



Submission by the
Air Transport Association of Canada
to the
SENATE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

ATAC Comments Bill C-49

“An Act to Amend the Canada Transportation Act and other Acts respecting transportation and to make related and consequential amendments to other Acts”

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The Air Transport Association of Canada (ATAC) has represented Canada's commercial air transport industry since 1934. We have approximately 190 members engaged in commercial aviation operating in every region of Canada.

We welcome the opportunity to present our comments on Bill C-49 and we thank you. We wish to comment on the following elements of the Bill, all of them important issues for commercial aviation in Canada:

1. Passenger Rights
2. Foreign Ownership
3. CATSA

Our comments, however, will only address the themes of this Bill as they apply to the proposed measures which will be determined by the accompanying regulations to ensue. These regulations, to be developed by the CTA, are probably at least one year away.

The issue of Passenger Rights is a reoccurring theme in Canada and the government wants to ensure that passengers are protected by law. Some of the measures the Minister is keen to address include compensation standards for passengers for delays and denied boarding due to factors within the carrier's control, and lost or damaged baggage. The Minister also wants clear standards allowing children to be seated with parents at no extra charge, and standards for the transportation of musical instruments.

We appreciate that the government's goal is to help the travelling public navigate through simpler rules and have easier access to support in unfortunate circumstances where those standards are not being met.

Please bear in mind that well over 140 million people travelled by air in Canada in 2017. The number of complaints filed each year at the CTA was under 500. The point here is to give a sense of proportion of the size of the problem. Of course, some complaints remain at the airline level but even then, the vast majority of travellers have a good passenger experience.

We believe that major principles need to be incorporated in a passenger rights legislation.

A key principle of the Bill relates to **safety**. The go - no go decision must remain with the pilot in command. The threat of severe, even unreasonable, financial repercussions could exert undue influence on the pilot's decision making.

Secondly, the **compensation** paid out to aggrieved passengers should be in line with the economic realities of air travel in Canada.

Unreasonable monetary compensation, disproportionate to the magnitude of the carriers' revenues on any given flight, will result in a deterioration of our enviable air transportation system for Canadians, leading to reduced service on some routes.

For example, Air Passenger Rights in Europe are generous to the point that a passenger could receive compensation for a delayed flight exceeding the price paid for the ticket.

Such practices can only lead to increased costs to airlines and passengers.

Shared responsibility is another important principle.

An airline cannot be held accountable for events beyond its direct control. The Minister has stated “Some of the measures we are looking at include compensation standards for passengers denied boarding due to factors within the carrier’s control...”

We need a clear definition of what falls under a carrier’s control. While it may be an airline’s decision to cancel or delay flights, the reason for doing so may be well beyond that airline’s control. Weather, ground delays as a result of de-icing pad congestion, snow clearance, congestion at the airport of destination, air traffic control, are all factors that affect an airline’s decision making.

Also, some delays are safety related. The safety of passengers is the utmost responsibility of pilots and airlines. Safety related delays should not result in penalties for the airlines. How such delays are managed by the airlines is what this law should address.

An additional principle is that the **one-size-fits-all** practice that is prevalent at Transport Canada just cannot apply here. You cannot impose compensation standards as applied in Canada’s major airports in the south to northern and remote airports.

As for Foreign Ownership of Canadian airlines, the Minister claimed, in his November 3, 2016 speech before the Chamber of Commerce of Metropolitan Montreal, that increased foreign ownership “will lead to more options for Canadians, and allow the creation of new, ultra-low-cost airlines in Canada”.

The presence of more airlines offers greater choice to travellers but we have yet to hear convincing argument to support the claim that foreign investments would pave the way to ultra-low-cost (ULC) carriers. The foreign ownership of an airline is not the gateway to ULCs in Canada that the government boasts it will be. Lower operational costs to airlines is the key to lower costs to the travelling public, not the source of capital. Only when the government decides to financially support rather than bleed revenues from the air industry will ultra-low-cost carriers stand a chance in Canada.

Increasing foreign ownership of airlines can also lead to an increase in the export of profits generated in Canada to foreign interests rather than reinvestment in our Canadian aviation industry.

This being said, we don’t oppose the government’s intention to allow foreign ownership of up to 49%. However, we only support this change if it is accompanied by reciprocity

with our foreign trading partners. In other words, if we allow foreign investors to own a 49% share of our airlines, we should expect to have the same privilege in their country.

CATSA

The amendments proposed in this Bill only address the Agency's ability to enter into agreements for the delivery of screening services on a cost-recovery basis. This measure is meant to allow smaller markets devoid of CATSA permanent services the opportunity to offer international flights, mainly sun destination flights, during certain periods of the year. The intention is worthy but the project is hardly viable because of the high costs associated to on-demand services by a CATSA contractor. The cost of maintaining equipment for occasional use or of renting mobile full screening services makes the prospect of that option very unlikely. The user costs would be astronomical and would discourage promoters from ever opting for that option.

We would like to take this opportunity to reiterate ATAC's position that the funding and governance model of CATSA are a serious concern for our industry. For over ten years, we have been asking the government how it found it acceptable that the Air Travellers Security Charge (ATSC) collects over 100 million dollars more per year than is appropriated to CATSA. No answer has been forthcoming.

CATSA budgets have been lagging behind despite the increase in passengers. With one of the highest ATSCs in the world, Canada is also the exception in that the government has shouldered the travelling public with 100% of airport security costs. In other jurisdictions, governments assume the bulk of the cost or at least share the cost with the travelling public.

The government is studying various business options for CATSA and seems to favour a NAV CANADA type model. We would support a model which would provide much needed changes to the status quo, a model where the government would work collaboratively with CATSA in policy applications and transform the ATSC into a dedicated fee set by CATSA, adjusted to meet its changing needs and service obligations to the travelling public. This is supported by the Report on Aviation Safety in Canada tabled in the House of Commons last May by the House Standing Committee on Transport, Infrastructure and Communities.

In closing

Ease of compliance with the law, administration of complaints and user-friendliness for airlines and passengers all depend on the details of the regulations which will accompany the proposed changes in the law.

We only ask that the government work collaboratively with stakeholders in the drafting of the new regulations attached to this Bill. Only then can the Minister's objective of improving the passenger experience be met.