

**FEDERAL COURT OF APPEAL**

BETWEEN:

**AIR PASSENGER RIGHTS**

Applicant

– and –

**CANADIAN TRANSPORTATION AGENCY**

Respondent

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**RESPONDENT'S MOTION RECORD**  
(Motion for Mandatory Interlocutory Injunction)

Volume 1

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**FEDERAL COURT OF APPEAL**

BETWEEN:

**AIR PASSENGER RIGHTS**

Applicant

– and –

**CANADIAN TRANSPORTATION AGENCY**

Respondent

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**AFFIDAVIT OF MEREDITH DESNOYERS  
SWORN THE 28<sup>TH</sup> DAY OF APRIL, 2020  
(Motion for Mandatory Interlocutory Injunction)**

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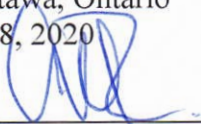
**I, Meredith Desnoyers, of the City of Ottawa, in the Province of Ontario, AFFIRM THAT:**

1. I am the Hearing Registrar employed in the Legal Services Unit of the Canadian Transportation Agency, and, as such, I have knowledge of the matters to which I hereinafter depose.
2. Attached and marked as "Exhibit A" is a copy of the Organization and Mandate of the Canadian Transportation Agency webpage posted on the Agency's website at <https://www.otc-cta.gc.ca/eng/organization-and-mandate>.
3. Attached and marked as Exhibit "B" is a copy of the Agency's Interline Baggage Rules for Canada Interpretation Note posted on the Agency's website at <https://otc-cta.gc.ca/eng/publication/interline-baggage-rules-canada-interpretation-note>.
4. Attached and marked as Exhibit "C" is a copy of the Agency's Notice to Industry: Applications for Exemptions from Section 59 of the *Canada Transportation Act* posted on the Agency's website at <https://otc-cta.gc.ca/eng/publication/notice-industry-applications-exemptions-section-59-canada-transportation-act-sc-1996-c>.

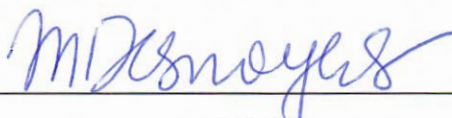
5. Attached and marked as Exhibit "D" is a copy of the Agency's Guide to Canadian Ownership and Control in Fact for Air Transportation posted on the Agency's website at [https://otc-cta.gc.ca/sites/default/files/new\\_guide\\_to\\_canadian\\_ownership\\_requirement\\_and\\_control\\_in\\_fact.pdf](https://otc-cta.gc.ca/sites/default/files/new_guide_to_canadian_ownership_requirement_and_control_in_fact.pdf).
6. Attached and marked as Exhibit "E" is a copy of the World Health Organization's "Events As They Happen" webpage posted at <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen> with the summary, the December 31, 2019, the January 13, 2020, the January 30, 2020 and March 11, 2020 entries highlighted.
7. Attached and marked as Exhibit "F" is a copy of the Government of Canada "Coronavirus disease (COVID-19): Outbreak" webpage posted at <https://www.canada.ca/en/public-health/services/diseases/2019-novel-coronavirus-infection.html?topic=tilelink> with the March 22, 2020 dropdown menu highlighted.
8. Attached and marked as Exhibit "G" is a copy of the International Air Transportation Association press release dated April 14, 2020 entitled "COVID-19 Puts Over Half of 2020 Passenger Revenues at Risk" posted at <https://www.iata.org/en/pressroom/pr/2020-04-14-01/>.
9. Attached and marked as Exhibit "H" is a copy of an Air Canada press release dated March 30, 2020, posted at <https://aircanada.mediaroom.com/2020-03-30-Air-Canada-Provides-Update-in-Response-to-Covid-19>.
10. Attached and marked as Exhibit "I" is a copy of WestJet's COVID-19 webpage posted on its website at <https://www.westjet.com/en-ca/travel-info/coronavirus>.
11. Attached and marked as Exhibit "J" is a copy of Air Transat's COVID-19 page posted on its website at <https://www.airtransat.com/en-CA/travel-information/coronavirus>.
12. Attached and marked as Exhibit "K" is a copy of Sunwing press release entitled "Sunwing announces shift to focus on repatriating Canadians in destination" as posted on its website at <https://www.sunwingtravelgroup.com/en/news/sunwing-announces-shift-to-focus-on-repatriating-canadians-in-destination>.

- 13. Attached and marked as Exhibit "L" is a Porter Airlines News Release dated March 18, 2020 posted on its website at <https://www.flyporter.com/en-ca/about-us/news-details?title=Porter+Airlines+temporarily+suspending+flights+to+support+COVID-19+relief+efforts+2020+03>.
- 14. Attached and marked as Exhibit "M" is a European Commission communication dated March 18, 2020. Posted on its website at [https://ec.europa.eu/transport/sites/transport/files/legislation/c20201830\\_en.pdf](https://ec.europa.eu/transport/sites/transport/files/legislation/c20201830_en.pdf).
- 15. Attached and marked as Exhibit "N" is a statement by the Dutch Human Environment and Transport Inspectorate concerning coronavirus (COVID-19) and air passenger rights and posted on its website at <https://english.ilent.nl/themes/c/coronavirus-covid-19-and-air-passenger-rights--ec261-2004-and-corona-covid-19>.
- 16. Attached and marked as Exhibit "O" is a copy of the FAQ's: Statement on Vouchers webpage posted on the Agency's website at <https://otc-cta.gc.ca/eng/faqs-statement-vouchers>.
- 17. Attached and marked as Exhibit "P" is a copy of a Global news article entitled "Canadian Transportation Agency clarifies statement on travel vouchers during COVID-19 pandemic" dated April 24, 2020, and posted on its website at <https://globalnews.ca/news/6861073/cta-travel-voucher-statement/>.

AFFIRMED before me at )  
 City of Ottawa, Ontario )  
 on April 28, 2020 )  
 )  
 )



\_\_\_\_\_  
 Allan Matte (LSUC #41535U)



\_\_\_\_\_  
 Meredith Desnoyers

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 Counsel for the Respondent, Canadian Transportation Agency

Exhibit A of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of a large, stylized 'M' followed by a series of loops and a final downward stroke.

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Signature



[Home](#)

# Organization and mandate

## Our organization and mandate

### [Members](#)

### [Organizational chart](#)

### [Partner organizations](#)

### [At the Heart of Transportation: A Moving History](#)

The Canadian Transportation Agency (CTA) is an independent, quasi-judicial tribunal and regulator that has, with respect to all matters necessary for the exercise of its jurisdiction, all the powers of a superior court.

The CTA is made up of five full-time [Members](#); up to three temporary Members may also be named. The Members, who are all based in the National Capital Region, are supported in their decision-making process by some 240 employees and administrative staff.

## The CTA has three core mandates

- We help ensure that the national transportation system runs efficiently and smoothly in the interests of all Canadians: those who work and invest in it; the producers, shippers, travellers and businesses who rely on it; and the communities where it operates.
- We protect the human right of persons with disabilities to an accessible transportation network.
- We provide consumer protection for air passengers.

## Our tools

To help advance these mandates, we have three tools at our disposal:

- **Rule-making:** We develop and enforce ground rules that establish the rights and responsibilities of transportation service providers and users and that level the playing field among competitors. These rules can take the form of binding regulations or less formal guidelines, codes of practice or interpretation notes.

- **Dispute resolution:** We resolve disputes that arise between transportation providers on the one hand, and their clients and neighbours on the other, using a range of tools from facilitation and mediation to arbitration and adjudication.
- **Information provision:** We provide information on the transportation system, the rights and responsibilities of transportation providers and users, and the Agency's legislation and services.

## Our values

Our Code of Values and Ethics outlines the core values and expected behaviours that guide us in all activities related to our professional duties. Our guiding values are:

**Respect for democracy** - We uphold Canadian parliamentary democracy and promote constructive and timely exchange of views and information.

**Respect for people** - We treat people with dignity and fairness and foster a cooperative, rewarding working environment. **Integrity** - We act with honesty, fairness, impartiality and transparency.

**Stewardship** - We use and manage our resources wisely and take full responsibility for our obligations and commitments.

**Excellence** - We provide the highest quality service through innovation, professionalism and responsiveness.

## Members

- [Scott Streiner, Chair and CEO](#)
- [Elizabeth C. Barker, Vice-Chair](#)
- [William G. McMurray, Member](#)
- [Mark MacKeigan, Member](#)
- [Mary Tobin Oates, Member](#)
- [Heather Smith, Member](#)
- [Gerald Dickie, temporary Member](#)
- [Lenore Duff, temporary Member](#)

### Scott Streiner, Chair and CEO



Scott Streiner was appointed Chair and CEO of the Canadian Transportation Agency (CTA) by the Governor in Council in 2015 and reappointed in 2020. His term runs until July 2021.

Scott has taken a series of steps to enhance the CTA's ability to respond to the needs of the national transportation system, its users, and the communities in which it operates. These include reorganizing and streamlining the CTA's internal structures and processes;

recruiting top-notch talent to serve on the executive team; implementing action plans to foster a

healthy, high performing, and agile organization; increasing public awareness of the CTA's roles and services; introducing innovative approaches to delivering regulatory and adjudicative mandates; and undertaking a comprehensive review and modernization of all regulations made and administered by the CTA.

Among the most important results of these efforts are the groundbreaking *Air Passenger Protection Regulations* and *Accessible Transportation for Persons with Disabilities Regulations*. Following finalization of these regulations, Scott launched major projects to update the CTA's suite of guidance materials, automate complaint intake, and modernize compliance assurance activities.

Scott led the revitalization of the Council of Federal Tribunal Chairs in 2016 and 2017, and is currently Vice Chair of the Board of Directors of the Council of Canadian Administrative Tribunals and a member of the Bureau (steering committee) of the OECD's Network of Economic Regulators.

Prior to joining the CTA, Scott had a 25-year career in the federal public service. His public service positions included Assistant Secretary to the Cabinet, Economic and Regional Development Policy; Assistant Deputy Minister, Policy with Transport Canada; Executive Director of the Aerospace Review; Assistant Deputy Minister with the Labour Program; Vice President, Program Delivery with the Canadian Environmental Assessment Agency; Director General, Human Resources with the Department of Fisheries and Oceans; and Director of Pay Equity with the Canadian Human Rights Commission.

Scott has led Canadian delegations abroad, including to India, China, and the International Labour Organization. He has also served as the Government Member with NAV Canada, Canada's Ministerial Designee under the North American Agreement on Labour Cooperation, Chair of the Council of Governors of the Canadian Centre for Occupational Health and Safety, and a Director on the Board of the Soloway Jewish Community Centre.

Scott has a bachelor's degree in East Asian Studies from the Hebrew University, a Master's degree in International Relations from the Norman Paterson School of International Affairs, and a PhD in Political Science from Carleton University.

**Elizabeth C. Barker, Vice-Chair**



Liz Barker began a five-year term as Vice-Chair and Member of the Canadian Transportation Agency (CTA) on April 3, 2018.

Liz joined the CTA's predecessor, the National Transportation Agency, in 1991 as counsel. She has held several positions at the CTA, including, most recently, Chief Corporate Officer, Senior General Counsel and Secretary. She has worked in all areas of the Agency's mandate over the years, but has specialized in advising the tribunal in complex dispute adjudications and oral hearings on controversial subjects including rail level of service complaints, a wide range of complex accessible transportation disputes, and ministerial inquiries into marine pilotage and the accessibility of inter-city motor coach

services. She has also worked extensively in the development of the Agency's approach to its human rights mandate, administrative monetary penalties regime, alternative dispute resolution, final offer arbitration, and rail level of service arbitration. She has appeared as counsel before all levels of court, including the Federal Court, the Federal Court of Appeal, and the Supreme Court of Canada, as co-counsel in *Council of Canadians with Disabilities v. VIA Rail Canada Inc.*, [2007] 1 S.C.R. 650.

Liz was a recipient of the Queen's Diamond Jubilee Medal in 2016 for her work at the Agency, in particular in accessible transportation, the administrative monetary penalties program, and for her leadership of the Legal Services Branch.

Liz received her law degree from Osgoode Hall Law School in 1987 and her B.A. (Honours in Law) from Carleton University in 1984. She has been a member of the Law Society of Ontario since 1989.

## **William G. McMurray, Member**



William G. McMurray became a Member of the Canadian Transportation Agency on July 28, 2014.

Prior to his appointment to the Agency, he served as Vice-Chairperson of the Canada Industrial Relations Board.

A lawyer, Mr. McMurray practised administrative law and litigation in the private sector for over 23 years. He acted as counsel for some of Canada's largest employers in the federal transportation industry. He successfully pleaded

complex cases before a number of federal administrative tribunals, including the Agency and its predecessors. He has argued cases, in both official languages, before the Federal Court, the Federal Court of Appeal and has appeared in all levels of the civil courts. While practising law, he also taught "transportation law and regulation" at McGill University in Montréal for over ten years.

He studied common law and civil law at the University of Ottawa and studied political economy at Université Laval in Québec City and at the University of Toronto. Mr. McMurray completed his articles of clerkship while working in the Law Department of the former Canadian Transport Commission.

He has been a member of the Law Society of Upper Canada since 1986.

## **Mark MacKeigan, Member**

Mark MacKeigan began a four-year term as a Member of the Canadian Transportation Agency on May 28, 2018.

He comes to the Agency from The St. Lawrence Seaway Management Corporation, the not-for-profit operator of the federal government's Seaway assets, where he was Chief Legal Officer and Corporate Secretary from 2014.



Mark is not entirely new to the Agency, having served previously as a Member from 2007 to 2014 and as legal counsel on specific files in a contract position during 1996.

His transportation law experience includes six years as senior legal counsel with the International Air Transport Association in Montréal from 2001 to 2007, focusing on competition law, cargo services, aviation regulatory and public international law matters. From 1996 to 2000, he was legal counsel with NAV CANADA, the country's provider of civil air navigation services.

