March 13, 2018

The Senate of Canada
Ottawa (Ontario) K1A 0A4

Dear Senators,

RE: Proposed Amendments to Bill C-49

We are aware that Bill C-49 is currently before the Senate. We have been following this Bill as it progressed through the House of Commons. Suffice it to say, we find various parts of the Bill rather troubling as it has the effect of stifling public interest advocacy and undermining the freedom of expression that is enshrined in our Charter of Rights and Freedoms.

Of note is s. 67.3 and subparagraph 86(1)(h)(iii) which requires that complaints to the Canadian Transportation Agency (“CTA”) be raised only by those “adversely affected”. The regulatory regime is not only intended for giving passengers redress in the event they suffer loss, it also serves a prospective function in ensuring policies are in place to prevent the loss from occurring in the first place.

Requiring an “adversely affected” passenger to raise the complaint would limit the CTA’s ability to hear other voices and also directly reverses the Supreme Court of Canada’s recent approach in expanding the rules for standing before the CTA (Delta Air Lines Inc. v. Lukács, 2018 SCC 2). Moreover, those provisions within the Bill also has the effect of undermining the freedom of expression of public interest advocacy groups, and also legal professionals who may wish to raise a complaint at the CTA to prevent harm/loss to others in the future.

We highly recommend that the Senate consider deleting s. 67.3 from s. 17 of the Bill and amend subparagraph 86(1)(h)(iii) in s. 18(2) of the Bill. At the minimum, the Senate should carefully consider whether having these provisions is in the public interest given the Supreme Court of Canada has already spoken very recently.

Yours truly,

EVOLINK LAW GROUP

[Signature]

SIMON LIN
Barrister & Solicitor