations,” which now also applies to different types of aircraft although still referred to as ETOPS, provides pilots with more flexibility.⁶⁹
350. However, Canada’s policy has not kept pace with changes in technology, restricting the ability of pilots to use the most efficient routes possible, even though it is commonly accepted that this route would be equally safe to routes which are created using the outdated criteria.

⁶⁸ U.S. Department of Aviation, “New ETOPS Regulations,” (January 26, 2007), http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safety/info/all_infos/media/2007/info07004.pdf

⁶⁹ For more detail on international guidelines, refer to ICAO Annex 6, section 4.7, dated November 15, 2012.

351. Three areas of concern within the Canadian ETOPS manual include:
- Benign Area of Operation – This area is interpreted as applicable to the Caribbean and not Western Atlantic (WATRS) routes. Yet, there are no benign ETOPS routes in the Caribbean at all and moreover, the only existing benign ETOPS routes are in WATRS. Therefore, if benign ETOPS does not apply to WATRS then there is no point to the concept.
 - ETOPS Entry/Exit Points – ETOPS flights are considered to be a single entry point and a single exit point to ETOPS circles. However, some flight routes allow aircraft to be close enough to suitable airports that it would be safe at times to be outside the parameters of ETOPS. As Canadian aircraft cannot enter and exit separate ETOPS circles within the same flight, pilots are always restricted to the ETOPS parameters throughout the entire flight duration. U.S. aircraft are allowed to leave these parameters.
 - In Flight Shut Down (IFSD) – Transport Canada defines IFSD to include power reductions, such as power back to idle. The United States’ Federal Aviation Administration does not consider this an IFSD. As a result, any power back to idle on an ETOPS aircraft counts towards our ETOPS reliability, whereas it would not with United States’ carriers.
352. Given the advances in technology and the dissenting interpretations of regulations, the government should update ETOPS standards to mirror those in the United States, which has placed far more resources into keeping their standards updated.
353. Updated policy would help to significantly reduce carriers’ operating costs when on long-haul flights or when polar route changes are necessary, as these situations increase fuel consumption and flight time. As well, navigation charges would be lower as there would be fewer necessary route changes.
354. All of these actions would allow Canada to be more competitive with foreign carriers.

RECOMMENDATION 51: Bring safety criteria approval for Extended Range Twin Engine Operations (ETOPS) in line with the United States.

v. *Redispatch and No Alternate Instrument Flight Rules*

355. When it comes to regulations regarding No Alternate Instrument Flight Rules (IFR) and redispatch, Canada is out-of-step with the United States’ regulations, making the Canadian aviation industry less competitive.
356. Under the Canadian Aviation Regulations, No Alternate IFR alleviates airlines from filing an alternate aerodrome for their destination during flight planning, but only for domestic destinations. Currently, there are no Canadian regulations that allow pilots to file No Alternate IFR for international destinations.

357. For example, on a route from Toronto (YYZ) to Vancouver (YVR), a pilot may file the Seattle-Tacoma International Airport (SEA) as an alternate. If the weather becomes extremely bad, the pilot would carry on to SEA instead. This process requires that the airplane boards more fuel before leaving YYZ.
358. However, if YVR is clear and sunny with no forecast of adverse weather, there is no requirement to plan any alternate destination as the risk of diverting the plane is low. The provision for domestic routes under these conditions reduces fuel costs.
359. In contrast, the United States allows flag carriers to plan No Alternate IFR for both domestic and international destinations, as long as the last flight segment is no longer than six hours.
360. In regards to re-dispatch rules, Canadian regulations do not allow airlines to pragmatically re-dispatch enroute to international destinations. Instead, Canadian pilots must have a decision point in domestic airspace. Regulations limit re-dispatch by requiring a decision point no further than an associated enroute destination.
361. In contrast, U.S. regulations allow flag carriers to re-dispatch without specific geographical restrictions, provided they meet a set of technical conditions and weather conditions. Once again, this difference in regulations provides U.S. carriers with a competitive advantage due to fuel savings.

RECOMMENDATION 52: Align No Alternate Instrument Flight Rules and Re-dispatch provisions with the Federal Aviation Administration to allow these two practices anywhere in the world. To be more competitive internationally, the total flight length should not be limited to six hours.

vi. *Land and Hold Short Operations*

362. Land and hold short operations (LAHSO) are an air traffic control procedure that is meant to increase airport capacity while maintaining safety. This procedure means that pilots can save time and operating expenses during LAHSO landings and help to free up runways for others to use.
363. Transport Canada has issued an Operations Specification to Air Canada allowing air carriers to conduct Land and Hold Short Operations (LAHSO) outside of Canada.
364. This Operations Specification conflicts with that granted by the Federal Aviation Administration for operations in the US and effectively negates Air Canada's ability to conduct these operations in the U.S. No such authorization is required in Canada and the Operations Specification adds no value and is therefore unnecessary. In practical terms, since Air Canada cannot perform LAHSO in the United States, Air Canada aircrafts are often left to fly in holding patterns until a time when they can land freely.

365. Once again, Air Canada is at a competitive disadvantage with other foreign carriers operating into the U.S. that do not have to comply with two contradictory Operational Specifications. Air Canada's compliance is also compromised since LAHSO procedures are largely meant for air traffic control use and compliance with two Operations Specifications requires pilot procedures to be added to compensate for the contradictions.
366. Air Canada therefore recommends that the Operations Specifications used by Transport Canada be aligned with those of the Federal Aviation Administration, enabling Canadian pilots to use U.S. LAHSO operations.

