



December 16, 2014

Canada Transportation Act Review Secretariat  
350 Albert Street, Suite 330  
Ottawa, Ontario  
K1A 0N5

Dear Sir/Madam,

The Air Transport Association of Canada (ATAC) is an industry association representing commercial aviation in Canada. The Association, which was formed in 1934, has 185 member companies.

The Association welcomes the Canada Transportation Act Review and its expanded mandate. The expanded mandate is important as it allows for a comprehensive examination of transportation in Canada.

The air transport sector in Canada faces a number of challenges, some government imposed, which prevent it from maximizing its promise.

ATAC will respond to the mandate assigned to the Secretariat, in both general and specific terms.

#### General Comments

The Air Transport Association of Canada has concerns that the Government of Canada is not maximizing the potential of the air transport industry because of two factors;

1. The government has levied too many taxes and charges upon the industry resulting in an industry not competitive with its southern neighbour. This is resulting in passengers leaving Canada in order to complete their air travel, and
  2. The application of taxes, fees, charges, and lease requirements is unevenly applied between transport modes in Canada. Specifically it appears the government is unfairly subsidizing passenger rail at the expense of air transport.
- *Whether adjustments to the current transportation legislative and policy framework are required to support Canada's international competitiveness, trade interests, and economic growth and prosperity;*

There appears to ATAC to be an undue reliance on a number of policy decisions taken some years ago; for example, the "Freedom to Move" Policy of 1985 ("Deregulating" the air transport industry), or the "National Airport Policy" of 1994 (transferring control of airports). Both of these policies are now showing their age and should be revised.

ATAC believes a commercially based, market-driven air transport system is the right approach for Canada. Deregulation actually works and has led to lower fares and more flight options for consumers.

There is recently, however, a trend to economic “reregulation” as seen by the EU’s Regulation No. 261/2004 and the United States “Enhancing Airline Passenger Protection” Parts I, II and III. ATAC believes that these government initiatives are headed in the wrong direction and that passenger service levels will be addressed most readily by healthy competition and market forces.

A level playing field for air transportation is vital in order to foster a free market. Various government departments (not just Transport Canada) either actively subsidize passenger rail or exempt passenger rail, bus and auto from procedures such as CBSA and CIC’s Interactive Advance Passenger Information System, Entry/Exit Program and the eTA.

- *How strategic transportation gateways and corridors can be developed and leveraged to support Canadian prosperity through linkages to global markets;*

ATAC believes that Canada’s passenger air transport hubs are losing traffic and thus effectiveness and importance, through leakage of passengers to adjacent U.S. airports. It is estimated 4.5 to 6 million passengers go to the U.S. rather than fly from Canadian Airports. With almost 119 million passengers originating and deplaning in Canada each year the 4.5 to 6 million passengers is not an insignificant number. ATAC believes that Canadian Government Policy, particularly relating to airport ground leases, taxes and charges, to be the main culprit. We will speak to this issue later on in our response but we feel governments in Canada (not just the Federal Government) have piled on various charges without examining their cumulative effect. It is high time to view their impact upon consumer decisions and their effect upon competitiveness.

- *How the quality and utilization of transportation infrastructure capacity can be optimized through, for example, improved alignment of transportation policies and regulations and/or the use of innovative financing mechanisms;*

We believe that the “innovative financing mechanisms” your mandate refers to, is an examination into privatization (not just commercialization) of infrastructure. From ATAC’s viewpoint the airports could be a possibility. ATAC strongly suggests that if airports are privatized this must be accompanied with strong government regulations and oversight on both rates and service analogous to the UK’s Regulatory Policy Group of the Civil Aviation Authority.

- *How technological innovation can contribute to improvements in transportation infrastructure and services;*

Aviation is a highly regulated industry due to safety requirements. Safety must be assured which necessitates extensive testing and certification regimes which leads to time-consuming and costly impacts. Thus there are limitations on the extent of innovation that can reasonably be implemented.