Mark began his legal career in private practice in Toronto. After earning a Bachelor of Arts with highest honours in Political Science from Carleton University, Mark obtained his law degree from the University of Toronto and a Master of Laws from the Institute of Air and Space Law at McGill University. He also holds a postgraduate diploma in European Union Competition Law from King's College London.

He is a member of the Bars of Ontario and the State of New York and is admitted as a solicitor in England and Wales.

### **Mary Tobin Oates, Member**



After 25 years of public service, Mary Tobin Oates joined the Canadian Transportation Agency on 9 July 2018. As a lawyer, Mary practised in different areas of law, largely in public and administrative law. She appeared before the Pension Appeals Board and the Federal Court of Appeal regarding disability benefits under the Canada Pension Plan and the Old Age Security Act. Mary served as a Board member of the Veterans Review and Appeal Board where she determined eligibility for disability benefits for members of the Canadian Forces and the Royal Canadian Mounted Police. Mary provided legal and policy advice on indigenous issues to the Department of Justice and to Indian and Northern Affairs Canada. She also served as Board member to Tungasuvvingat Inuit, a not-for-profit, charitable organization that provides services to and advocates on behalf of Inuit who live in southern Canada.

Before becoming a lawyer, Mary worked as a technical editor for the Canadian Transportation Accident and Safety Board (now Transportation Safety Board).

Mary received her Bachelor of Arts from Memorial University of Newfoundland and graduated from Osgoode Hall Law School. She has been a member of the Law Society of Ontario (formerly the Law Society of Upper Canada) since February 1997.

## Heather Smith, Member



Heather Smith became a full-time Member of the Canadian Transportation Agency on August 27, 2018. Heather was most recently Vice-President, Operations at the Canadian Environmental Assessment Agency. In previous positions, Heather was Executive Director in the Government Operations Sector of Treasury Board Secretariat, and Director General in the Strategic Policy Branch at Agriculture and Agri-Food Canada (AAFC). Heather held several management positions within Justice Canada, as General Counsel and Head of AAFC Legal Services, General Counsel and Head of Legal Services at the Canadian Environmental Assessment Agency, and General Counsel in the Legal Services Unit of Social Development Canada/Human Resources and Skills Development Canada.

Heather also served as legal counsel at Environment Canada Legal Services and Manager of the Canadian Environmental Protection Act Office at Environment Canada. Heather holds a B.A.(Hons.) from the University of King's College and an L.L.B. from the University of Toronto. She has also earned the Chartered Director (C.Dir.) designation from the McMaster/DeGroote Directors College.

## Gerald Dickie, temporary Member



Gerald Dickie comes to the Canadian Transportation Agency after having worked for 36 years in the grain industry at different port locations. He spent the first 6 years in Thunder Bay at the Cargill Terminal. The next 30 years, he worked at the Port of Metro Vancouver. He initially worked on the rehabilitation of the Alberta Wheat Pool Terminal (now Cascadia Terminal) and was part of the team that automated the facility and introduced unit train unloading capabilities. In July of 2007, as a result of the ownership change of Agricore United, he moved to the North Vancouver Cargill Facility (formerly SWP) as the General Manager. He is an experienced manager of people, capital projects, business operations, labour

negotiations, supply chains and strategy.

The 30 years he spent working at the Port of Vancouver included being part of several external groups. He has held every position within the Vancouver Terminal Elevator Association, from President to Secretary. He was a member of the Senior Port Executive Committee Group, the Port Competitiveness Committee, BC Terminals Association and North Shore Waterfront Industry Association. This included leadership roles and active work in everything from port education for the

community to Low Level Road Initiative and social licence activities. This experience included a good exposure to the issues that all port tenants, railway companies, vessel companies and customers faced.

He has worked with Transport Canada on the Winter Rail Contingency Meeting programs and on supply chain issues with a number of groups. He is familiar with marine and rail supply chains and with the producers, shippers and customers that rely on these chains.

Gerald has an MBA from Royal Roads University and a BScF from Lakehead University.

## Lenore Duff, temporary Member



Lenore Duff is a former public service executive with 28 years of service with the Government of Canada whose positions included Director General, Strategic Initiatives at the Labour Program; Director General, Surface Transportation Policy at Transport Canada; and Senior Privy Council Officer supporting the Social Affairs Committee of Cabinet. Her primary focus throughout her career has been on the development of policy and legislation across a broad range of economic and social policy areas.

As Director General, Surface Transportation Policy at Transport Canada, Lenore was responsible for developing policy options and providing advice on strengthening the freight rail liability and compensation regime, as well as on reforming freight rail provisions as part of the recent modernization of the Canada Transportation Act. At the Labour Program, her work included leading the development of a series of legislative initiatives designed to enhance protections for federally regulated employees. Prior to that, Lenore was responsible for the development of policy initiatives related to income, employment and disability.

In the course of her career, Lenore has also had the opportunity to conduct consultations with a broad range of industry, civil society and government stakeholders to inform the development of policy and legislation.

Lenore earned both a Bachelor of Arts (Honours Sociology) and Master of Arts in Sociology from Carleton University.

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**Date modified:**  
2019-05-02

Exhibit **B** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a trailing stroke, positioned above a horizontal line.

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Signature



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# Interline Baggage Rules for Canada: Interpretation Note

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*Effective for tickets issued on or after April 1, 2015.*

## Disclaimer

The Canadian Transportation Agency (Agency) is the economic regulator of Canada's federal transportation network. It publishes Interpretation Notes to provide information and guidance on provisions of the *Canada Transportation Act* (CTA) and associated regulations that it administers. Should there be any discrepancy between the content of this Interpretation Note and the Act and associated regulations, the latter prevail.

This Interpretation Note provides guidance to air carriers and their agents relating to interline baggage rules application. Unless the context otherwise dictates, the term "carrier" is meant to encompass licensees and non-licensees involved in interline itineraries issued on a single ticket whose origin or ultimate ticketed destination is a point in Canada.

**Please note that the implementation date for the Agency's Interline Baggage Rules for Canada has been extended to April 1, 2015.**

## Purpose

On April 15, 2014, the Canadian Transportation Agency (Agency) issued Decision No. 144-A-2014<sup>14</sup> which specifies the rules that air carriers should be applying, effective for tickets issued on or after April 1, 2015, when participating in an interline itinerary issued on a single ticket whose origin or ultimate destination is a point in Canada. These rules call for:

- a single set of baggage rules being applied to the entire itinerary; and,
- the disclosure of these baggage rules to the passenger.

Furthermore, air carriers must file their policies with respect to interline baggage in their tariffs.

The Agency's Decision is consistent with the United States Department of Transportation's (U.S. DOT) baggage rules requirements, thereby providing for a harmonized North American approach to how baggage rules should be applied.

To support its Decision, the Agency issued this Interpretation Note (IN) - *Interline Baggage Rules for Canada* to clarify to air carriers and ticket sellers, and inform the travelling public how baggage rules should be applied (for both checked and unchecked baggage).

More specifically, this IN lays out an approach for interline and code-share baggage rules that, if accurately reflected in carriers' tariffs and applied by carriers and ticket sellers, the Agency finds to be clear, just and reasonable, and which does not impose upon passengers an undue prejudice or disadvantage consistent with the requirements of the *Air Transportation Regulations* (ATR (Air Transportation Regulations)).

This IN also addresses how air carriers and ticket sellers should disclose the applicable baggage rules to passengers by air carriers and ticket sellers. The aim is to ensure that the policies of carriers are clearly stated and are readily available to passengers so that they are made aware of the baggage rules that apply to their itinerary.

## 1. Context

Baggage rules<sup>1</sup> establish an air carrier's policies pertaining to the transportation of a passenger's bags, including, but not limited to the following:

- The maximum weight and dimensions of passenger bags, if applicable, both checked and unchecked;
- The number of checked and unchecked passenger bags that can be transported and the applicable charges;
- Excess and oversized baggage charges;
- Charges related to check in, collection and delivery of checked baggage;
- Acceptance and charges related to special items, e.g. surf boards, pets, bicycles, etc;
- Baggage provisions related to prohibited items, including embargoes;
- Terms or conditions that would alter or impact the baggage allowances and charges applicable to passengers (e.g. frequent flyer status, early check-in, pre-purchasing baggage allowances with a particular credit card);and,
- Other rules governing treatment of baggage at stopover points, including passengers subject to special baggage allowances or charges, etc.

For several decades, carriers' baggage allowances were either assessed on a piece or weight basis. Travel to, from or within North America was based on the piece system (i.e., two pieces of luggage, free of charge, per passenger). Travel between other parts of the world was governed by a system based on weight. Such policies were highly harmonized among carriers and from a passenger's perspective, unless complex itineraries were involved, they seldom resulted in incompatibility of baggage rules for passengers travelling on multiple air carriers or via different countries.

However, over time, this simplified, standard approach evolved due to new industry practices, including à la carte pricing, carrier desire to maximize revenue from baggage, and regulatory change. Carriers abandoned the simplified standard approach and began to apply their own rules to their own flight segments for trips involving multiple air carriers. This resulted in confusion as to which carrier's rules were applicable because passengers were subjected to differing and unexpected baggage allowances and charges while en-route on an interline itinerary.

To address this situation, different methodologies to determine the applicable baggage rules when travelling on multiple air carrier itineraries have emerged. The following section briefly describes two key approaches currently used by industry.

## **1.1 IATA (International Air Transport Association) baggage rules**

The International Air Transport Association (IATA (International Air Transport Association)), the trade association for the world's air carriers representing some 240 carriers, has defined basic worldwide baggage standards including how carriers could apply baggage rules to a passenger's interline itinerary.

Recognizing the industry requirement for a more flexible approach to baggage allowances and fees application, on April 1, 2011, IATA (International Air Transport Association) Rule (IATA (International Air Transport Association) Resolution 302, Appendix 7.1) came into force providing a new methodology to determine which carrier's baggage rules would apply to an interline itinerary, including code-sharing arrangements. This new methodology created the Most Significant Carrier (MSC) concept.

IATA (International Air Transport Association)'s approach uses a geographical-based selection process to determine which carrier(s) would be the MSC (see Appendix 7.1 for further details how an MSC is chosen).

Baggage rules of the MSC are applicable from the point of "baggage check-in" until the next stopover, or the next point of baggage collection. Each time baggage is re-checked by the passenger, the MSC is once again defined and its baggage rules are applied. The baggage rules of the new MSC may be the same or different than the previous MSC. There is potential for several different MSCs to be included in a passenger's interline itinerary if it involves multiple flights and stops.

As a result, passengers may encounter different and changing baggage rules throughout their itinerary. The more complex the itinerary, the more likely this will occur. This concern is exacerbated by the fact that IATA (International Air Transport Association) has not set rules regarding the disclosure of the applicable rules to the passengers, leaving passengers potentially exposed to differing and unexpected baggage rules in the course of a given itinerary.

## 1.2 U.S. DOT baggage rules

In January 2012, the U.S. DOT Rule 399.87 came into effect (Appendix 7.3). Under this Rule, all carriers selling transportation to passengers where the "ultimate ticketed origin or destination" is a point in the United States must apply the same baggage policy and fees throughout a passenger's itinerary, regardless of stopovers, when it is on the same ticket.

The U.S. DOT requirements stipulate that it is the first marketing carrier on the first flight segment of an interline itinerary that has the right to establish the baggage rules to apply for the entire interline itinerary. One set of baggage rules applies irrespective of stopovers or other carrier flights listed on the single ticket. More specifically, the first marketing carrier has the right to choose to apply its baggage rules or the rules of the MSC (as determined by the application of IATA (International Air Transport Association) Resolution 302, modified to be applicable in the U.S. context).

All carriers must reflect their baggage rules in their tariffs filed with the U.S. DOT.

## 1.3 Agency's practices

Prior to implementing its *Interline Baggage Rules for Canada*, the Agency had not issued an all-encompassing approach. Baggage rules for air travel to or from Canada were established by individual carriers by stipulating their baggage rules in their tariffs for application to their own traffic, even when part of an itinerary involved multiple air carriers. This approach was sufficient under the circumstances as essentially all carriers had similar tariff provisions which reflected a generous free baggage allowance based on the piece system that had existed at that time.

The Agency did however express a clear view with respect to baggage rules in code-sharing arrangements, whereby one air carrier (the marketing carrier) sells transportation in its name (and under its own two letter designator code) on flights operated by the partner air carrier (operating carrier). The Agency has always required the marketing carrier to apply its tariff (encompassing its baggage rules) to its own traffic in a code-sharing arrangement. Upon complaint, the Agency enforces the baggage rules of the marketing carrier in the code-sharing arrangement as reflected in its tariff.

Considering the emergence of both the IATA (International Air Transport Association) and U.S. DOT approaches to baggage rule application, to inform its considerations, the Agency sought views on the best approach to interline baggage rules for Canada via an industry workshop and an on-line public consultation. The consultations revealed significant consensus that the Agency should not develop a new approach but rather align with either IATA (International Air Transport Association)'s Resolution 302 or the U.S. DOT's new regulations. In addition, a large majority expressed support for a harmonized North American approach (i.e., an approach consistent with U.S. DOT Rule 399.87).

## 2. Agency's authority

As the Canadian economic regulator of the air transport industry, pursuant to the ATR (Air Transportation Regulations), the Agency is responsible for determining whether the international tariffs of air carriers are clear [ATR (Air Transportation Regulations) paragraph 122(a)], just and reasonable [ATR (Air Transportation Regulations) subsection 111(1)], and whether traffic has been subject to undue or

unreasonable disadvantage or prejudice [ATR (Air Transportation Regulations) paragraph 111(2)(c)].<sup>17</sup> Furthermore, the Agency can on complaint or on its own motion cancel, suspend or substitute an international tariff or portion of an international tariff. The Agency can also direct an air carrier offering an international service to take corrective measures and pay compensation to the passenger if the air carrier fails to apply its tariff.