RECOMMENDATION 53: Align Canadian rules for low visibility operations with the U.S. standard to increase safety and to reduce risk to pilots.

vii. Fair Competition

367. Given the heavily regulated nature of international air transport, existing policies, regulations and legislation may create an unlevel playing field between carriers operating international services in parallel with Canadian air carriers.
368. For example, Canadian airports do not have traffic congestion when it comes to slots for landing or takeoffs. The only airport in Canada with slot constraints is the Billy Bishop Toronto City Airport. In contrast, many international airports face slot congestion.
369. Airports grant the right to airlines to schedule slots for a landing or departure during a specific time period. In most countries, there are transparent slot allocation processes that are fair to domestic and international airlines. For example, this type of process occurs in the Heathrow Airport, LaGuardia Airport and Reagan National Airport.
370. In some countries, the process is less transparent. One example is the Istanbul Ataturk Airport where domestic carriers have a built-in advantage, as Turkish airlines can leverage their large portfolio of slots at this congested airport. Meanwhile, Canadian air carriers, not having access to slots at this airport, are prevented from offering new services. This situation leads to an unbalanced situation where Turkish airlines have an unfair advantage in regards to launching new services.
371. Unbalanced situations have also occurred in places such as Rome where foreign carriers were discriminated against in regards to landing fees.
372. Unlike the United States, the Canadian government has extremely limited leverage to press the partner country for resolution and has no specific legislative power to do so. The United States' *International Air Transportation Fair Competitive Practices Act of 1974* allows the Department of Transportation to take action against foreign

airlines if there are unfair practices by their government against United States airlines. For example, the government can either follow a diplomatic process to find a resolution or use sanctions.

373. The Canada Transportation Act should be updated to afford Transport Canada or the Canadian Transportation Agency to act against a foreign airline's authorities. As an example, the refusal to allow a foreign airline into Canadian air space could be used as a deterrent to unfair practices by other countries.
374. This type of action would help ensure there is a level playing field for Canadian air carriers, and give the authority to Transport Canada to take concrete measures to ensure that Canadian airlines get fair treatment in foreign markets.

RECOMMENDATION 54: Amend the *Canada Transportation Act* to allow Transport Canada to take action against foreign airlines' authorities when faced with unfair or discriminatory aviation practices in the foreign state, as a means to ensure there is a level playing field for Canadian air carriers.

This language could be similar to the United States' *International Air Transportation Fair Competitive Practices Act of 1974*, which would allow Canada to take action to force a bilateral partner to stop discriminatory practices.

viii. Foreign Ownership in Canadian Airlines

375. The *Canada Transportation Act* restricts foreign investment in Canadian air carriers to 25%, a provision that ensures that the air carrier remains Canadian owned and controlled with three quarters of the shares remaining in Canadian hands. Other countries have similar restrictions, with the United States having the same provisions as Canada – restricting foreign ownership in air carriers to 25% – and Europe generally restricting foreign ownership to 49%.
376. In 2009, Bill C-10 had provisions to increase foreign ownership from 25% to 49% and empowered the Governor in Council to enact regulations for these increased foreign ownership limits. However, the government must first develop new regulations. Clearly, this would give Canadian air carriers access to greater global pools of capital, and it would give Canadian investors greater liquidity in their air carrier investments. However, allowing a unilateral increase in the Canadian foreign ownership rules would place Canadian air carriers at a competitive disadvantage.
377. The nature of the aviation industry, where cross-border mergers of airlines are impossible, means that closer cooperation between air carriers must be achieved through alternate routes. Alliances, joint ventures, and code sharing are all ways that have been developed to enable this cooperation. Many examples suggest that significant levels of investment are another route through which this cooperation can be achieved.

378. If the government allows foreign airlines in the United States, our closest competitor, to invest in Canadian air carriers and to exert the kind of influence that comes with being the single biggest investor in a publicly traded company, Canadian carriers would be at a competitive disadvantage if they did not have the reciprocal ability to similarly invest in U.S. airlines.
379. In addition, while it may appear academically interesting to permit varying levels of investment depending on the source country, it is not easy to implement this type of policy for a number of reasons. For starters, it would be difficult to ensure that the policy works from a corporate law point of view. As well, the regulatory regime, which would require multiple classes of market shares, would have high compliance costs that would completely negate any possible benefit.

RECOMMENDATION 55: Ensure the caps for foreign investment in the *Canada Transportation Act* remain matched to those in the United States, with the eventual goal of 49% permitted foreign ownership. In no event should the cap be greater in Canada than in the United States.

ix. Maintenance Certification Requirements

380. To create greater efficiency and enhance Canadian carriers' competitiveness, Canada needs better alignment with foreign standards in regards to maintenance certification requirements of aeronautical products.
381. For example, under the current Canadian Aviation Regulations (CARs 571.07) Canadian carriers are only allowed to accept new foreign-manufactured or repaired parts that are certified by an organization in a country that have a bilateral or technical agreement with Canada.
382. Canadian carriers and Approved Maintenance Organizations (AMO) are only entitled to accept aeronautical products that have undergone maintenance for which a maintenance release has been signed by a holder of an AMO or an organization accepted by Transport Canada Civil Aviation through a bilateral or technical agreement.
383. Currently Canada only has agreements for accepting maintenance with the European Aviation Safety Agency (European Union), the Federal Aviation Administration (United States), the National Civil Aviation (Brazil), the Civil Aviation Department of Hong Kong, and the Civil Aviation Authority of Singapore.
384. As a result, parts that have been manufactured or repaired in countries with which Canada has no bilateral agreement have to be shipped to the United States, Europe or one of the other countries listed above to be re-certified before Canadian carriers can use them. This process must occur even if the parts are repaired in countries whose repairs are accepted by Canada's bilateral partners.

385. In such a case, the only alternative solution is for the organization making repairs to apply for Foreign Approved Maintenance Organization (FAMO) acceptance. This requirement creates unnecessary costs and administrative burdens for organizations already accepted by our bilateral partners.
386. This process ultimately places Canadian carriers at a competitive disadvantage with U.S. and European carriers and AMOs, given their ability to source these parts directly. In effect, Air Canada is forced to purchase the identical parts through an intermediary, which increases costs.
387. Moreover, from an innovation standpoint, some of the companies located in non-bilateral countries are the Original Equipment Manufacturers (OEMs) of these parts. Therefore, sourcing these parts from other vendors does not allow us to benefit from the improvements the OEMs are incorporating into these parts.
388. As well, Canada should follow the U.S. Federal Aviation Administration rules and implement a Non-essential Equipment Furnishings (NEF) Program. This program would allow Canadian carriers to have more flexibility in establishing the maintenance program and replacement requirements for parts that have no impact on safety, such as passenger convenience items.
389. Finally, more flexibility should be given in the recognition of engineer and technician licensing. Under the current regime, engineers and technicians are only entitled to perform maintenance tasks in the country where their license has been issued. For example, a technician certified in the U.S. for an airbus narrow body aircraft is not authorized to perform maintenance tasks in Jamaica for Air Canada, whereas the technician could perform the same task, on the same aircraft, in the U.S. (and in Jamaica under the Federal Aviation Administration rules).