- *Whether adjustments to transportation safety and environmental regimes are needed to continue achieving high standards for safe and sustainable transportation, given increasing system volumes/demands;*

Canada has one of, if not the safest, safety record when it comes to commercial aviation. Canada and its commercial aviation operating community have often taken the lead implementing technology and procedures that improve safety, e.g. Safety Management Systems (SMS) were implemented within all airlines and their maintenance providers in Canada in 2005, well ahead of other jurisdictions such as the US. It is well proven that Canadian operators will implement new safety equipment and procedures when appropriate, without the need for a regulatory mandate.

Canada is also a leader when it comes to developing and implementing processes and plans that have improved the efficiency of commercial aircraft operations by Canadian operators, e.g. ATAC and Transport Canada signed the world's first voluntary agreement of its type identifying and encouraging implementation of technology and processes to improve aircraft fuel efficiency and thus reduce climate change inducing Greenhouse Gas (GHG) Emissions as well as the all-important data gathering and analysis of these measures. Canadian operators are implementing technology and procedures to improve their fuel efficiency, and thus impact on GHG emissions and Climate Change, due to operational and economic reasons on a voluntary and sustainable basis.

- *How to address rapid changes in the North and associated challenges for the continued safety, security and sustainability of the northern transportation system, and specifically, the federal role in supporting the northern transportation system;*

Transportation Infrastructure in the north has been largely ignored by the Canadian government for decades. Given the region's small population and long thin routes, the air transport infrastructure has not developed substantially since the announcement of the "National Airport Policy". Additionally construction in the north is very expensive in light of permafrost and a lack of construction resources at remote communities.

In spite of the neglect by the Federal Government of infrastructure, Canada proclaims its sovereignty internationally over the area. Without aid for substantive improvement to the transportation infrastructure these claims of sovereignty are hollow.

A number of airports do not have artificial surfaces (i.e. they are gravel airstrips). We recommend a program of installing artificial surfaces at the following airports:

- Cambridge Bay, Northwest Territories
- Dawson City, Yukon
- Resolute, Northwest Territories
- Artic Bay, Northwest Territories
- Old Crow, Yukon
- Mayo, Yukon

There are also a myriad of other projects that should be completed including:

- 24 hour weather reporting
- Runway lighting
- Longer runways (i.e. Inuvik, Northwest Territories)
- Approved GNSS approaches
- Increase fuel storage capacity

As an initial project however we suggest the replacement of the gravel strips with artificial surfaces. This will allow northern airlines to use modern fuel efficient aircraft that also emit less GHG (note: the only jet aircraft certified to operate on gravel are quickly reaching the end of their useful and certified lives and are also expensive to maintain and are less fuel efficient).

- *How federally-regulated passenger rail services can be delivered to meet travellers' needs while minimizing costs to the public purse;*

ATAC questions why Via Rail needs to be delivered at all in view of the huge subsidy required? Over the last 10 years Via Rail has collected \$4.5 billion dollars of Federal Government subsidies. What is the public policy benefit to justify this type of expenditure? All this to move about 4 million passengers a year. What is the rationale for a government that professes to want commercially based, market driven

transportation systems running a legacy service that shows no prospect of ever standing on its own feet. This produces competition to air and bus transport by passenger rail that is not supported by actual passengers and encourages Transport Canada to rob from the sustainable to support the unsustainable. To what end we ask?

And any thought of High Speed Rail should not be proposed because subsidies would not be in the hundreds of million dollars a year but in billions of dollars a year.

- *How the vitality of the Canadian aviation sector, air connectivity, and Canada's ability to attract visitors and transiting travellers can be maintained and augmented in light of the range of cost factors and competitive global markets;*

In addition to the passenger leakage noted above, Canada's share of international tourist travel has plunged. Canada is no less desirable a place to visit because of its world-renowned attractions, but travellers (including domestically) are repelled by the high cost of travelling to and within Canada vis-à-vis other jurisdictions (particularly the U.S.A.). A plethora of charges, fees and taxes are the cause of this.

Additionally, crossing the Canada-US border is worsening in spite of "The Beyond Borders" initiative.

Let us examine the various cash grabs Canada's Government levies that are exclusive to air transport.

1. **Airport Ground Rents** – in a 1996 letter to ATAC, Transport Canada valued the airports being transferred at \$1.517 billion. Using this to justify what some would call usurious ground rents, Transport Canada concluded leases with Airport Authorities (who were the creation of Transport Canada).