### **3. Principles of Agency's interline baggage rules for Canada**

Based on the results of its consultations, the Agency's approach to interline baggage rules is guided by two fundamental principles:

#### **a) A seamless and transparent baggage regime for passengers**

- Passengers should have a seamless travel experience throughout their interline itinerary issued on a single ticket.
- Passengers should be informed of which carrier's baggage rules apply to their interline itinerary.

#### **b) A harmonized and practical regime for industry**

- The Canadian approach should avoid imposing unique requirements that conflict with other jurisdictions and particularly within the North American context.
- The Canadian approach should take into account the operational challenges faced by industry and not impose unnecessary burdens.

## **4. Agency's approach to interline baggage rules for Canada**

### **4.1 Scope of the approach – affected traffic**

#### **4.1.1 International interline itineraries**

Air carriers should, for interline transportation where the origin or ultimate ticketed destination is a point in Canada and where such transportation has been issued on a single ticket, apply a single set of baggage rules throughout a passenger's interline itinerary, regardless of stopovers. This includes domestic legs of an international itinerary, when transportation has been issued on a single ticket.

More specifically, the carrier whose designator code is identified on the first flight segment of the passenger's interline ticket<sup>2</sup> (i.e., the selecting carrier) can select to apply for the entire interline itinerary by all participating carriers, either:

- the selecting carrier's own baggage rules; or,
- the rules of the "Most Significant Carrier" (MSC), pursuant to the methodology of IATA (International Air Transport Association) Resolution 302, as conditioned by the Agency.

To enable the implementation of this approach, carriers are encouraged to use any automated baggage rules systems (e.g. databases, global distribution systems(GDS), Web pages, etc.) that enable them to publish their free baggage provisions, excess and special items, embargoes, and carry-on allowance and

fees in all sales and distribution channels.

On April 16 2014, the Agency placed a Reservation against IATA (International Air Transport Association) Resolution 302 (see Appendix 7.2.1). The aim of this Reservation is to allow the selecting carrier to use the MSC methodology to determine which carrier's baggage rules apply to an international interline itinerary to or from Canada, while reinforcing the role of tariffs. This Reservation is also fully consistent with the Reservation filed by the U.S. DOT and thus promotes a harmonized North American approach. Appendix 7.2.1 provides further details on how IATA (International Air Transport Association) Resolution 302, as modified by the Agency, applies.

Resolution 302 is not binding on IATA (International Air Transport Association) or non-IATA carriers and has no legal standing in Canada. If carriers otherwise agree to amend or establish another approach to determine the applicable baggage rules as an alternative to Resolution 302, such an approach must also comply with the ATR (Air Transportation Regulations) and be expressed in tariffs filed with the Agency at least 45 days before they come into effect. An alternative approach should also respect the two fundamental principles of the Agency's approach.

#### **4.1.2 Domestic interline itineraries**

The Agency recognizes that the domestic marketplace may not generally utilize an automated baggage rules system (e.g. databases, GDS, Web pages, etc.) which would enable the Agency approach to be implemented in a manner similar to international transportation. Furthermore, the IATA (International Air Transport Association)'s MSC concept is inapplicable to the domestic context.

Nevertheless, for interline transportation occurring wholly within Canada (not part of a multi-segment (or leg) international itinerary) and where such transportation has been issued on a single ticket, the Agency also expects air carriers to apply a single set of baggage rules throughout a passenger's interline itinerary, regardless of stopovers. The Agency is of the opinion that applying this approach to domestic interline itineraries would be beneficial to consumers.

Furthermore, the Agency expects the domestic carrier whose designator code is identified on the first flight segment of the passenger's interline ticket (i.e., the selecting carrier) to select and apply its own baggage rules to the entire interline itinerary. All downline carriers are expected to also apply those rules to their respective services.

Domestic carriers contemplating applying the Agency approach to domestic interline travel are encouraged to develop and use automated baggage rules systems.

#### **4.1.3 Applicable to both domestic and international interline itineraries**

Once the baggage rules have been chosen by the selecting carrier for either an international or domestic interline itinerary, carriers should:

- apply the rules to the passenger's entire interline itinerary issued on a single ticket; and,
- disclose the rules to the passenger on any summary page at the end of an online purchase and on e-tickets.

## 4.2 Applicable baggage rules

The Agency's *Interline Baggage Rules for Canada* apply to a carrier's baggage rules related to checked and unchecked (carry-on) items.

## 4.3 Tariffs

Canada's regulatory regime requires that carriers have tariffs and that those tariffs reflect their policies. Tariffs establish the contractual rights and responsibilities of passengers and the carrier. Consistent with the requirements of the ~~ATR (Air Transportation Regulations)~~ (subsections 110(1), (4) and (5), any carrier offering international transportation to or from Canada, including those carriers who are participating in interline travel (whether they hold a license to operate to and from Canada or not), must have a tariff and apply it. Furthermore, that tariff must clearly state the carrier's policy in respect of specific matters [per ~~ATR (Air Transportation Regulations)~~ paragraph 122.(c)], including baggage. Carriers must file their tariffs with the Agency that set out their baggage rules at least 45 days in advance.

To align with the Agency's approach, carriers involved in interline arrangements must reflect in their tariffs how they will:

- select the baggage rules applicable to an interline itinerary;
- apply the baggage rules selected by another carrier participating in an interline itinerary; and,
- disclose the applicable baggage rules to a passenger on any summary page at the end of an online purchase and on e-tickets. (refer to Part 3 of this IN).

The tariffs of carriers involved in interline arrangements (either as a selecting or down line carrier) should address the following four areas:

### i. Carrier's own baggage rules

- Establish the carrier's own baggage rules with respect to such matters as free baggage allowances, limits on weight, size, number of bags allowed, conditions associated with the treatment of special items (e.g., pets, bicycles, skis, surf boards, embargoes), how baggage rules are applied at stopover points and any charges associated with the carriage of baggage;
- all carriers will already have their own baggage rule in their tariff currently filed with the Agency, however each carrier will need to assess the adequacy of their own baggage provisions in the context of this IN and its interline services; and,

### ii. Baggage rule determination by selecting carrier

- Include a statement that the selecting carrier will choose either to:
  - i. the selecting carrier's own baggage rules; or,
  - ii. the rules of the "Most Significant Carrier" (MSC), pursuant to the methodology of ~~IATA (International Air Transport Association)~~ Resolution 302, as conditioned by the Agency; and,

### iii. Participation as a down line carrier in an interline itinerary

- Have a statement that the carrier will apply, as its own, the rules chosen by the selecting carrier when it is a down line carrier and a passenger is travelling on one of its flights as part of an interline itinerary; and,

#### iv. Disclosure

- Provide for the carrier's disclosure undertakings consistent with the Agency's approach (refer to Part 3 of this IN).

Carriers may refer to the **Agency's Sample Tariff**<sup>3</sup> developed by Agency staff for assistance in establishing their interline baggage rules tariff information reflecting the Agency's approach. Carriers should ensure that they allow for the appropriate amount of time to file their revised tariff provisions with the Agency. The approach applies to tickets issued on or after April 1, 2015.

### 4.3.1 Tariffs must be on file with the Agency

#### 4.3.1.1 International itineraries

For all other international itineraries, including domestic segments of an international itinerary, only carriers with baggage rules reflected in tariffs on file and in effect with the Agency, pursuant to ~~ATR (Air Transportation Regulations)~~ subsection 110(1), may act as the selecting carrier. The selecting carrier may choose to apply either their own baggage rules or determine who will be the MSC for the itinerary. Any chosen MSC carrier must also have its baggage rules reflected in tariffs on file and in effect with the Agency in order for them to apply to an interline itinerary.

Note: For transborder itineraries only, a tariff must be on file with both the Agency and the U.S. DOT in order for the appropriate baggage rules to apply to an itinerary and to meet both countries' regulatory requirements.

#### 4.3.1.2 Domestic itineraries

For interline itineraries of Canadian domestic carriers involving travel taking place wholly within Canada, the domestic carrier whose designator code is identified on the first flight segment of the passenger's interline ticket (i.e., the selecting carrier) is expected to select and apply its own baggage rules to the entire interline itinerary in so far as the baggage rules are set out in its domestic tariff. All downline carriers are expected to also apply those rules to their respective services.

This ensures that the Agency can review the reasonability of these rules pursuant to subsection 67.2(1) of the CTA and that these rules are effective pursuant to subsection 67(3) of the CTA.

### 4.3.2 Carriers that do not file tariffs with the Agency

If a passenger's international interline itinerary begins at a foreign point (other than the U.S.) and the carrier whose designator code is identified on the first flight segment of the passenger's ticket at the beginning of the itinerary does not file tariffs with the Agency, that carrier must not be the selecting carrier on the interline itinerary. Furthermore, all other carriers must not apply that non-tariff filing carrier's baggage rules. The Agency has a list of carriers who file tariffs applicable for transportation to and from Canada.



Allowing a foreign carrier's baggage rules which are not filed with the Agency to be the rules applicable to an interline itinerary to or from Canada would result in the Agency not being able to deal with the reasonability of such rules. The Agency finds this unacceptable.

In these cases, the next carrier whose designator code appears on the passenger's international interline itinerary and who files a tariff with the Agency would be the carrier to determine which carrier's baggage rules will apply and thereby establishing the applicable baggage allowances and fees. All participating carriers should apply that alternative carrier's selection of baggage rules. This carrier, through its ongoing relationship and interline agreements, would be responsible for advising this first carrier (non-filing) of the established baggage rules for that passenger.

Carriers that do not file tariffs with the Agency but are participating in interline itineraries applicable to transportation to or from Canada and "feeding" passengers onto flights operated by a larger carrier, should ensure that they have the relevant baggage information and disclose which baggage rules apply to the itinerary.

## **4.4 Special issues affecting baggage rules**

### **4.4.1 Unchecked (carry-on) baggage**

The Agency recognizes that each operating carrier that is participating in an interline itinerary will for practical reasons apply their own unchecked carry-on baggage allowances to their respective flight segments. The Agency recognizes that due to the variety of aircraft sizes and types that may be used throughout an interline itinerary applying a single set of baggage allowances for carry-on baggage would not be practical. In particular, in the United States, each state has differing requirements and specifications regarding carry-on baggage that are applied to departing aircraft.

Nevertheless, it is possible for carriers to apply consistent charges for carry-on baggage, even if they cannot apply consistent baggage allowances. For example, once a carrier's baggage rules has been selected to apply to the passenger's entire itinerary, that carrier's baggage charges should not differ from flight to flight. Further, the passenger should not be charged an additional sum if the passenger's carry-on baggage cannot be accommodated in-cabin (due to weight, size, etc.) and it must be checked instead.

By providing carriers with this flexibility, this approach aligns with the U.S. DOT's approach.

Notwithstanding the foregoing, a carrier should disclose to passengers the carry-on baggage rules applicable to their interline itinerary.

### **4.4.2 Passenger special status**

Some passengers may be eligible for an enhanced baggage allowance or for reduced fees based on the passenger's status or other factors. For example, a passenger's status may vary due to: their participation in a frequent flyer program, travel on immigrant fares, travel connecting to a cruise, representation as a courier, or membership in the military, etc. Likewise, a passenger may also be able to avail themselves of an enhanced baggage allowance or reduced fees by virtue of pre-purchasing a more advantageous baggage allowance or by using a specific credit card to pay for their travels.

A passenger's eligibility for these entitlements is determined by the terms and conditions that were established in the selected carrier's tariff. Carriers should ensure that accurate information is reflected in their respective tariffs and that consistent with existing practice, carriers should set out in their tariffs clear information related to a passenger's eligibility for such entitlements. The carrier should also disclose information about these entitlements to those passengers who may have special status and ensure that applicable charges are applied.

If a participating carrier wishes to provide a passenger while enroute with a more generous baggage allowance or lower baggage fees than those which were initially established on the passenger's itinerary, the carrier has the discretion (but is under no obligation) to do so as a courtesy to its customer.

#### **4.4.3 Stopovers**

Carriers participating in an interline itinerary should consistently apply a single set of baggage rules throughout that itinerary, as chosen by the selecting carrier. Accordingly, the baggage allowances and charges chosen at the beginning of the itinerary should remain with the passenger throughout the itinerary.

The application of baggage rules at stopover points is governed by provisions of the tariff of the carrier whose rules were chosen by the selecting carrier to apply. Accordingly, carriers should specify in their tariffs their baggage policies applicable at stopover points. For example, the tariff should indicate whether it is the carrier's policy to charge baggage fees only one time in each direction on international interline itineraries or if it is the carrier's policy to charge baggage fees at each point where baggage is checked, e.g. each stopover point.

The selected carrier's baggage rules as they relate to how baggage allowances and charges are applied at stopover points should also be followed by down line carriers.

If a participating carrier wishes to forgo applying baggage charges at stopover points despite the fact that the selected carrier's baggage rules, which were initially established on the passenger's itinerary, indicate that baggage charges apply at subsequent stopover points, the carrier has the discretion (but is under no obligation) to do so as a courtesy to its customer.

For the purposes of the Agency's *Interline Baggage Rules for Canada*, the Agency considers a stopover to be more than 24 hours.

#### **4.4.4 Embargoes or transportation of special items**

The Agency recognizes that there may be certain circumstances which prevent or in some manner adversely affect the transport of baggage on an itinerary. This may be as a result of special circumstances, including baggage that requires an above normal degree of care or due to specific types of equipment (aircraft or handling equipment at airports) that may not be universally available to all carriers on an itinerary. There may also be instances where due to the time of year or particular weather conditions, a carrier may be prevented from carrying certain types of baggage, e.g. surf boards, pets, oversized, or overweight carry-on baggage, etc. Any carrier participating in the itinerary may apply these restrictions to the passenger's travel as long as they are reflected in that carrier's tariff under its own baggage rules. These restrictions would then be taken into account when the passenger's baggage rules are established by the selecting carrier at the time of purchase. The Agency encourages carriers to use automated

baggage rules systems (e.g. databases, GDS, Web pages, etc.) to help ensure that embargoes and the transportation of special items are communicated amongst participating carriers and that this information is disclosed to passengers.