RECOMMENDATION 56: Ensure Transport Canada seeks greater alignment with international practices such as: accepting foreign authority certifications for foreign manufactured and repaired parts; allowing carriers to implement a Non-essential Equipment Furnishing program; and providing more flexibility in the recognition of foreign manpower licenses.

x. *Aircraft Noise*

390. Due to the impacts of aircraft noise, airport growth and their social and environmental impact in which they are located, the International Civil Aviation Organization (ICAO) developed a "Balanced Approach." Member states, including Canada, have adopted the Balanced Approach to address the concerns of stakeholders in an era when many communities have now begun to encroach upon once more-isolated airports.

391. The Balanced Approach consists of four pillars: (1) reduction of noise at source, (2) land-use planning and management, (3) noise abatement operational procedures and (4) operating restrictions. The four pillars offer a systematic, flexible and globally applicable framework for the challenges faced in these communities. The main objective is to address noise problems in an environmentally and economically responsible way, through a framework that offers planning security for airline networks and airports.
392. Although the Canadian government has already adopted the standards within the Balanced Approach, local communities – like many countries – choose to ignore the best practices laid out by this framework. For example, they knowingly continue to develop land and build homes closer and closer to airports, which is clearly against the Balanced Approach’s land-use and planning guidelines. Instead, many communities choose to restrict aircraft and airport activity.
393. Some of the most successful hub airports around the world – such as Amsterdam, Dubai and Beijing – have flights almost 24 hours a day. Yet airports in Canada have not been able to expand their activity to compete effectively against these hubs.
394. As an economic driver, airports cannot be restricted in such a manner and local governments must consider the Balanced Approach in future planning to avoid unnecessary conflict and friction between stakeholders.

RECOMMENDATION 57: Ensure the “Balanced Approach” is incorporated into land use planning processes in communities near airports, given that Canada has accepted the standards within the International Civil Aviation Organization’s Balanced Approach.

xi. *Aviation Bio-fuel*

395. Currently, Canadian air carriers face barriers to using aviation bio-fuel in their fleets. However, the technology is promising. In our own testing, Air Canada has found it is a useful tool in lowering greenhouse gas emissions in order to reduce our overall carbon footprint.
396. In the United States, producers of aviation bio-fuel receive a \$2 per gallon subsidy to offset the relatively high cost of converting various used oils or growing corn for ethanol production. This subsidy makes their product cost-competitive to regular fuel products.
397. No such program in Canada currently exists, unlike in the automotive bio-fuel sector. As a result, there exists no Canadian producer of this type of aviation fuel. Importing the fuel from the United States is extremely costly and not viable. Yet by 2020, Air Canada will have to be compliant with the International Civil Aviation Organization’s carbon neutral growth framework and associated competitive measures.

398. Without a viable Canadian producer of aviation bio-fuel, Canadian carriers will have to look at other measures to remain carbon neutral, including the purchase of carbon offset credits, flying less, restricting fleet growth, new technology or a combination of these measures.
399. Already Air Canada is undergoing an extensive fleet renewal featuring new technology aircraft that are much more efficient than previous generations. However, with flying less and fleet restrictions not being options for growth, there likely will be increased costs associated with carbon offset credits that we will have to absorb. Ultimately, these costs could make Canada's airline industry less competitive globally.

RECOMMENDATION 58: Create a policy for aviation fuel that supports a Canadian bio-aviation fuel industry in order to allow Canadian carriers to better tackle their obligations to reduce greenhouse gas emissions within the global frameworks that Canada has adopted.

xii. Waste Management

400. The Canadian Food Inspection Agency has a Preventative Control Plan for garbage that arrives in Canada. The Agency does not want foreign foods contaminating the Canadian environment. Therefore, airlines landing in Canada from any international destination are required to collect, separate and incinerate garbage and recyclable materials (such as a can of coke), at a huge cost to the airline. This process is even required for flights originating from the United States, a common environmental zone.
401. The United States allows the regular processing of garbage and recyclables from flights originating in Canada because it considers Canada a common environmental zone, as previously stated. Moreover, there is little to no risk from recyclable materials or packaging like cans and bottles. In fact, a pilot project allowing the separation and normal processing of recyclable materials from U.S.-originating flights being conducted at Ottawa International Airport has proven this process can be done safely.
402. In addition to the burden of separating and incinerating all non-Canadian garbage from aircraft, the Canada Border Services Agency (CBSA) charges \$25 per accumulated garbage per plane for inspection. In many cases, CBSA does not even inspect each aircraft despite applying this charge.

RECOMMENDATION 59: Update the International Waste Directive to align waste management in Canada with U.S. standards with respect to transborder waste. Eliminate the associated Canada Border Services Agency inspection fee for garbage sequestration for transborder waste.

f. Costs Imposed on Airlines

403. Regulatory obligations have often led to additional costs for carriers, even when the government policy relates to a broader public interest. In some cases, these costs are unfairly distributed throughout the industry, as only some carriers are subject to certain programs.
404. The following cases are issues the government could address to help create a more competitive, level playing field for airlines.

i. *Air Canada Public Participation Act*

405. In 1988, the federal government passed the *Air Canada Public Participation Act*, which allowed the company to be privatized, setting out the process for the creation and sale of the initial equity, while outlining obligations the company still had to fulfill. Although the legislation was passed over 25 years ago, it remains in effect today and contains some significant obligations. Air Canada is the only airline in the country that must comply with these obligations.
406. For example, the private company is subject to the *Official Languages Act*, as it was when the airline was a Crown corporation. The *Air Canada Public Participation Act* also outlines obligations regarding where Air Canada's head office and operational and overhaul centres must be located. This provision no longer addresses the current commercial realities of the airline industry.
407. The Act was written at a time when the market for the air industry lacked a competitive environment. Air Canada had a market share exceeding 80% in the domestic market and was often the single operator on many domestic routes serving distant communities. Since then, the competitive landscape has changed. Air Canada's market share on the domestic market has been reduced by close to 30%, and there is growing competition in every Canadian province.
408. For example, WestJet is a serious competitor in many domestic markets. In fact, the carrier has launched a regional carrier to extend the reach of its network to new domestic markets, which include smaller communities.
409. The company is not subject to any of the obligations imposed on Air Canada almost 25 years ago, such as requirements to provide bilingual service. Therefore it has a significant cost advantage when it comes to adding new services and destinations to its domestic network.
410. This cost advantage has helped WestJet to become an extremely profitable company that is well capitalized. In 2014, WestJet earned a net income of \$284 million, up 5.7% over a net profit of \$268.7 million in 2013. In its fourth quarter last year, the company was in the black for the 39th quarter in a row.