The justification used by Transport Canada in setting these exorbitant rents was "to earn a return on taxpayer investments" and what a return! In the period from 1992 to 2013, Transport Canada collected \$4,677,182,806 in ground rents. An astounding 308% return on the investment. Clearly there needs to be a review to determine a more equitable and market derived rate of return. These changes are the single largest inhibitor to the growth of Canadian passenger traffic. The comparison to U.S. airports is stark. The U.S. government contributes funds to U.S. Airports. This produces a competitive edge for U.S. airports vis-à-vis Canadian airports.

## 2. Fuel Excise Taxes

ATAC has commissioned a study of fuel taxes for Canadian provinces, U.S. States and Federal (U.S. and Canada). It has not been completed but, here are some preliminary numbers:

	¢/Litre*
New York	1.93
Michigan	0.79
Minnesota	1.32

Compare very favourable against

	¢/Litre
Quebec	3.0
Manitoba	3.2
Ontario	6.7**

\* In local currency

\*\* Passed for full effect in 2017

Clearly Canadian rates are not competitive. In addition there is Fuel Excise Tax at the Canadian Federal Level. This is another reason why Canada is not competitive as a travel destination. ATAC will provide the Secretariat with the finalized report early in 2015.

### 3. Air Travellers' Security Charge

In 2008 ATAC prepared an analysis of security fees worldwide and determined Canada to have the second highest security fee in the world. Shortly thereafter this fee was increased by 53%! We believe it to be the highest in the world now. This is not justified by the level of services provided by CATSA *vis-à-vis* other countries' agencies or the funds transferred to CATSA (there are large amounts of fees collected from Canadian air travellers in the name of aviation security that end up in the Government's general coffers instead of the CATSA budget).

4. eTA is a charge from CBSA that taxes a foreigner (excluding Americans) upon entry to Canada. One would have to think for a long while to dream up a scheme as successful in preventing tourism. Additionally, this exercise involves self-assessment using computers that visitors may or may not have.

ATAC recommends that Government Departments fund this operation through general revenues.

- *Whether current governance and service delivery models for key federal operations, assets and agencies – including the Canadian Transportation Agency, Canadian Pilotage Authorities, the St. Lawrence Seaway, and airport and port authorities – can be improved;*

ATAC wishes to suggest the following improvements on the issues listed below:

#### 1. Eligibility to complain

ATAC and its members question the use of the words "any person" as it relates to complaints (see 65, 66(1), 66(2), 67.1, 67.2(1)).

The Air Transport Association of Canada (ATAC) contends that if these statutes intend to provide a degree of consumer protection, then the complaint should indeed be a consumer of the services regulated. Recently a member has had to face complaints from an individual who could not be identified amongst their passenger lists.

We suggest you substitute the term "any customer".

#### 2. Quorum

Paragraph 16(1) called for two members "subject to agency rules". Recently the Canadian Transportation Agency has amended its rules to allow for a single member to constitute a quorum. ATAC believes this does not constitute proper administrative procedures and may lead to individual members' biases intruding upon decisions.

We suggest 16(1) be rewritten as follows:

"Three members constitute a quorum." Except in simple administrative decisions.

#### 3. Ambiguity of Paragraph 67.2(1)

The Canadian Transportation Agency was created to act as an impartial quasi-judicial body and was not designed or allocated any policy making powers. Indeed, paragraph 24 makes it clear that policy is the province of the Minister of Transport.

It is therefore puzzling that paragraph 67.2(1)'s "unreasonable and unduly discriminatory" terms or conditions almost invites CTA's members to set policy. Most notably the members set the quantum

recently on involuntary denied boarding. In a deregulated market ATAC suggests that it should be the consumers' decision on what terms and conditions they find acceptable or unreasonable.

We suggest that this paragraph be reworded to only allow the Canadian Transportation Agency to make a finding of unreasonable or discriminatory terms and conditions and not be allowed to set alternative amounts or rates.

**4. 120 Day Deadline**

Paragraph 29(1) specifies a 120 day deliberation period. We believe, however, that there are circumstances where an appeal to the Minister for a further extension of 120 days without unanimous approval by the complaining party is necessary. This will allow for stakeholders not named in the complaint to act as intervenors.

Yours very truly,



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Senior Vice President and CFO