If a passenger is travelling on a particular itinerary in which a carrier is prevented from carrying their baggage due to the foregoing, the selecting carrier, whenever the circumstances are known to it, should disclose this information to the passenger on:

- any summary page at the end of an online purchase (i.e., the Web page that appears on the carrier's Web site at the end of the booking process once a form of payment has been provided to purchase the ticket); and,
- the passenger's e-ticket once the purchase has been completed.

#### **4.4.5 Equipment changes, changes in the class of service of the passenger and irregular operations**

In the case of equipment changes, changes in the class of service of the passenger and irregular operations or the like, where a carrier determines that a new ticket must be issued to the passenger reflecting any itinerary changes, the Agency's approach should be applied to the new itinerary, which may result in a new selected carrier with new baggage rules. The passenger should be advised of the revised baggage rules applicable to their itinerary.

If the nature of the changes does not result in the need to issue a new ticket, the original baggage rules continue to apply. The Agency recognizes that due to certain operational requirements (e.g. equipment changes) a carrier may not be able to accommodate a passenger's baggage in either the cabin or on a specific aircraft. In these instances, a carrier should not charge a passenger any additional fees, and it should make the necessary arrangements to ensure that the passenger's baggage is transported to its destination. This may necessitate the checking of cabin baggage or the transportation of checked baggage on another aircraft. Although a carrier in these cases should not charge additional baggage fees, a carrier may wish to provide a post-purchase notice regarding the possibility of revised size and weight restrictions, and that in some instances, the passenger's baggage may not accompany them on a specific flight. Such a notice would allow passengers to plan accordingly.

#### **4.4.6 Passenger changes to baggage while enroute**

The Agency's approach does not prevent a carrier from charging additional baggage fees if a passenger increases the number of his or her checked or carry-on bags or varies the weight of their baggage from one flight segment to another during the course of their ticketed itinerary. Nevertheless, the baggage rules chosen by the selecting carrier at the outset of the itinerary and disclosed to the passenger at time of purchase should apply.

#### **4.4.7 Post purchase itinerary changes made by passengers**

If a passenger requests a post-purchase interline itinerary change that affects the applicable baggage rules (i.e., the passenger requests an itinerary change that results in a new ticket being issued to the passenger), the baggage allowances and fees may be reselected by the applicable selecting carrier based

on the new interline itinerary as this is a passenger-driven change in the itinerary.

Additionally, the passenger should be informed at the completion of the ticket reissuance transaction on any summary Web page at the end of the online purchase and on the new e-ticket/itinerary receipt about the change in baggage fees that will result from a voluntary change in itinerary. Conditions associated with voluntary changes to a passenger's itinerary must be reflected in a carrier's tariff.

#### **4.4.8 Currency**

Carriers will charge fees in Canadian dollars or local currency consistent with the applicable tariff as filed with the Agency.

## **5. What is not covered by the Approach**

The Agency's *Interline Baggage Rules for Canada* do not extend to certain matters:

- The reasonability of the terms of each carrier's baggage rules, as distinct from their applicability to an interline journey. This IN does not address the reasonability of a tariff in accordance with ATR (Air Transportation Regulations) subsection 111(1) and the Montreal and Warsaw Conventions, other than as expressed in this IN. As per the ATR (Air Transportation Regulations), the Agency requires all carriers to have reasonable baggage rules. In all circumstances where a carrier has established an unreasonable element in its baggage rules, that carrier will be held accountable to the Agency, not a participating carrier who applied the unreasonable rule to the itinerary.
- The applicability of terms and conditions other than baggage rules in an interline context (e.g. this approach does not address denied boarding, unaccompanied minors reservation requirements, etc.).
- Intra-line (online) travel (travel on the services of only one carrier excluding code share arrangements).
- Any itinerary involving charter carriers/operations (this type of operation is not typically involved in interline arrangements).
- Travel where the origin or ultimate ticketed destination is not Canada (e.g. only a connection or technical stop occurs in Canada).
- Travel conducted under a confidential contract between the carrier and the passenger.

## **6. Disclosure**

Disclosure forms an important part of the Agency's *Interline Baggage Rules for Canada*. Due to the complexity of interline itineraries, the number of carriers potentially involved and the potential lack of information made available to passengers travelling to some destinations, consumers should be clearly informed of the baggage rules that apply to their travels. In the absence of disclosure, there may be confusion and misunderstanding, not only by passengers but also by carriers.

The Agency's approach with respect to disclosure ensures that passengers at the time of the ticket purchase and post ticket purchase, are made aware of the applicable baggage rules associated with their interline itinerary.

## 6.1 Who should disclose

There are important roles for most of the parties involved in the sale of an interline itinerary.

It begins with the selecting carrier who should make known or make sure arrangements are in place to make known to down line carriers which carrier's baggage rules apply. Down line carriers should be made aware that the passenger will be traveling with them and be familiar with and be prepared to respect the applicable baggage rules. Much of this information sharing is increasingly being achieved through automation and most carriers have access to or use automated baggage rules systems that are already in place.

Nevertheless, the ticketing carrier is ultimately responsible for the complete disclosure of the baggage rules applicable to a passenger's interline itinerary. Carriers should also ensure that their ticket sellers, as they are acting as agents of the carrier, can fulfill the disclosure obligations of the carrier by giving them access to the necessary tools and support.

## 6.2 When should disclosure to the consumer occur

There are disclosure expectations before, at the time of, and after purchase. However, the specificity of the information expected to be provided will vary from the general to the more specific depending on the stage of the purchase process.

Ultimately, full disclosure of applicable baggage rules can only occur on any summary Web page at the end of an online purchase and on any e-ticket sold in Canada and will be largely dependent on the choices the consumer makes as to routes, stopovers, schedules (including aircraft used) and carriers.

## 6.3 Information to be disclosed

### 6.3.1 Disclosure related to carriers' standard baggage allowances and charges on any summary page at the end of an online purchase and e-tickets

For baggage rules provisions related to a passenger's 1<sup>st</sup> and 2<sup>nd</sup> checked bag and the passenger's carry-on baggage (i.e., the passenger's "standard" baggage allowance), carriers and ticket sellers acting on their behalf should disclose to the passenger the applicable carrier's baggage rules related to a passenger's "standard" baggage allowances and charges on any summary page at the end of an online purchase and on e-ticket confirmations that were sold in Canada.

The information to be disclosed to a passenger should include, the:

- a. name of the carrier whose baggage rules apply;
- b. passenger's free baggage allowance and/or applicable fees
- c. size and weight limits of the baggage, if applicable;
- d. terms or conditions that would alter or impact a passenger's standard baggage allowances and charges (e.g. frequent flyer status, early check-in, pre-purchasing baggage allowances with a particular credit card);
- e. existence of any embargoes that may be applicable to the passenger's itinerary; and,

f. application of baggage allowances and charges (i.e., whether they are applied once per direction or if they are applicable at each stopover point).

Carriers should provide this information in text format on the passenger's e-ticket confirmation. Any fee information provided for carry-on bags and the first and second checked bag should be expressed as specific charges (i.e., not a range).

Carriers should also disclose in text format to the passenger any applicable terms or conditions that would alter or impact the standard baggage allowances and charges applicable to the passenger (e.g. frequent flyers status, early check-in, pre-purchasing baggage allowances with a particular credit card and so forth) so that the passenger can ascertain the charges that would apply to their itinerary.

Ticket sellers could communicate this information to the passenger via a hyperlink from the passenger's e-ticket to the specific location on a carrier's Web site or the ticket seller's Web site where such baggage information is available for review.

If the itinerary was purchased from a ticket seller in Canada, carriers should ensure that their ticket sellers are provided specific baggage information (i.e., the carrier whose baggage fees/rules apply) on the e-ticket confirmation.

Carriers are responsible for providing accurate and specific information regarding baggage allowances and fees on e-ticket confirmations sold in Canada, sufficient for passengers to determine the allowances and fees that apply to their travel. Carriers should also ensure that their tickets sellers have the necessary tools and support to meet their disclosure obligation.

In lieu of the standard baggage allowance information, carriers are encouraged to provide individualized information regarding baggage allowances and fees to passengers when possible.

### **6.3.2 Full disclosure of a carrier's baggage rules on its website**

Disclosure of all of a carrier's baggage rules information on its Web site provides a means for consumers and other air carriers to verify the applicable interline itinerary baggage rules.

Carriers should disclose on their Web sites, in a convenient and prominent location, a complete and a comprehensive summary of **all** of their baggage rules. This information includes not only those baggage allowances and charges related to a passenger's "standard" baggage allowance as set out above in Section 6.3.1 but also any other baggage rule information that a carrier may apply beyond its "standard" baggage allowance and charges provisions. Carriers can organize the display of this information as they deem appropriate. For instance, carriers may choose to provide a primary rule/fee page that includes links or subpages to different categories of fees to ease consumer research.

Baggage rule information provided on carriers' Web sites should be clear and specific to ensure that consumers who are seeking details about any aspect of a carrier's baggage rules can readily obtain and understand the information provided.

Ticket sellers may offer hyperlinks to carriers' baggage rules information via their own Web sites or via their customers' e-tickets to ensure that passengers have access to all of the details regarding the applicable carrier's baggage rules.

### 6.3.3 Websites subject to the Agency's approach

Carriers and their ticket sellers with Web sites targeting Canadian consumers should disclose baggage rules on such Web sites. The Agency's Air Services Price Advertising: Interpretation Note, as amended from time to time, can be consulted to obtain further details on Web sites targeting Canadian consumers.

### 6.3.4 Additional information for consideration

Given that baggage charges are considered by the Agency to be optional charges pursuant to the ATR (Air Transportation Regulations), Part V.1 - Advertising Prices, they are subject to certain price transparency and disclosure requirements. As a result, any price disclosed to the passenger must be the total amount inclusive of any third party charges (e.g. taxes, etc.). Foreign originating travel is not subject to the provisions of Part V.1. Nevertheless, the Agency encourages carriers to disclose the total amount, inclusive of all taxes, fees and charges, even in these situations.

## 6.4 Tariff provisions related to disclosure

Carriers should include their disclosure commitments in their filed tariffs.

## 6.5 Effective date, implementation and compliance

The Agency's *Interline Baggage Rules for Canada* will be enforced for tickets issued on or after April 1, 2015. In particular, air carriers should have on file with the Agency tariffs in effect that reflect their interline baggage rules.

The Agency may assess a carrier's tariff on a case by case basis to determine whether it meets the standards of the ATR (Air Transportation Regulations), and may do so on its own motion <sup>4</sup>.

Under Canadian law, the Agency has the authority to suspend, disallow or substitute any term and condition of carriage that it deems unclear, unjust and unreasonable, or prejudicial.

## 6.6 Additional information

For additional information you may contact the Agency at:

Canadian Transportation Agency

Ottawa, Ontario K1A 0N9

Telephone: 1-888-222-2592

TTY: 1-800-669-5575

Facsimile: 819-997-6727

To seek feedback on any special circumstances or a particular situation, you may contact the Agency at:

**E-mail:** info@otc-cta.gc.ca

## 7. Appendices

## 7.1 Appendix A: IATA (International Air Transport Association) Resolution 302

- Baggage Provisions Selection Criteria. IATA (International Air Transport Association) (International Air Transport Association). (International Air Transport Association) Resolution 302

## 7.2 Appendix B: IATA (International Air Transport Association) Resolution 302 as modified by the Agency's Reservation

### 7.2.1 Canadian Transportation Agency Reservation:

Alignment with the Canadian Transportation Agency's (Agency) *Interline Baggage Rules for Canada*, effective for tickets issued on or after April 1, 2015, requires:

- a. that a single set of baggage rules will be applied throughout a passenger's interline itinerary issued on a single ticket whose origin or ultimate ticketed destination is a point in Canada, regardless of stopovers.
- b. the carrier whose designator code is identified on the first flight segment of the passenger's interline ticket (i.e. the selecting carrier) will select the baggage rules which will apply for the entire interline itinerary
- c. for international itineraries, including domestic segments of an international itinerary, only the baggage rules of carriers with tariffs on file and in effect with the Agency are eligible to be selected for application per a) and b);
- d. a carrier's filed tariff must include:
  - i. i. The carrier's own baggage rules,
  - ii. ii. The circumstances/methodology that the carrier applies when it selects per a) and b) the baggage rules of any other carrier,
  - iii. iii. Have a statement that the carrier will apply, as its own, the rules chosen by the selecting carrier when the carrier is a down line carrier and a passenger is travelling on one of its flights as part of an interline itinerary; and,
  - iv. iv. The carrier's baggage disclosure undertaking.

If per provisions of this Resolution carriers otherwise agree, in part or in whole, to another baggage regime as an amendment or as an alternative to Resolution 302, such regime shall be filed in tariffs with the Agency at least 45 days before effectiveness. Such alternative approach to Resolution 302 must comply with the *Air Transportation Regulations* and for certainty shall be just and reasonable and shall, under substantially similar circumstances and conditions and with respect to all traffic of the same description, be applied equally to all that traffic. Any alternative regime should also respect the two fundamental principles of the Agency's *Interline Baggage Rules for Canada*, namely, 1) a seamless and transparent baggage regime for passengers and 2) a harmonized and practical regime for industry.