411. Today, many of the obligations contained in the *Air Canada Public Participation Act* are outdated and fail to recognize the increased competition in the market as well as other new realities, such as changes to how aircraft are maintained. However, the Act never included a sunset provision to address the evolving nature of the industry.
412. As a result of these obligations imposed 25 years ago, Air Canada is now competing with other companies on an unlevel playing field. Given Canada's new competitive environment, the government should replace the *Air Canada Public Participation Act* with common standards for all air carriers.

RECOMMENDATION 60: Repeal the *Air Canada Public Participation Act* and, where the government believes there is merit to create any requirements impacting an air carrier, introduce legislation on such a topic that would apply to all air carriers, ensuring there is a level playing field in a competitive market.

ii. Official Languages Act

413. When the federal government decided to privatize its national airline, it set out the conditions for doing so under the *1988 Air Canada Public Participation Act*. In accordance with this Act, Air Canada is subject to the *Official Languages Act*.
414. Air Canada is proud of its ability and commitment to serve our customers in both of Canada's official languages. This commitment is ingrained in our service culture and will always continue to be a part of our business model.
415. However, Air Canada is the only air carrier and private company directly serving the general public that is subject to the *Official Languages Act*. Other domestic and foreign competitors are not subject to the same requirements. This disparity creates an unlevel playing field due to the additional resources needed to fulfill the bilingual service requirements, and the constant threat of legal proceedings.
416. The disparity creates other problems, as the *Official Languages Act* is intended to apply to a government body, as opposed to a commercial entity selling products in a competitive market. For example, private sector companies normally target advertising materials to identified markets. However, under the Act, Air Canada must advertise equally in both official languages even if one community is not part of its target audience or if the means to communicate with that community are not the same. These requirements often lead to inefficiencies in the company's business plans.
417. Recruitment of bilingual employees can be difficult, as many prefer to work in institutions such as the federal government. For Air Canada, this issue results in extra costs related not only to hiring bilingual candidates, but also to training unilingual flight attendants of partner airlines, advertisements, hiring fairs and more.

418. Air Canada spends on an annual basis more than \$2 million to comply with its obligation under the *Official Languages Act*. This cost includes the following items, among others:
- Teacher’s salaries
 - Language tests
 - Recruitment programs
 - The salary for employees who handle complaints relating to the *Official Languages Act*.
419. Through our efforts, Air Canada has made significant progress over the years and the number of bilingual resources now available has significantly improved.
420. Compared to the total number of passengers served by Air Canada, the number of complaints against Air Canada in regard to bilingual service requirements remains very low. As noted recently by the Federal Court of Appeal, the percentage of complaints represents only 0.000033% of all situations involving passenger contact with an Air Canada services agent.

Official Languages Act – Complaints versus Customers

	Total Air Canada Passengers (rounded)	Total Passengers Contact with Agents*	Total Complaints Filed with the Commissioner of Official Languages	Percentage (Total Complaints/Total Passenger Contact)
2000	30 million	150 million	69	0.000046
2001	30 million	150 million	80	0.000053
2002	29 million	145 million	80	0.000055
2003	28 million	140 million	33	0.000024
2004	29 million	145 million	62	0.000043
2005	30 million	150 million	39	0.000026
2006	32 million	160 million	30	0.000018
2007	33 million	165 million	35	0.000021
2008	33 million	165 million	37	0.000022
2009	31 million	155 million	27	0.000017
2010	32 million	160 million	41	0.000026
2011	34 million	170 million	36	0.000021
2012	35 million	175 million	41	0.000023
2013	35.8 million	179 million	59	0.000033
2014	38.5 million	192.5 million	49	0.000025

*On average, passengers come into contact with Air Canada agents five times when they travel on the airline.

421. In one case, complaints for relatively minor service issues resulted in a lawsuit seeking hundreds of thousands of dollars in compensation and extraordinary remedies against Air Canada, with the Commissioner of Official Languages supporting the recourse. The complaints included the announcement of a pilot regarding the weather at a destination and the beverage service onboard the aircraft. Although

Air Canada was successful in these court proceedings, it incurred substantial expenses and dedicated significant resources to defend itself against these claims.

422. At times, complaints can border on the ludicrous. One person was unhappy because in the May 16, 2014, edition of the *Globe and Mail*, the paper published a picture of an Air Canada event in which only the French portion of a bilingual banner could be read. Even when these complaints have no merit, the Commissioner for Official Languages investigates them, requires responses from Air Canada and includes them in a report.
423. The Commissioner of Official Languages has also sought to impose obligations that appear to be above and beyond his mandate. For example, in a letter dated March 10, 2014, he suggested the Air Canada Centre in Toronto (the hockey arena) should be renamed Le Centre Air Canada Centre in order to respect the spirit of the *Official Languages Act*.
The investigation determined that the "Air Canada Centre" sign represents a highly visible communication from corporate Air Canada, which is recognizable and recognized nationally by Canadians. The communications of Air Canada's central office or headquarters must be in both official languages as per section 22 of the Act...In light of the above, we have concluded that Air Canada did not respect its obligations and that this complaint is founded, given the obligations under Part IV and the spirit of the Act.
424. While this investigatory zeal might be something that the government believes should be a priority for the aviation industry, it seems unbalanced that it places such stringent requirements on Air Canada when the requirements on our domestic competition is entirely different: other Canadian carriers are only required to provide bilingual safety announcements and briefings in both languages under the Canadian Aviation Regulations.
425. Times have changed since Air Canada was privatized. There are now more carriers serving the domestic market and increased competition in all regions across Canada. Offering services in both official languages where sufficient demand exists should be a requirement that applies equally to all carriers serving Canadians. This issue is not only a matter of principle and fairness for carriers, but also an issue of access and choice for passengers.
426. The government's approach with respect to official languages must therefore evolve to acknowledge today's reality.

RECOMMENDATION 61: Repeal the obligations on Air Canada to comply with the *Official Languages Act* and replace this Act with an obligation on the entire air industry to offer services in both official languages where sufficient demand exists.

iii. In-Flight Security Officer Program

- 427. The In-Flight Security Officer (IFSO) Program was implemented in response to the September 11 terrorist attacks and the risk of storming the flight deck.
- 428. Since 2011, the risk has fundamentally changed as all aircraft now have reinforced flight deck doors. Today, as the risk onboard has shifted throughout the aircraft, the program should be updated to consider all areas of the aircraft.
- 429. Carriers provide seats to RCMP IFSOs in accordance with the IFSO program free-of-charge. In the case where a specific seat is requested by an officer, it must be provided even if it has already been sold to a passenger. In these cases, carriers must remove the passenger and negotiate compensation for the seat all at the airline's cost. Even the ability for a carrier to thank a loyal customer by providing an upgrade, or move to a better seat, for example, is limited because of this program.
- 430. This requirement represents a significant cost and lost opportunities to carriers. In the last five years, the value of the seats Air Canada has provided for the IFSO programs has reached over \$100 million. In most jurisdictions, foreign governments provide compensation for similar programs to their carriers. At a minimum, they allow carriers to claim the lost revenue from the seats against corporate taxes.
- 431. Part of the concern regarding the program is that carriers must comply with requests even when there is no known risk assessment that has identified a flight as requiring protection. No information regarding the risk assessment is shared with carriers. For example, officers have requested seats on positioning flights, which do not have passengers on board, simply to travel to another flight. Carriers should not be responsible for bearing the cost of ensuring In Flight Security Officers arrive at their work destination.

RECOMMENDATION 62: End the process of unlimited free seats and require the RCMP In Flight Security Officer Program to purchase required seats from airlines at market rates.

Alternatively, develop a cost recovery mechanism for airlines. For example, airlines should be allowed to charge for amenities other than the seat (food, entertainment, etc.) and write off the value of the seat against taxes.

RECOMMENDATION 63: Require the RCMP to share all data regarding risk assessments for individual flights with air carriers, enabling carriers to make educated judgments about whether to operate or not operate these flights.

Focus the In Flight Security Officer Program only on flights that have a pre-agreed level of risk.

iv. *Inadmissible Passengers*

432. There are numerous scenarios in which air carriers must bear the cost of returning inadmissible passengers to their home country. These situations occur even when the passenger has the proper documentation (passport, visa, etc. to enter) and airlines have done all they legally can to verify the legitimacy of the person traveling. An example of when this happens is if the passenger has a criminal record or another issue to which the airline would never be privy.
433. In extreme cases, should the passenger become ill and be hospitalized before they leave Canada, carriers are even expected to pick up the medical bills.
434. When a carrier transports passengers who are deemed inadmissible in a foreign country, the airline must return the passenger to Canada or elsewhere where the passenger would be found admissible, such as their home country.
435. This process can become problematic when a foreign government wants a passenger returned immediately to the country of origin and that country happens to be Canada. If a Liaison Officer from the Canada Border Services Agency determines the passenger does not have the right to enter Canada, this situation places the carrier between two conflicting directives from two governments.
436. In these cases, Air Canada ends up transporting the person back to Canada in order to comply with the foreign government order. Upon arrival, the Canada Border Services Agency (CBSA) issues a penalty of \$3,200 to Air Canada. The airline then also becomes responsible for all costs associated with returning the passenger to the country of his or her nationality.
437. Air Canada must then appeal the \$3,200 penalty. The appeals are generally successful as the foreign jurisdiction forced the airline to carry the passenger to Canada. However, this process drives up the company's administrative burden in terms of both time and money.
438. This penalty is not an insignificant cost. From September 2013 to August 2014, there were approximately 216 cases of inadmissible passengers returned to their country of origin at Air Canada's expense. The cost was approximately \$874,000 CAD.
439. This cost is actually understated, as it does not include all of the passengers who were immediately refused entry into Canada. Unfortunately, we are unable to adequately track the related cost of returning inadmissible passengers because CBSA works directly with our frontline agents to find any seat on a return flight. This process is executed for the sake of expediency and often can be a same-day or next-day return.

440. Air Canada is also responsible for the costs associated with returning passengers who were properly documented and who have been denied refugee claims. In some cases, because of the nature of the refugee claims process, passengers may have lived in Canada for many years, and any return ticket they may have once had is no longer valid.
441. These passengers are often violently opposed to leaving Canada and there are significant security costs involved in these deportations, all of which are borne by the airline. In some cases, Air Canada has had to lease private jets to repatriate particularly uncooperative cases.
442. Any relationship that once existed between the passenger and the airline (in many cases decades ago with a predecessor company) is long lost. The passenger is either unwilling or unable to pay. It is simply unfair to make airlines responsible for these costs, when the passenger had the required documents to travel to Canada and the passenger themselves tried to circumvent Canada's immigration programs.
443. Citizens returning to Canada without a passport can also pose a problem. Currently, Canada does not have any legislation or regulations that require Canadian citizens to hold a passport for re-entry into Canada. Canadian citizens are only required to show proof of citizenship, such as a birth certificate or Certificate of Canadian Citizenship. These types of identification can be easily falsified, making it difficult to authenticate and ensure that passengers are who they state they are as there are no pictures. This legislation is antiquated and needs to be changed and brought into the 21st century. The U.S. and many other countries require a valid passport, which is a far more secure document even for returning citizens.
444. However, despite the lack of legislation, the Canada Border Services Agency Liaison Officers insist that air carriers ensure every Canadian passenger holds a valid Canadian passport to board a flight to Canada. This request puts carriers in the difficult position of enforcing what are basically recommendations from the Canadian Border Services Agency, as opposed to what is law.
445. Another issue relates to disruptive behavior by passengers. In cases where passengers have a history of disruptive behavior on flights, airlines are able to ban individuals from taking further flights with that airline, but airlines cannot mitigate their risk from disruptive passengers who have flown on other carriers, as legislation does not permit airlines to share information about passengers, even when they believe them to be a risk to the safety of other passengers. Safety should always be first and foremost.