## 7.3 Appendix C: U.S. Rule 399.87 & U.S. DOT FAQs

- U.S. Rule 399.87: April 2011 Amendment Federal Register Version



- [U.S. DOT FAQs: FAQ on Rule2 for Enhancing Airline Passenger Protections](#)

## 7.4 Appendix D: Carriers who file tariffs with the Agency

The following is a [list of carriers that currently file tariffs with the Canadian Transportation Agency](#) applicable to scheduled international transportation to/from Canada. This list should be used for determining baggage rule selection as per the [Interline Baggage Rules for Canada](#) for transportation to/from Canada.

## 7.5 Appendix E: Agency approach examples

### 7.5.1 Domestic

#### 7.5.1.1 Domestic interline - Simple

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**YOW – XX – x/YHZ – BB – x/YYT – CC – YDF**

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The passenger is flying with Carrier XX from Ottawa to Halifax, connecting in Halifax onto Carrier BB to St. John's Nfld, connecting in St. John's with carrier CC to Deer Lake, Newfoundland.

✈️ As Carrier XX is the first carrier whose designator code is identified on the itinerary (the selecting carrier), it will apply its rules (Carrier XX) to the entire itinerary. The MSC methodology does not apply to domestic interline transportation.

#### 7.5.1.2 Domestic interline – code sharing

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**YOW – BB\* – x/YHZ – BB – x/YYT – CC – YDF**

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Where carrier BB\* is the marketing carrier, Carrier XX is the operating carrier

The passenger is flying with Carrier BB from Ottawa to Halifax, connecting in Halifax onto Carrier BB to St. John's Nfld, connecting in St. John's with carrier CC to Deer Lake, Newfoundland.

✈️ As Carrier BB is the first carrier whose designator code is identified on the itinerary (the selecting carrier), it will apply its rules (Carrier BB) to the entire itinerary. The MSC methodology does not apply to domestic interline transportation.

### 7.5.2 Transborder

**📌 Note:** A tariff must be on file with both the Agency and the U.S. DOT in order for the appropriate baggage rules to apply to an itinerary and to meet both countries' regulatory requirements.

#### 7.5.2.1 Transborder itinerary - Simple

---

**YTZ – XX – BOS – BB – YOW**

---

The passenger is flying with Carrier XX from Toronto to Boston.

The return flight, the passenger is flying with Carrier BB from Boston to Ottawa

✈️ As Carrier XX is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier XX); or,
- b. Apply the MSC methodology to the itinerary which would result in Carrier XX rules applying to the entire itinerary since Carrier XX is the first carrier to cross an international boundary.

**7.5.2.2 Transborder itinerary - more complex**

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**YHM – XX – x/YTZ – BB – x/MCO – BB – PSP – CC – x/YYC – XX – YHM**

---

The passenger is flying with Carrier XX from Hamilton to Toronto, connecting in Toronto and Orlando with Carrier BB to Palm Springs.

The return flight, the passenger is flying with Carrier CC from Palm Springs to Hamilton, connecting in Calgary

✈️ As Carrier XX is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier XX); or,
- b. Apply the MSC methodology to the itinerary which would result in Carrier BB rules applying to the entire itinerary since Carrier BB is the first carrier to cross an international boundary.

**7.5.2.3 Transborder itinerary- code-sharing**

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**YVR – CC – SEA – DD - YVR**

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Where Carrier CC is the marketing carrier; Carrier DD is the operating carrier

Where Carrier DD is the marketing carrier; Carrier CC is the operating carrier

The passenger is flying with Carrier CC from Vancouver to Seattle.

The return flight, the passenger is flying with Carrier DD from Seattle to Vancouver

✈️ As Carrier CC is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier CC); or,
- b. Apply the MSC methodology to the itinerary which would result in Carrier CC rules applying to the entire itinerary since Carrier CC is the first carrier to cross an international boundary.

**7.5.3 International**

### 7.5.3.1 International interline itineraries – origin Canada (simple)

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**YWG – CC – x/YYZ – CC – x/FRA – DD – GVA – DD – LON – CC – x/YYZ – CC – YWG**

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The passenger is flying with Carrier CC from Winnipeg to Geneva (connecting in Toronto with Carrier CC and Frankfurt with Carrier DD).

On the return, the passenger is flying with Carrier DD from Geneva to London (stopping in London), then with Carrier CC flying from London to Winnipeg (connecting in Toronto).

Carriers CC and DD have tariffs on file with Canada

✈ As Carrier CC is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier CC); or,
  - b. Apply the MSC methodology to the itinerary which would result in Carrier CC rules applying to the entire itinerary since Carrier CC is the first carrier to cross between IATA (International Air Transport Association) tariff conference areas.
- 

**YWG – XX – x/YYZ – BB – AMS – CC – MAD – CC – x/AMS – BB – x/YYZ – XX – YYC**

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The passenger is flying with Carrier XX from Winnipeg to Toronto, connecting in Toronto with Carrier BB to Amsterdam (stopping over in AMS). The Passenger then flies with Carrier CC from Amsterdam to Madrid (stopping in MAD)

On the return flights home the passenger flies with Carrier CC from Madrid to Amsterdam and then connecting in Amsterdam onto Carrier BB to Toronto, connecting in Toronto onto Carrier XX to Calgary.

Carriers XX, BB, CC have tariffs on file with Canada

✈ As Carrier XX is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier XX); or,
- b. Apply the MSC methodology to the itinerary which would result in Carrier BB rules applying to the entire itinerary since Carrier BB is the first carrier to cross between IATA (International Air Transport Association) tariff conference areas.

### 7.5.3.2 International interline itinerary – origin international (simple)

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**SHA – XX – HKG – BB – x/TPE – BB – YVR – XX – SHA**

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The passenger is flying with Carrier XX from Shanghai to Hong Kong (stopping over in HKG). Then the passenger is flying with Carrier BB from Hong Kong connecting in Taipei to Vancouver (stopping in Vancouver).

The return flight is with Carrier XX from Vancouver to Shanghai.

Carriers XX and BB have tariffs on file with Canada.

✈️ As Carrier XX is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier XX); or,
- b. Apply the MSC methodology to the itinerary which would result in Carrier BB rules applying to the entire itinerary since Carrier BB is the first carrier to cross between IATA (International Air Transport Association) tariff conference areas.

### 7.5.3.3 International interline itinerary - code-sharing example

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**YWG – BB\* – x/YYZ – BB – AMS – CC\*\* – MAD – CC\*\* – x/AMS – BB – x/YYZ – BB\* – YYC**

---

Where Carrier BB\* is the marketing carrier; Carrier XX is the operating carrier.

Where Carrier CC\*\* is the marketing carrier; Carrier DD is the operating carrier.

The passenger is flying with Carrier BB from Winnipeg to Toronto, connecting in Toronto with Carrier BB to Amsterdam (stopping over in AMS). The Passenger then flies with Carrier CC from Amsterdam to Madrid (stopping in MAD).

On the return flights home the passenger flies with Carrier CC from Madrid to Amsterdam and then connecting in Amsterdam onto Carrier BB to Toronto, connecting in Toronto onto Carrier BB to Calgary.

Carriers XX, BB, CC have tariffs on file with Canada

✈️ As Carrier BB is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier BB); or,
- b. Apply the MSC methodology to the itinerary which would result in Carrier BB rules applying to the entire itinerary since Carrier BB is the first carrier to cross between IATA (International Air Transport Association) tariff conference areas.

### 7.5.3.4 International interline itinerary – stopover example

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**YEG–XX–x/YYZ–XX–x/FRA–BB–BKG–CC–SYD–DD–MEL–DD–x/SYD–XX–x/YVR–XX–YEG**

---

Passenger is flying on Carrier XX from Edmonton to Toronto, connecting in Toronto onto Carrier XX to Frankfurt, connecting in Frankfurt on Carrier BB to Bangkok, stopping over in Bangkok, flying on carrier CC from Bangkok to Sydney, stopping over in Sydney, and then flying on Carrier DD from Sydney to Melbourne, stopping over in Melbourne

On the return, passenger is flying on Carrier DD from Melbourne to Sydney, connecting in Sydney onto Carrier XX to Vancouver, and then connecting in Vancouver onto Carrier XX to Edmonton.

Carriers XX, BB, CC, and DD have tariffs on file with Canada.

✈️ As Carrier XX is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier XX); or,

- b. Apply the MSC methodology to the itinerary which would result in Carrier XX rules applying to the entire itinerary since Carrier XX is the first carrier to cross between IATA (International Air Transport Association) tariff conference areas.

### 7.5.3.5 International interline itinerary - ultimate ticketed point example

**MOW – XX – x/FCO – BB – x/YUL – CC – YYZ – DD – EWR – EE – MOW**

Passenger is flying with Carrier XX from Moscow to Rome, connecting in Rome onto Carrier BB to Montreal, connecting in Montreal onto Carrier CC to Toronto (stopping over in Toronto). The passenger then flies with Carrier DD from Toronto to Newark (stopping in Newark).

On the return flight, the passenger flies with Carrier EE from Newark to Moscow.

Carriers XX, BB, CC, DD and EE have tariffs on file with Canada.

✈ As Carrier XX is the selecting carrier it may choose to:

- a. Apply its own rules (Carrier XX); or,
- b. Apply the MSC methodology to the itinerary which would result in Carrier BB rules applying to the entire itinerary since Carrier BB is the first carrier to cross between IATA (International Air Transport Association) tariff conference areas.

✈ In situations where a passenger's origin is a non-Canadian point and the itinerary includes at least one stop in Canada, as well as at least one stop outside of Canada. If the stop in Canada is the farthest ticketed point and the stop is more than 24 hours the Agency would consider the ultimate ticketed destination to be Canada. As a consequence, its *Interline Baggage Rules for Canada* applies.

### 7.5.3.6 International interline itinerary - no tariff filed for 1<sup>st</sup> carrier on itinerary

**MVD – XX – x/EZE – BB – x/YYZ – CC – YVR**

Passenger is flying with Carrier XX from Montevideo to Buenos Aires, connecting in Buenos Aires on Carrier BB to Toronto and then connecting in Toronto onto Carrier CC to Vancouver.

Carriers BB and CC have tariffs on file with Canada. Carrier XX does not have a tariff on file with Canada.

✈ Under the Agency's approach Carrier XX would normally be the selecting carrier on such an interline itinerary, however, Carrier XX does not have a tariff on file with the Agency and as a consequence may not be the selecting carrier.

✈ The selecting carrier becomes the next down line carrier who does have a tariff on file with the Agency. That carrier is Carrier BB. Carrier BB can choose to:

- a. Apply its own rules (Carrier BB); or,

- b. Apply the MSC methodology to the itinerary which would result in Carrier BB rules applying to the entire itinerary since Carrier BB is the first carrier to cross between IATA (International Air Transport Association) tariff sub- conference areas.

## 7.6 Appendix F: Terminology

### Carrier definitions (various)

#### Carrier

For the purposes of the Agency's approach to interline baggage, a carrier includes Canadian and foreign carriers, licensed and unlicensed providing transportation by air to, from and within Canada where Canada is the origin or the ultimate ticketed destination.

#### Down line carrier

any carrier, other than the selecting carrier, who is identified as providing interline transportation to the passenger by virtue of the passenger's ticket

#### Marketing carrier

the carrier that sells flights under its code.

#### Most significant carrier (MSC)

is determined by a methodology, established by IATA (International Air Transport Association) (Resolution 302) (see Appendix 7.1.1), which establishes, for each portion of a passenger's itinerary where baggage is checked through to a new stopover point, which carrier will be performing the most significant part of the service. For travelers under the Resolution 302 system, the baggage rules of the MSC will apply. For complex itineraries involving multiple checked baggage points, there may be more than one MSC, resulting in the application of differing baggage rules through an itinerary.

#### Most significant carrier (MSC) – IATA (International Air Transport Association) Resolution 302 as conditioned by the Agency

In this instance, the MSC is determined by applying IATA (International Air Transport Association)'s Resolution 302 methodology as conditioned by the Agency. The Agency's reservation has stipulated that only a single set of baggage rules may apply to any given interline itinerary. The aim of the Agency's reservation is to allow the selecting carrier to use the MSC methodology to determine which carrier's baggage rules apply to an international interline itinerary to or from Canada, while reinforcing the role of tariffs in the determination of which carrier's rules apply.

#### Operating carrier

the carrier that operates the actual flight

#### Participating carrier(s)

includes both the selecting carrier and down line carriers who have been identified as providing interline transportation to the passenger by virtue of the passenger's ticket.

#### Selected carrier

the carrier whose baggage rules apply to the entire interline itinerary.

### **Selecting carrier**

the carrier whose designator code is identified on the first flight segment of the passenger's ticket at the beginning of an interline itinerary issued on a single ticket whose origin or ultimate destination is in Canada.

## **Other Terminology**

### **Airline designator code**

an identification code comprised of two-characters which is used for commercial and traffic purposes such as reservations, schedules, timetables, ticketing, tariffs and airport display systems. Airline designators are assigned by IATA (International Air Transport Association). When this code appears on a ticket, it reflects the carrier that is marketing the flight, which might be different from the carrier operating the flight.

### **Baggage**

includes both checked and carry-on baggage.

### **Baggage rules**

the conditions associated with the acceptance of baggage, services incidental to the transportation of baggage, allowances and all related charges. For example, baggage rules should address the following topics:

- The maximum weight and dimensions of passenger bags, if applicable, both checked and unchecked;
- The number of checked and unchecked passenger bags that can be transported and the applicable charges;
- Excess and oversized baggage charges;
- Charges related to check-in, collection and delivery of checked baggage;
- Acceptance and charges related to special items, e.g. surf boards, pets bicycles, etc.
- Baggage provisions related to prohibited or unacceptable items, including embargoes
- Terms or conditions that would alter or impact the baggage allowances and charges applicable to passengers (e.g. frequent flyer status, early check in, pre-purchasing baggage allowances with a particular credit card);and,
- Other rules governing treatment of baggage at stopover points, including passengers subject to special baggage allowances or charges, etc.