ICAO Levels of Disruptive Behaviour

The International Civil Aviation Organization (ICAO) has provided airlines with a four-tiered scheme of threat levels to help determine the seriousness of a disruptive passenger. They are:

Level 1 — Disruptive behavior (verbal)

Level 2 — Physically abusive behavior

Level 3 — Life-threatening behavior (or display of a weapon)

Level 4 — Attempted or actual breach of the flight crew compartment

RECOMMENDATION 64: In the case of passengers who present all necessary valid documents (passport, visa or eTA) for entry to Canada but are deemed inadmissible to Canada (either immediately or at some future point) for reasons that are beyond the airline's control, the Government of Canada should bear the cost of returning the passenger subject to possible reimbursement from the passenger.

RECOMMENDATION 65: Allow carriers to share information about passengers who meet the Level 3 and Level 4 of the ICAO standards for disruptive behaviour with other carriers. This practice would help to ensure the safety of other passengers and the safe operation of the flight, as well as reduce costs associated with returning passengers with a history of disruptive behaviour.

RECOMMENDATION 66: Legislate the requirement that all passengers, including Canadian citizens, travelling to Canada hold a valid passport or valid NEXUS card (for travel from the U.S.).

VI. CONCLUSION

446. There is no single bullet that will solve Canada's air industry issues. Instead, we must tackle a complex series of issues – from the numerous taxes and fees to the seemingly minute regulation that creates a large and unnecessary burden for companies and government agencies.
447. Passengers expect their air travel to be fast and cost competitive, from the moment they step foot in an airport to the moment they land and collect their baggage. We are creating an experience – a lasting impression – of our country and its major centres for both domestic and global travellers.
448. To attract transiting passengers and cargo, we must have efficient processes put in place. Moreover, every team within the industry must have clear roles and expected outcomes – from airlines to security and policy-making bodies.
449. Passengers also expect a price-competitive service when they travel. As the International Air Transport Association estimated, airlines around the world collectively earned a 2.7% margin of profit in 2014. On a per passenger basis, this profit means that airlines made an average of \$6.02 in 2014, up from \$3.38 per passenger in 2013.⁷⁰
450. We are at a crossroads when it comes to transportation policy. The first option is to remain an outlier globally with transportation policy, and to erode the economic achievements we have made here in Canada.
451. The second option for the Canadian government is to seize the opportunity to help create global hubs and one of the best, most competitive air industries in the world that acts as an economic enabler for our local economy.
452. Given the importance the federal government has placed on the aviation industry, we trust this is the choice it will make.

⁷⁰ International Air Transport Association, "Economic Performance of the Airline Industry," (December 10, 2014), <http://www.iata.org/whatwedo/Documents/economics/IATA-Economic-Performance-of-the-Industry-end-year-2014-report.pdf>

VII. RECOMMENDATIONS

Executive Summary

RECOMMENDATION 1: As a first principle, acknowledge air transportation as an economic enabler. Strengthen Transport Canada with a formal mandate to develop policies to encourage the Canadian aviation industry's growth, efficiency and competitiveness.

Taxes and Fees

RECOMMENDATION 2: Ensure that Canada's overall taxes and fees applicable to the air transportation industry are globally competitive, in particular with the United States.

RECOMMENDATION 3: Ensure any taxes or fees taken from the industry are either directly related to services for passengers or otherwise reinvested into the industry.

RECOMMENDATION 4: Abolish airport rent. At the very least, reduce airport rent by fixing the rent calculation formula and ensure non-aeronautical revenue and terminal and airside improvements that were made subsequent to the transfer of the airport under the lease are not included in the calculation. Ensure that any rent collected is reinvested in Canadian airport infrastructure on a proportional basis to the source airport.

RECOMMENDATION 5: Include all Canadian airports, including National Airports System airports, as eligible for infrastructure funding under the Building Canada Plan.

RECOMMENDATION 6: Ensure Canadian fees from the Canadian Air Transport Security Authority (CATSA) match our U.S. competitors. At the very least, ensure the fees do not exceed the value of the service provided.

RECOMMENDATION 7: Use the revenue from the Air Travellers Security Charge (ATSC) to fund direct security services at Canadian airports proportional to the passenger volumes at each airport.

RECOMMENDATION 8: Reinvest revenue received from the domestic fuel tax into the air transportation industry and remove any international fuel excise taxes for competitive reasons.

RECOMMENDATION 9: Tie Payments in Lieu of Taxes (PILTS) with the level of services provided by municipalities, such as policing and road repairs. Ensure there is an appropriate level of reinvestment by the municipality in airport-related infrastructure to offset these payments.

RECOMMENDATION 10: Remove the requirement to apply GST, HST and QST on all fees charged to passengers, such as the Airport Improvement Fee and the Air Travellers Security Charge.

RECOMMENDATION 11: Create a global benchmark every five years to compare Canada's taxes, fees and charges against other countries, with the objective of making Canada the most competitive country to further the development of the aviation industry.

Building Global Hubs and Developing a Strong Airport Infrastructure

RECOMMENDATION 12: Recognize the importance of developing global hub airports by:

- Setting the objective to make Canada a competitive jurisdiction for the development of international air services and the transit of international passengers and cargo traffic via Canada within the National Transportation Policy contained in section 5 of the *Canada Transportation Act*.
- Giving Transport Canada a mandate to develop policies corresponding to the four pillars that drive the growth of hub airports: (1) location; (2) cost competitiveness; (3) the development of network carriers; and (4) smooth facilitation with a focus on customer service.

RECOMMENDATION 13: Continue to implement the Blue Sky Policy to further liberalize air access with countries for which there are mutual benefits and level playing-field conditions offering growth potential for the airlines and aviation consumers of both countries.

RECOMMENDATION 14: Ensure efficient implementation of Electronic Travel Authorizations (eTAs) in terms of cost and ease of use for the passenger, and begin to use them to replace burdensome paper visas in low-risk countries.

RECOMMENDATION 15: Implement a system whereby transit growth is protected through the expansion of the Transit Without Visa Program and the China Transit Program. Include waivers for eTAs for passengers travelling as part of these expanded programs.

RECOMMENDATION 16: Establish a common North American "perimeter" authorization – similar to the Schengen Visa – as part of the next stage of the Canada-United States Beyond the Border Agreement. The perimeter approach will help accelerate the legitimate flow of people, goods and services.

RECOMMENDATION 17: Reduce and standardize, as much as possible, the delay for visa issuance. In particular, ensure limited variation in processing times at the different points of service.

RECOMMENDATION 18: Prioritize the development of policies, regulations and expedited processes for the connection of passengers and their baggage at hub airports, including:

- Maintaining and adding sterile areas and Satellite Primary Inspections Lines at strategic locations,
- Streamlining and/or eliminating passenger security requirements, and
- Ensuring Canada Border Services Agency staffing levels and technical solutions reduce passenger wait times.

This combination of initiatives will enable Canadian hub airports to become international gateway airports and Canadian airlines to grow their global network.

RECOMMENDATION 19: Monitor, measure and report performance levels on an hourly basis instead of a daily average. As an example, standards for connecting passengers should include:

- Canada Border Services Agency (CBSA): 90% of connecting passengers processed within 10 minutes.
- Canadian Air Transport Security Authority (CATSA): 90% connecting passengers processed within 7.5 minutes.

For local-originating traffic, standards should include:

- CBSA: 90% of non-connecting passengers processed within 20 minutes.
- CATSA: 90% of non-connecting passengers processed within 15 minutes.

All performance reports should be made public.

RECOMMENDATION 20: Include performance assessments of all federal government agencies, crown corporations and departments in industry performance reports if they are either operating at or contributing to the performance of airports and the issuance of visas.

The list should include Airports, the Canada Border Services Agency (CBSA), Canadian Air Transport Security Authority (CATSA) and Citizenship and Immigration Canada.

All performance reports should be made public.

RECOMMENDATION 21: Expand the annual and five-year government industry reviews to include performance reports measured against global benchmarks. Enable input from airline stakeholders in the performance reviews.

RECOMMENDATION 22: Maintain the current reporting requirements for cargo that is transiting through Canada. Specifically, permit carriers to report on behalf of freight forwarders to ensure the air industry can continue to grow this market.

RECOMMENDATION 23: Review the Airport Authorities' governance structure to make sure the airline industry is properly represented on their boards of directors.

RECOMMENDATION 24: Require all Airport Authorities to strengthen the role of the Airline Consultative Committee, as well as implement a mandatory consultation and approval regime with air carriers before making any capital improvements that would increase landing fees or the Airport Improvement Fee.

RECOMMENDATION 25: Give the Canadian Transportation Agency the authority to review and approve or reject proposed major capital improvements on application from the Airport Authority, with criteria set out by Transport Canada to help encourage responsible spending with appropriate growth. All stakeholders should be able to seek standing in this process.

RECOMMENDATION 26: Mandate greater financial transparency from Airport Authorities, ensuring they provide: detailed annual reports; lists of investments in non-core business ventures; detailed allocation reports of Airport Improvement Funds (AIF); and detailed revenue reports from non-aeronautical sources.

RECOMMENDATION 27: Establish a mandatory requirement to conduct stakeholder surveys and publicly share the data.

RECOMMENDATION 28: Transfer the Toronto Island Airport to the Greater Toronto Airport Authority to ensure consistent and professional management of the airport, and to ensure this airport's governance is harmonized with the structure established for other airports in Canada.

RECOMMENDATION 29: Provide guidance and authorization to Airport Authorities through the *Canada Transportation Act* to negotiate leases beyond the term of their head lease. This change will enable stakeholders and operators to continue investing in long-term capital improvements that are necessary to sustain the industry.

RECOMMENDATION 30: Eliminate vesting clauses in leases that force a company to turn over assets to airport authorities if the assets are not required to be demolished for other airport improvements.

An Efficient Regulatory System

RECOMMENDATION 31: Clearly redefine the Canadian Transportation Agency's mandate to ensure that it does not play a role in policy or regulation development in Canada, which should be exclusively under the purview of Transport Canada. In cases where regulatory change is considered necessary, the Canadian Transportation Agency should make the findings and refer the matter to Transport Canada.

Furthermore, the Government should consider splitting the adjudicative arm of the Canadian Transportation Agency from its administrative arm.

RECOMMENDATION 32: Apply rulings by the Canadian Transportation Agency (CTA) to all carriers, as opposed to setting up different rules for different carriers. To this point, amend the CTA process to allow input by all carriers and associations on matters that would impact them.

RECOMMENDATION 33: Simplify tariff rules by alleviating obligations to file highly detailed conditions of carriage in tariffs and allow the Canadian Transportation Agency to take into account all information available to passengers on a carrier's website when assessing the validity of the said general conditions of carriage.

RECOMMENDATION 34: Align domestic conditions of carriage regarding claims and a carrier's liability with international standards outlined under the Montreal Convention. This change will simplify the rules of liability and protect passengers.

RECOMMENDATION 35: Remove the requirement to file and seek approval from the government for international fare and general rule changes 45 days in advance, as there is sufficient competition to determine fare rates for consumers, unless otherwise required under bilateral agreements.

RECOMMENDATION 36: Transport Canada should continue to look for and close loopholes in the wet lease policy to ensure the legislation and policy's principle is carried out. Wet lease agreements should be mainly for short-term agreements, and not a basis for seasonal fleet planning. As well, applications should consider the permanent, year-round Canadian-registered aircraft fleet. Transport Canada should be given legislated authority to be part of the review and approval process for decisions under the wet lease policy.

RECOMMENDATION 37: Legislate the involvement of Transport Canada in the review of all joint ventures by airlines and approval processes undertaken by the Government of Canada. Specifically, Air Canada recommends that Transport Canada have the final authority in this area, with the Canadian Competition Bureau in a supporting role. This change would make the roles similar to the allocation of responsibility in the United States between the Department of Transportation and the Department of Justice.

RECOMMENDATION 38: Remove regulations relating to the Canadian Computer Reservation Systems. This change will bring Canada in line with the United States and allow the air industry the flexibility to respond appropriately to market conditions.