### **Code share**

an arrangement between air carriers in which one air carrier (marketing carrier) sells transportation in its name (under its code) on flights operated by the partner air carrier (operating carrier). Transportation involving a code share is considered interline travel.

### **Conference areas**

divisions of the world by the International Air Transportation Association (IATA (International Air Transport Association)) used to establish fares. There are three Conference areas, which roughly correspond as

follows:

1. North and South America;
2. Europe Africa and the Middle East; and
3. Asia and the Pacific.

### **Interline agreement**

an agreement between two or more carriers to co-ordinate the transportation of passengers and their baggage from the flight of one air carrier to the flight of another air carrier (through to the next point of stopover).

### **Interline itinerary**

all flights reflected on a single ticket involving multiple air carriers. Only travel on a single ticket is subject to the Agency's approach provided the origin or the ultimate ticketed destination is a point in Canada.

### **Interline travel**

travel involving multiple air carriers listed on a single ticket that is purchased via a single transaction.

### **Single ticket**

a document that permits travel from origin to destination. It may include interline/code-share and intra-line segments. It may also include end-to-end combinations (i.e. stand alone fares that can be bought separately but combined together to form one price).

### **Summary page at the end of an online purchase**

any page on a carrier's Web site which summarizes the details of a ticket purchase transaction just after the passenger has agreed to purchase the ticket from the carrier and has provided a form of payment

### **Tariff**

a tariff is the contract of carriage between an air carrier and its passengers. It contains enforceable provisions respecting passengers' rights and obligations, as well as the air carrier's rights and responsibilities towards the passenger. It must include the applicable baggage rules and charges of the air carrier.

### **Ticket seller**

any person that sells air transportation and issues tickets on behalf of a carrier. This excludes an employee of an air carrier.

### **Ultimate ticketed destination**

In situations where a passenger's origin is a non-Canadian point and the itinerary includes at least one stop in Canada, as well as at least one stop outside of Canada. If the stop in Canada is the farthest checked point and the stop is more than 24 hours, the Agency would consider the ultimate ticketed destination to be Canada.

## **7.7 Appendix G : Legislative reference**



Air carriers are required to set their policies in their tariff, including provisions respecting interline baggage rules and these policies must be clear, reasonable, not unduly discriminatory and not prejudicial.

The Agency's jurisdiction in matters respecting international tariffs is set out, in part, in Part V, Tariffs, of the *Air Transportation Regulations*, SOR/88-58, as amended (ATR (Air Transportation Regulations)).

Section 110 of the ATR (Air Transportation Regulations) provides, in part, that:

110(1) Except as provided in an international agreement, convention or arrangement respecting civil aviation, before commencing the operation of an international service, an air carrier or its agent shall file with the Agency a tariff for that service, including the terms and conditions of free and reduced rate transportation for that service, in the style, and containing the information, required by this Division

...

110(4) Where a tariff is filed containing the date of publication and the effective date and is consistent with these Regulations and any orders of the Agency, the tolls and terms and conditions of carriage in the tariff shall, unless they are rejected, disallowed or suspended by the Agency or unless they are replaced by a new tariff, take effect on the date stated in the tariff, and the air carrier shall on and after that date charge the tolls and apply the terms and conditions of carriage specified in the tariff.

110(5) No air carrier or agent thereof shall offer, grant, give, solicit, accept or receive any rebate, concession or privilege in respect of the transportation of any persons or goods by the air carrier whereby such persons or goods are or would be, by any device whatever, transported at a toll that differs from that named in the tariffs then in force or under terms and conditions of carriage other than those set out in such tariffs.

Section 111 of the ATR (Air Transportation Regulations) provides, in part, that:

111(1) All tolls and terms and conditions of carriage, including free and reduced rate transportation, that are established by an air carrier shall be just and reasonable and shall, under substantially similar circumstances and conditions and with respect to all traffic of the same description, be applied equally to all that traffic.

...

(2)(c) No air carrier shall, in respect of tolls or the terms and conditions of carriage, subject any person or other air carrier or any description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatever.

...

(3) The Agency may determine whether traffic is to be, is or has been carried under substantially similar circumstances and conditions and whether, in any case, there is or has been unjust discrimination or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this section, or whether in any case the air carrier has complied with the provisions of this section or section 110.

In addition, paragraph 122(a) of the ATR (Air Transportation Regulations) provides, in part, that:

Every tariff shall contain:

(a) the terms and conditions governing the tariff generally, stated in such a way that it is clear as to how the terms and conditions apply to the tolls named in the tariff;

[...]

(c) the terms and conditions of carriage, clearly stating the air carrier's policy in respect of at least the following matters, namely,

[...]

(ix) method of calculation of charges not specifically set out in the tariff

## 7.8 Appendix H: Sample Tariff Provisions developed by Agency staff

- Rule 54: Interline Baggage Acceptance
- Rule 55: Baggage Acceptance


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## Notes

- 1 Matters related to liability regarding baggage matters are addressed in the Montreal Convention and any other applicable Conventions. This IN does not address nor does it affect matters related to liability.
  - 2 With one exception, as laid out in section 4.3.2.
  - 3 The Sample Tariff does not represent an Agency endorsement or approval of its terms. If a carrier chooses to adopt the Sample Tariff as its own, in whole or in part, it can still be subject to Agency review and complaints filed pursuant to the CTA or the ATR (Air Transportation Regulations). The Agency, upon investigating a complaint or on its own motion, could find a carrier's tariff provision to be unreasonable and require a carrier to amend its tariff accordingly even if the carrier's tariff reflects the wording of the Sample Tariff.
  - 4 The Agency's jurisdiction with respect to own motion authority is only applicable to international services
- 

### Publication information

Available in multiple formats.

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39  
**Date modified:**  
2015-10-02

Exhibit C of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a trailing flourish, positioned above a horizontal line.

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Signature

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# Notice to Industry: Applications for Exemptions from Section 59 of the Canada Transportation Act, S.C., 1996, c. 10, as amended (CTA)

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⚠ The Canadian Transportation Agency (Agency) is the economic regulator of Canada's federal transportation network. It publishes guidance material advising of changes to or clarifications of Agency processes or requirements. Should there be any discrepancy between the content of this Notice and the CTA and associated regulations, the latter prevail.

## 1. Purpose

This notice to industry outlines the Agency's approach to considering applications for exemptions from section 59 of the CTA.

This notice is not intended to address exemption requests related to temporary licences issued under subsection 78(2) of the CTA, where an exemption from section 59 is required in order to continue selling the service beyond the expiry date of the licence. For any questions in this regard, you may contact the [Manager of Air Licensing and Charters](#).

## 2. Legislative references to the CTA

Section 59 states:

No person shall sell, cause to be sold or publicly offer for sale in Canada an air service unless, if required under this Part, a person holds a licence issued under this Part in respect of that service and that licence is not suspended.

Subsection 80(1) states:

The Agency may, by order, on such terms and conditions as it deems appropriate, exempt a person from the application of any of the provisions of this Part or of a regulation or order made under this Part where the Agency is of the opinion that

- a. the person has substantially complied with the provision;
- b. an action taken by the person is as effective as actual compliance with the provision; or
- c. compliance with the provision by the person is unnecessary, undesirable or impractical.

### 3. Exemptions from section 59

Section 59 of the CTA was introduced in 1996 to protect consumers by prohibiting the sale of an air service by any person who does not hold a licence for that service. Therefore, if an air carrier is ultimately not licensed, or licensed in time, the consumer will not be left out of pocket or experience inconvenience or undue hardship because the carrier cannot operate the service. This prohibition is broad and applies to air carriers and any other persons, including Canadians and foreigners, for passenger and cargo transportation services, as well as scheduled and non-scheduled services.

However, the Agency recognizes that there are circumstances where the interests of consumers would not be adversely affected by allowing an air carrier to sell an air service before it obtains the necessary licence(s). Therefore, Canadian and foreign carriers proposing to operate publicly available air services can apply to the Agency for an exemption from section 59 of the CTA.

#### 3.1 Criteria for granting exemption

The Agency deals with section 59 exemption requests using a risk-based approach that gives primary consideration to the consumer protection intent of the provision, taking into account the facts and circumstances of each application.

Before granting an exemption, the Agency must be satisfied that the applicant has demonstrated a high probability of obtaining the required licence(s) prior to the commencement of a service. In the event that the applicant does not obtain the appropriate licence(s), it must provide:

1. alternative air transportation at no additional cost to the passengers; or
2. a full refund if alternative arrangements are not possible or acceptable to the passengers.

#### 3.2 Burden of proof

An exemption to a legislative requirement is not an entitlement.

The onus is on the applicant to demonstrate that compliance with section 59 is unnecessary based on the criteria laid out in 3.1 above and to provide the Agency with the information in support of its application.

## **4. Agency's considerations**

### **4.1 Considerations applicable to Canadian and foreign applicants**

#### **Does the applicant already hold a licence issued by the Agency?**

The Agency's position is that established carriers that already hold a similar licence with the Agency pose a minimal risk and are likely to obtain a licence for the proposed air service as they already meet the requirements to hold a licence, albeit for another air service.

The Agency will consider the nature of the licensing requirements already met by the carrier in the past. If the requirements to obtain the licence for the proposed air service are similar, there is less risk for passengers that the carrier will not meet the requirements.

#### **Does the applicant have an air operator certificate issued by Transport Canada?**

In many instances, carriers that apply for section 59 exemptions do not yet hold the necessary Canadian aviation document from Transport Canada – the air operator certificate (AOC) – that is required to obtain a licence. The process of obtaining an AOC can be time consuming, in particular if a base inspection and subsequent follow-ups are required. There are no guarantees that a carrier will obtain an AOC in a timely manner.

The Agency may consider what steps the carrier has taken to obtain its AOC and the likelihood of the AOC being obtained in time for the Agency to issue a licence before the proposed start date.

Specific issues that the Agency might consider include:

- Has the applicant submitted its application to Transport Canada?
- If Transport Canada has considered that a base inspection is necessary, has it been scheduled?
- If a base inspection has been completed, what type of follow-up is necessary?
- What are the anticipated timelines for Transport Canada to conclude?
- Has Transport Canada expressed any concerns in issuing an AOC by these anticipated timelines?
- Will the issuance of the AOC within these timelines provide sufficient time for the Agency to issue the licence (provided all the other requirements are met) before the proposed start date?

In some cases, a carrier may have already received an AOC for an operation of a similar nature and is simply seeking to expand this authority. In this situation, there would be less risk of a lengthy approval process.

While the onus is on the applicant to provide evidence and assurances that the AOC will be issued in time, the Agency may validate any information with Transport Canada. If there are inconsistencies between the applicant's submission and the information from Transport Canada, the Agency will inform the applicant and provide an opportunity to respond.

## **Does the applicant have liability insurance coverage?**

If an applicant does not already hold a licence with the Agency, assurance must be provided that the insurance requirement will be met.

The applicant must either file a certificate of insurance or, at minimum, provide a written confirmation from its insurer that it already holds the prescribed liability insurance coverage or that it has secured such coverage.

## **How far in advance of the anticipated start date of the air service does the applicant intend to sell the service before receiving a licence?**

If an applicant intends to sell an air service long before the proposed start date (and before receiving a licence), it may pose an increased risk to consumers as more tickets may be sold before the carrier is licensed.

However, if an applicant provides strong assurances that the licensing requirements will be met well in advance of the proposed start date, a long period of advance sales would likely pose less concern.

## **For a scheduled international air service, is there an agreement in place between Canada and the foreign country?**

If there is an agreement between Canada and a foreign country, it indicates a national policy objective to encourage expanded air services between Canada and that country. As a result, there is less risk that a licence will not be issued.

## **What measures does the carrier have (or will have) in place to accommodate passengers if the licence is not issued (or not issued in time)?**

If the carrier is likely to obtain the required licence before the proposed start of operations, the risk to consumers is negligible and compliance with section 59 is not necessary.

While the Agency will seek assurances that this is the case, the Agency also recognizes that it is not possible to get absolute assurance. The Agency will also consider what measures the carrier has (or will) put in place to accommodate passengers if the licence is not obtained. This could include offering timely alternative transportation with another carrier or reimbursement.

## **4.2 Additional considerations for Canadian applicants**

### **Has the applicant met the Canadian status requirement?**

Before issuing a licence, the Agency is responsible for determining whether an applicant is Canadian.

This process must be completed before a section 59 exemption application can be approved, as it will have a direct impact on if and when the licence requirements are met.

If a Canadian applicant already holds an Agency licence, this determination has already been made and is not a consideration.



## **Has the applicant met all financial requirements (if applicable)?**

Under certain circumstances, an applicant must meet financial requirements when applying for a licence that authorizes the operation of an air service using medium or large aircraft.

The purpose of this requirement is essentially the same as section 59 – to ensure that air passengers are not being left out of pocket (in this case, as a result of an air carrier not being financially solvent in the critical first months of operation).

If an applicant has to meet financial requirements, this part of the process must be completed before a section 59 exemption application can be approved, as it will have a direct impact on if and when the licence requirements are met.

## **For an international air service, has the applicant been designated by the Government of Canada to operate the service?**

In its application, the applicant must provide evidence that it is designated by the Minister of Transport, Infrastructure and Communities as eligible to hold a scheduled international licence.

Non-designated carriers cannot obtain a scheduled international licence.

## **4.3 Additional considerations for foreign applicants**

### **For a scheduled international air service, has the applicant been designated by the government of its home country to operate the service?**

A foreign applicant for a scheduled international licence must be designated by the government of its state, or an agent of that government, to operate an air service under the terms of an agreement or arrangement.

This designation is part of the basic requirements for a licence – a scheduled international licence will not be issued unless the carrier is designated.

### **Does the applicant hold the equivalent licence issued by its home country?**

When applying for a licence, foreign carriers must provide the Agency with a copy of the equivalent licence issued by their home country.

This is another basic licence requirement which will be taken into account when reviewing section 59 exemption applications.