RECOMMENDATION 39: Amend the *Aeronautics Act* to be clear that air carriers are permitted to provide passenger data to all foreign governments when required by national laws of the respective countries.

RECOMMENDATION 40: Transport Canada must expedite the rulemaking procedure to address the significant technological and methodological advances in the airline industry, and ensure the appropriate resources are applied to this effort.

RECOMMENDATION 41: Eliminate the validity period for exemptions relating to regulations until the rulemaking procedures have been fixed and the process expedited.

RECOMMENDATION 42: The government should implement a one-window approach or introduce a single publication that addresses interpretations of and provides guidance on regulations.

RECOMMENDATION 43: Communicate decisions to the entire aviation community when Transport Canada provides interpretations of a regulation to an organization. This action will help to ensure consistent practice across the industry.

RECOMMENDATION 44: Harmonize the regulatory processes provided under the Canadian Aviation Regulations and the Occupational Health and Safety Regulations to ensure that all equipment approved under the Canadian Aviation Regulations are not subject to additional regulatory review or approvals.

RECOMMENDATION 45: Require Transport Canada to create and formalize a framework to guide the development, operation and inspection or assessment of an advanced comprehensive Safety Management System for air operators in Canada. This framework should include specific standards and performance metrics to guide the actions of both the operator and the Transport Canada inspection staff.

RECOMMENDATION 46: Amend the Aviation Document Booklet requirements to omit the picture and the validity date, and instead tie the validity of the Aviation Document Booklet to the holder possessing a valid Restricted Access Identification Card (RAIC).

RECOMMENDATION 47: Extend the validity period of all Canada-wide RAICs to five years to match those issued by individual airports.

RECOMMENDATION 48: Review the Administrative Monetary Penalty System and penalty structure in the *Customs Act* and align with the United States' method.

RECOMMENDATION 49: Fully align new initiatives such as passenger data regulations with international standards. At a minimum, seek alignment with the United States' standards. This alignment will minimize IT development expenditures for all air carriers.

RECOMMENDATION 50: Introduce a comprehensive, coordinated and integrated policy on Flight Data Management programs and ensure our systems are aligned with international best practices. This change would allow for the collection and analysis of data without fear of reprisals for the individuals involved, enabling airlines to better train crews and improve fleet performance.

RECOMMENDATION 51: Bring safety criteria approval for Extended Range Twin Engine Operations (ETOPS) in line with the United States.

RECOMMENDATION 52: Align No Alternate Instrument Flight Rules and Re-dispatch provisions with the Federal Aviation Administration to allow these two practices anywhere in the world. To be more competitive internationally, the total flight length should not be limited to six hours.

RECOMMENDATION 53: Align Canadian rules for low visibility operations with the U.S. standard to increase safety and to reduce risk to pilots.

RECOMMENDATION 54: Amend the *Canada Transportation Act* to allow Transport Canada to take action against foreign airlines' authorities when faced with unfair or discriminatory aviation practices in the foreign state, as a means to ensure there is a level playing field for Canadian air carriers.

This language could be similar to the United States' *International Air Transportation Fair Competitive Practices Act of 1974*, which would allow Canada to take action to force a bilateral partner to stop discriminatory practices.

RECOMMENDATION 55: Ensure the caps for foreign investment in the *Canada Transportation Act* remain matched to those in the United States, with the eventual goal of 49% permitted foreign ownership. In no event should the cap be greater in Canada than in the United States.

RECOMMENDATION 56: Ensure Transport Canada seeks greater alignment with international practices such as: accepting foreign authority certifications for foreign manufactured and repaired parts; allowing carriers to implement a Non-essential Equipment Furnishing program; and providing more flexibility in the recognition of foreign manpower licenses.

RECOMMENDATION 57: Ensure the "Balanced Approach" is incorporated into land use planning processes in communities near airports, given that Canada has accepted the standards within the International Civil Aviation Organization's Balanced Approach.

RECOMMENDATION 58: Create a policy for aviation fuel that supports a Canadian bio-aviation fuel industry in order to allow Canadian carriers to better tackle their obligations to reduce greenhouse gas emissions within the global frameworks that Canada has adopted.

RECOMMENDATION 59: Update the International Waste Directive to align waste management in Canada with U.S. standards with respect to transborder waste. Eliminate the associated Canada Border Services Agency inspection fee for garbage sequestration for transborder waste.

RECOMMENDATION 60: Repeal the *Air Canada Public Participation Act* and, where the government believes there is merit to create any requirements impacting an air carrier, introduce legislation on such a topic that would apply to all air carriers, ensuring there is a level playing field in a competitive market.

RECOMMENDATION 61: Repeal the obligations on Air Canada to comply with the *Official Languages Act* and replace this with an obligation on the entire air industry to offer services in both official languages where sufficient demand exists.

RECOMMENDATION 62: End the process of unlimited free seats and require the RCMP In Flight Security Officer Program to purchase required seats from airlines at market rates.

Alternatively, develop a cost recovery mechanism for airlines. For example, airlines should be allowed to charge for amenities other than the seat (food, entertainment, etc.) and write off the value of the seat against taxes.

RECOMMENDATION 63: Require the RCMP to share all data regarding risk assessments for individual flights with air carriers, enabling carriers to make educated judgments about whether or not to operate these flights.

Focus the In Flight Security Officer Program only on flights that have a pre-agreed level of risk.

RECOMMENDATION 64: In the case of passengers who present all necessary valid documents (passport, visa or eTA) for entry to Canada but are deemed inadmissible to Canada (either immediately or at some future point) for reasons that are beyond the airline's control, the Government of Canada should bear the cost of returning the passenger subject to possible reimbursement from the passenger.

RECOMMENDATION 65: Allow carriers to share information about passengers who meet the Level 3 and Level 4 of the ICAO standards for disruptive behaviour with other carriers. This practice would help to ensure the safety of other passengers and the safe operation of the flight, as well as reduce costs associated with returning passengers with a history of disruptive behaviour.

RECOMMENDATION 66: Legislate the requirement that all passengers, including Canadian citizens, travelling to Canada hold a valid passport or valid NEXUS card (for travel from the U.S.).