## **4.4 Increased risks associated with non-scheduled international services**

Carriers that are designated and authorized in accordance with the terms of an Agreement are typically established in the air transportation industry and have demonstrated, to the satisfaction of their government, the capacity to operate the scheduled international air service. These carriers would likely

have the means to reimburse passengers or coordinate alternative travel arrangements if a licence was not issued.

However, if a carrier proposes to offer only non-scheduled international air services, there is a greater chance the carrier may not be as well established in the industry. It is also likely that the carrier has not been subjected to the same level of scrutiny by its government, compared to a carrier proposing to obtain a designation for scheduled international services. Therefore, in the event a licence is not issued (or not issued in time), there are fewer assurances that the carrier could offer a refund or alternative arrangements.

This added risk factor needs to be addressed in the application and will be taken into consideration by the Agency when assessing the applicant's submission.

## **5. Conditions normally attached to section 59 exemptions**

When granting section 59 exemptions, the Agency has the power under subsection 80(1) to impose conditions.

The Agency will normally subject the carrier to the following conditions:

- All advertising in any media, whether written, electronic or telecommunications, shall include a statement that the air service is subject to government approval, unless and until the section 59 exemption expires following the issuance of a licence. All prospective passengers shall be made aware, before a reservation is made or a ticket issued, that the air service is subject to government approval;
- The applicant shall apply its published tariffs, on file with the Agency and in effect, to sales of transportation for each scheduled point;
- The exemption does not relieve the applicant from the requirement to hold a licence in respect of the service to be provided and, accordingly, no flights shall be operated until the appropriate licence authority has been granted;
- Should the licence not be issued or not issue by the time an air service sold to a passenger is to be used, the applicant shall arrange to provide alternative air transportation by an appropriately licensed air carrier, at no additional cost for all passengers who have made reservations with the applicant. If such arrangements are not possible or acceptable to the passenger, the applicant shall arrange to provide a full refund of all monies paid by the passenger.

The Agency could also, at its own discretion, attach other conditions that it deems appropriate in the circumstances.


## **6. Exercise of discretion**

While guided by the above general principles, the Agency will retain full discretion to address the facts and circumstances of each application as it sees appropriate.

The Agency reserves the rights to remove an exemption when a carrier does not comply with the conditions of the exemption, or when the Agency deems it otherwise necessary.

## Publication information

Available in multiple formats.

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**Date modified:**  
2013-03-27

Exhibit **D** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of a large 'M' followed by several loops and a final flourish.

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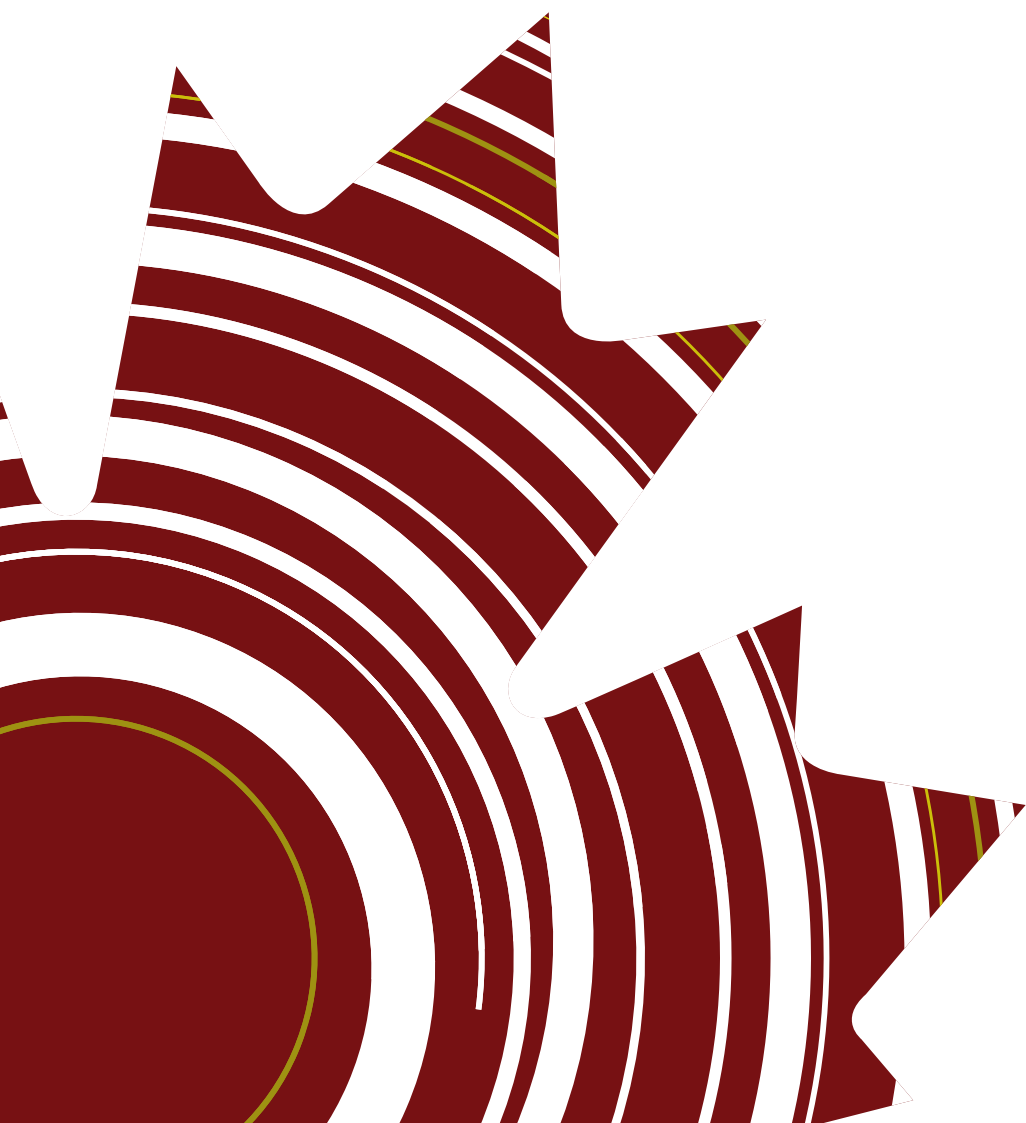
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Office  
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Canadian  
Transportation  
Agency

# Guide to Canadian Ownership and Control in Fact for Air Transportation



Canada 

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## Introduction

This Guide explains the Canadian ownership requirement for obtaining a licence to operate an air service from the Canadian Transportation Agency (Agency), and for maintaining such a licence.

It explains how the Agency interprets and applies the legal requirement for an air licence holder to be "Canadian" as defined in the [Canada Transportation Act](#) (Act).

This document is intended to support the Act, which is the definitive source for licence applicants and licence holders regarding the Canadian ownership requirement. Using this document and the examples it provides is not mandatory and nothing in this document supersedes the Act.

## Legislative Authority

The Agency is an independent, quasi-judicial tribunal and regulator that has, with respect to all matters necessary for the exercise of its jurisdiction, all the powers of a superior court.

The Agency oversees the very large and complex [Canadian transportation system](#), which is essential to the economic and social well-being of Canadians.

The Agency is responsible for ensuring all air carriers licensed to provide domestic air services meet the Canadian ownership requirements set out in the Act. These requirements state that air service licensees must be owned and controlled "in fact" by Canadians. The Agency uses business and other information to determine whether a licence holder or applicant is "in fact" Canadian. Those who wish to apply for a determination should also consult the [Application Process for Canadian Ownership Determinations](#).

The Agency conducts monitoring and enforcement activities to ensure ongoing compliance with licensing requirements.

## Definition of Canadian

As of June 27, 2018, "Canadian" is defined within [subsection 55\(1\) of the Act](#).

Refer to the Act for the complete definition, which includes:

- (a) a Canadian citizen or a permanent resident;
- (b) a government in Canada; and
- (c) a corporation;
- (d) limited partnership, partnership, proprietorship or other legal form of business enterprise where the following apply:
  - It must be incorporated or formed under the laws of Canada or a province (corporate entities only);
  - At least 51 percent of its voting interests must be owned and controlled by Canadians;
    - No single non-Canadian owns or controls, directly or indirectly, more than 25 percent of the voting interests in that corporation (either individually or in affiliation with another person). In addition, no more than 25 percent of the voting interest in a Canadian carrier is owned by foreign air carriers (either individually or in affiliation); and
  - It must be controlled in fact by Canadians.

Failure to meet these criteria will result in being considered non-Canadian.

*Note: Where the ownership of an entity resides with one or more corporations or other entities, the definition of Canadian will also be applied to those entities. If they are, in turn, owned by other entities, the Agency must determine who controls the company up to the top of the ownership chain, applying the definition of Canadian at each step.*

## **Consequences of Failing to Demonstrate Canadian Status**

If the Agency determines that a new licence applicant doesn't meet the Canadian ownership requirement, the licence application will be denied. If the Agency determines that an existing licensee no longer meets the requirement, the Agency must suspend or cancel the licence.



## Further Details

See [Annex A](#) for additional information about demonstrating that your corporation or other business enterprise is owned by Canadians.

See [Annex B](#) for the principles that guide the Agency's determination of "control in fact."

See [Annex C](#) for the factors the Agency considers when determining "control in fact."

See [Annex D](#) for examples of the Agency's previous Canadian ownership determinations.

## Annex A: Canadian Ownership Requirements

There are three requirements that must be met to be considered Canadian and therefore to obtain or maintain an air service licence:

1. [Incorporation or Formation Requirement](#);
2. [Voting Interest Requirement](#); and
3. [Control in Fact Requirement](#).

These three requirements are detailed below.

### Requirement No. 1: Incorporation or Formation Requirement

For a corporation, partnership, proprietorship or other form of business enterprise to be Canadian, it must be incorporated or formed under the laws of Canada or one of its provinces.

### Requirement No. 2: Voting Interest Requirement

For an enterprise to be considered Canadian, at least 51 percent of the voting interests need to be both owned and controlled by Canadians.

- "Voting interests" means voting securities and the votes assigned to those securities.
- "Owned by Canadians" means the securities are owned on a beneficial ownership basis by Canadians; it is not enough for them to be registered to Canadians.
- "Controlled by Canadians" means the votes attached to the securities should be exercisable by their Canadian beneficial owners.

No single non-Canadian may hold more than 25 percent of the voting interests, directly or indirectly, whether individually or in affiliation with another person. In addition, for any non-Canadian shareholders that have the authority to provide an air service in any jurisdiction (i.e. whether in Canada or abroad), the sum total of their voting interests cannot exceed 25 percent, either individually or in affiliation with another person.

## Affiliation

The term "affiliation" as it concerns two or more persons who may act together to exercise their voting interests, is defined in [subsection 55\(2\)](#) of the Act. Refer to the Act to see the complete list of circumstances in which corporations, partnerships, or sole proprietorships are considered "affiliated," which includes:

- one of them is a subsidiary of the other,
- both are subsidiaries of the same corporation, or
- both are controlled by the same person, corporation, or subsidiary of a corporation.

Also, if two corporations are affiliated with the same corporation at the same time, they are deemed to be affiliated with each other.

Note that the Act provides extensive detail on "affiliation," including the circumstances in which a corporation is controlled by a person other than Her Majesty in right of Canada or a province. Refer to the [Act](#) for the complete information.

## Publicly traded corporations

For an entity that lists its securities on a publicly-traded stock exchange, the percentage of voting interests owned by Canadians can be subject to constant fluctuations. To ensure that the entity continues to meet the ongoing requirements to be Canadian, the Agency may require the entity to put in place one of the following:

- a security constraint and control system, which is a system that restricts any purchase or transfer of the corporation's securities if it would result in a breach of the voting interest requirement; or
- a variable voting system. This is when non-Canadians are allowed to hold only variable voting shares. This results in the voting interest requirement being respected, because when the percentage of the variable voting shares exceeds the maximum allowable percentage of the total voting shares, the vote attached to each variable voting share automatically decreases to ensure that the maximum allowable threshold isn't exceeded.

## Requirement No. 3: Control In Fact Requirement

### Overview

To be Canadian, the company needs to be "controlled in fact" by Canadians.

Control in fact (also known as *de facto* control) differs from control in law (also known as *de jure* or legal control). Control in law is generally shown by owning enough shares to carry the right to a majority of votes. Control in fact goes beyond control in law as it includes the ability to exert control by any direct or indirect influence.

Although the term is not defined in the Act, the Agency considers control in fact to be:

- the power, whether exercised or not, to control the strategic decision-making activities of an enterprise and to manage and run its day-to-day operations.

Those who may have the power to influence a company's decisions can include minority owners, designated representatives, financial institutions, employees and others. They may use their influence either positively or negatively. For example, they may demonstrate a *positive* influence by requiring positive approval when a decision needs to be made. Conversely, *negative* influence could be the ability to veto a decision. Either way, the influence needs to be dominant or determining to be considered "control in fact."

Determining who has "control in fact" is a question of fact. The Agency evaluates this on a case-by-case basis, as each case is unique. The principles that the Agency follows when determining "control in fact" are listed at Annex B. The factors that the Agency considers are shown at Annex C. All managerial, financial and operational air carrier relationships (or proposed relationships) must be considered before making a determination.

Ownership structures with little or no involvement from non-Canadians do not normally require extensive analysis. Nevertheless, licence applicants and existing licence holders should take note of the "control in fact" issues concerning joint ventures and ownership by proxy.

## Joint Ventures

Applicants and licensees who enter into arrangements or joint ventures with non-Canadian air carriers should carefully consider whether this could result in joint or entire control by the non-Canadian. Such arrangements typically involve collaboration or strategic business decisions around matters like:

- prices,
- routes,
- schedules,
- capacity,
- ancillary services, and
- revenue and cost sharing.

The Canadian licensee must always be in a position to control its decision-making. They must be free of any dominant and determining influence from the non-Canadians participating in the joint venture. Otherwise, the non-Canadian could be found to be in a position of control, thereby resulting in the Canadian licensee no longer complying with the requirement to be Canadian.

*For additional information regarding joint ventures, please contact:*

National Air Services Policy Directorate  
Air Policy Group  
Transport Canada  
Place de Ville, Tower C  
Ottawa, Ontario  
K1A 0N5

Telephone: 613-993-7284 or 1-800-305-2059

Fax: 613-991-6445

Website: [www.tc.gc.ca](http://www.tc.gc.ca)

Email: [TC.natair-aernat.TC@tc.gc.ca](mailto:TC.natair-aernat.TC@tc.gc.ca)

### Ownership by Proxy

When a non-Canadian shareholder who makes a monetary investment transfers its corresponding voting interest to a Canadian who otherwise has only a nominal

investment in the applicant, the Agency will consider the substance over the form of the proposal. Business structures that violate the spirit of the control in fact requirement by using a Canadian proxy to hold the voting interests of a non-Canadian investor will likely not meet the requirement.

## **Annex B: General Principles for Determining "Control in Fact"**

### **All the facts are weighed together**

Normally, no single factor dictates whether control in fact is held by Canadians. The Agency considers and weighs all facts together to make a determination. There is no single objective test that can be relied upon to determine where control in fact lies. Judgment is required to evaluate the facts of each case.

### **Control does not need to be exercised**

Control does not need to be exercised for a person to have control in fact. When the individual has the ability to control, whether they use it or not, they are considered to have control in fact.

### **Control can reside with different individuals**

Control in law and control in fact can reside in the hands of different individuals or groups of individuals. Control in fact may exist even without ownership of any voting securities.

### **Joint Control**

Where an air carrier is controlled jointly by Canadians and non-Canadians, it is not considered to be Canadian.

## Annex C: Factors Considered in Determining "Control in Fact"

To determine who has "control in fact," the Agency assesses every applicable factor. This includes whether that factor, individually or in combination with others, provides any non-Canadians with:

- direct means to control the company (e.g., formal voting or other rights), and/or
- indirect means to control the company (e.g., ability to exert influence through their investment in the company or through any other means).

The Agency also considers the intent and ability of the non-Canadian(s) to exercise control over the company, particularly where control is obtained through indirect means.

Below is a list of factors considered by the Agency. This list is not exhaustive and is not ranked in any particular order of priority. There may be other factors depending on the situation.

Following the list there is more information about each factor. This includes information about risky situations that can emerge, and how licence applicants and licence holders can reduce the risk of receiving a negative "control in fact" determination.

### *Note: Importance of Risk Mitigation*

*Unless an applicant or licence holder takes steps to mitigate risks, situations identified as "high risk" will likely result in a negative determination. Situations identified as "medium risk" may result in a negative determination on Canadian ownership if they cause a non-Canadian's influence to be dominant and determining, whether on their own or in combination with other factors.*

*A situation identified as being risky when combined with other factors will not necessarily result in a negative Canadian ownership determination, but may be a contributing factor to a negative determination.*

## **LIST OF FACTORS:**

### **Corporate Governance Factors**

1. Board of Directors
2. Officers
3. Shareholder and Board of Directors' meetings

### **Shareholder Rights Factors**

1. Veto rights
2. Security rights, options, and warrants
3. Rights of first refusal/Pre-emptive rights
4. Power to wind up the company

### **Risks and Rewards Factors**

1. Risks and benefits
2. Concentration of voting interests

### **Business Affairs and Activities Factors**

1. Debt
2. Guarantees
3. Lease of assets
4. Financial strength and business activity
5. Management agreements
6. Operational or service agreements
7. Charterer/air carrier relationship



## **ADDITIONAL INFORMATION AND RISK-REDUCTION STRATEGIES:**

### **Corporate Governance Factors**

#### **1. Board of Directors**

The board of directors is elected by the shareholders to govern and manage the affairs of the corporation. The following conditions must be met for control in fact to reside with Canadians:

- Canadian shareholders must have the right to appoint no less than half of the board of directors.
- No less than half of the board members must be Canadian.

Generally, the same principle applies to board members sitting on individual board committees.

The Agency recognizes major investors will normally expect to have board representation reflective of their voting interest. Given that non-Canadians can hold up to 49 percent of voting interests (subject to the conditions prescribed in subsection 55(1) of the Act), the number of board members representing Canadians and non-Canadians could be equal.

#### *Risk Condition (Risk Level: High)*

Non-Canadian control in fact is indicated when:

- The board representation of the non-Canadian investors is disproportionately high compared to the voting interests held; or,
- The majority of board members are non-Canadians, regardless of who nominated them.

#### *Risk Mitigation*

If there are an equal number of Canadian and non-Canadian board members, there must be tie-breaker provisions in favour of the Canadian board members for control in fact to reside with Canadians.

## 2. Officers

Officers of a corporation serve at the pleasure of the board of directors. They are entrusted with the day-to-day responsibility of running the corporation. Officers normally do not have the ability to exercise control in fact. Officers do not need to be Canadian for the corporation to be considered Canadian by the Agency. However, control in fact implications could arise if officers have a relationship with non-Canadian shareholders that provides a means for the non-Canadians to exert influence over the operations of the air carrier.

### *Risk Condition (Risk Level: High)*

When the officers of the company have a fiduciary duty to, or are otherwise beholden to, the non-Canadian board members and/or the non-Canadian shareholders, this will be interpreted as indicating non-Canadian control in fact.

### *Risk Mitigation*

Officers must not be in a position to exercise control in fact. To avoid any ambiguity in this regard, they should be at arms' length from any non-Canadian shareholders of the business.

## 3. Shareholder and Board of Directors' Meetings

A quorum indicates the minimum number of members that must be present at a meeting for the meeting to be considered valid. The Agency generally expects a corporation's quorum provisions to require:

- no less than half of the shareholders or directors present at a shareholder or board of directors meeting be Canadian; and
- no less than half of the members at a board of directors meeting have been appointed by Canadian shareholders.

### *Risk Conditions (Risk Level: High)*

Non-Canadian control in fact is indicated when:

- Less than 50 percent of the shareholders or directors present at a meeting are Canadian;
- Less than 50 percent of the members at a board of directors meeting have been appointed by Canadian shareholders; and/or
- Non-Canadians can cast the deciding vote in a tie-breaker situation.

### *Risk Mitigation*

For shareholder meetings, when there is an equal number of Canadian and non-Canadian shareholders present, there must be a provision to ensure the Canadian shareholders always have the ability to cast the deciding vote.

For board of directors' meetings, when there is an equal number of Canadian and non-Canadian board members present, there must be a tie-breaker provision to ensure the director allowed to cast the deciding vote is a Canadian appointed by Canadian shareholders.

## Shareholder Rights Factors

### 1. Veto Rights

Veto rights allow a shareholder or director to reject or veto a resolution in spite of having majority assent. Veto rights come in many different forms. For example, the affirmative vote required of a specific shareholder or director for a resolution to pass is a type of veto right. The requirement for unanimous shareholder or director approval is another.

Generally, there are no Canadian ownership implications associated with non-Canadian shareholders and their designated directors having veto rights to protect minority shareholder investment.

#### *Risk Conditions (Risk Level: High)*

A significant accumulation of restrictions could indicate that control in fact resides with non-Canadians. The risk increases when these restrictions are combined with other means of exercising influence.

Veto rights which are comprehensive and broad could indicate that control in fact resides with non-Canadians. This includes veto rights regarding:

- the selection, removal and remuneration of the company's officers and executives;
- the approval of the annual business plan; and
- changes to airline operations of the carrier.

### *Risk Mitigation*

As a general rule, veto rights that do not pose any control in fact implications are limited to matters outside the scope of the day-to-day operations of the air carrier. Veto rights that do not pose control in fact concerns must not have any impact on the operational, marketing and financial decisions made on an ongoing basis. For example, matters not normally considered to show control in fact include veto rights regarding:

- the payment of dividends;
- the sale or transfer of major assets;
- the incursion of large capital expenditures;
- entry into large and significant agreements, mergers, amalgamations and large business purchases;
- amendments to incorporation documents; and
- the issuance or redemption of capital stock.

The above kinds of veto rights could represent normal and acceptable provisions to protect the minority shareholders' investment.

The Agency will view control in fact as not residing with Canadians when the non-Canadian shareholders have the ability to veto matters that could be viewed as being related to day-to-day operations, or matters that do not pose a significant and demonstrable risk to the non-Canadian shareholder.

## **2. Security Rights, Options and Warrants**

The individual rights, privileges, restrictions and conditions attached to each class of security are relevant when evaluating control in fact. In addition to voting rights, there are other rights that could influence where control in fact lies. These include:

- redemption rights (right to force the corporation to buy back securities);
- conversion rights (right to exchange one security for another); and
- buy-out rights (right to acquire another person's interest in a security).

The same applies to rights associated with warrants and options that provide the right of conversion or the right to purchase securities of the corporation at specified prices. This particularly applies in cases where the holder has the right to convert from a non-voting to a voting interest.

*Risk Conditions (Risk Level: Risky When Combined With Other Factors)*

When a non-Canadian investor is the sole holder of the right or of a disproportionate amount of the rights, it indicates control in fact resides with non-Canadians, particularly when the rights can be exercised at prices below the market price.

*Risk Mitigation*

To ensure that control in fact resides with Canadians, the aforementioned rights must be exercisable at fair market value and be reciprocal to all of the shareholders.

### **3. Rights of First Refusal/Pre-emptive Rights**

Rights of first refusal and pre-emptive rights are contractual rights. These exist when a person has an opportunity to purchase securities or other assets from the owner on specified terms prior to their being offered for sale to a third party. All shareholders would normally have these rights in proportion to holdings for specific securities purchases.

If the potential purchase of securities or other assets could result in the air carrier no longer being Canadian, the proposed transaction will generally be considered to cause the loss of Canadian status. An additional provision would need to be inserted to ensure that no purchase of this type can proceed and be completed unless the air carrier remains Canadian.

*Risk Conditions (Risk Level: Risky When Combined With Other Factors)*

The Agency will view control in fact as not residing with Canadians when:

- rights of first refusal or pre-emptive rights are exercisable below fair market value and reflect terminology that unilaterally benefits the non-Canadian shareholder;
- rights concerning the purchase of specific securities are not reciprocal between the Canadian and the non-Canadian shareholder(s) and/or are disproportionate with the shareholdings in favour of the non-Canadian, or
- rights are not reciprocal to both Canadian and non-Canadian shareholders (i.e., are in favour of the non-Canadian shareholders only).

### *Risk Mitigation*

If rights of first refusal or pre-emptive rights reflect typical terms and are exercisable at fair market value, the Agency will generally view such rights as a means to protect shareholders from situations such as undesirable takeovers.

Rights concerning the purchase of specific securities should be held by all shareholders and be commensurate with the shareholdings.

## **4. Power to Wind Up the Company**

An individual shareholder or lender with the power to close down the company by calling loans payable on demand may be in a position to exercise control in fact over the affairs of an air carrier. This is because loans may contain standard covenants that:

- restrict how the funds may be used (e.g., the funds can only be used for a specific business purpose);
- restrict how the business may disburse funds (e.g., restrict the payment of dividends when the business is not profitable); and
- require that certain conditions be maintained (e.g., ensuring the business remains solvent and complying with any applicable legislation).

The breach of such covenants typically provides the lender with the right to call a loan payable and/or force the winding up of the business. This winding up may be carried out through sale, liquidation or otherwise. If loans contain standard

commercial loan covenants that are reflective of an arm's length lending relationship, where a lender is reasonably protecting itself from default, this is not indicative of control in fact over the company's affairs. For example, a bank does not normally control a company, even though it might have the ability to call a demand loan, due to a material breach of covenants leading to the winding up of the company.

### *Risk Conditions (Risk Level: High)*

If a non-Canadian's ability to influence the winding up of a company is so great that it poses an ongoing threat that effectively forces the Canadian board members to comply with the ongoing strategic business decisions of the non-Canadian board members, the Agency will consider this to be dominant and determining influence by the non-Canadian. This will result in the Agency finding that control in fact does not reside with Canadians.

For example, the breach of any covenant (within a very exhaustive list of items that encompass day-to-day strategic decision-making matters) that could trigger the wind-up process would be viewed as a condition that poses an ongoing threat.

### *Risk Mitigation*

To ensure that a loan does not create a control in fact concern, the loan agreement should:

- only contain standard commercial terms and covenants that protect the lender from the usual lending risks, and
- not interfere with typical day-to-day operations or strategic business decisions.

## **Risks and Rewards Factors**

### **1. Risks and Benefits**

The Agency generally expects that the parties that assume the majority of the risks and are entitled to the majority of benefits related to the air carrier's operation are also the parties with the ability to exercise control in fact. Risks are generally tied to the level of economic interest in the air carrier, including:

- investment in its voting, non-voting and debt securities;
- commitments for future investment; and
- any guarantees that may have been provided.

Benefits generally come from an entitlement to share in the expected profit of the company. They can also come from revenues that result from aircraft lease, managerial services, royalty and other similar agreements. However, as this is not always the case, the evaluation of other factors specific to each case is critical to a determination.

#### *Risk Conditions (Risk Level: Medium)*

Non-Canadian control in fact may be indicated if the disparity between the proportion of voting interests and the level of capital investment by the non-Canadian investor increases. The non-Canadian investor will be expected to ensure it has levers in place to minimize its risk while maximizing its return on investment. Consequently, applicants should expect applications of this nature to receive a high degree of scrutiny.

Non-Canadians whose commitments for future investment are necessary for the ongoing survival of the business raise control in fact concerns. This is because the business is dependent upon the non-Canadian investor, who is assuming the greatest risk. The higher the level of risk, the higher the expected reward. This can lead to situations where the non-Canadian gains dominant and determining influence.

A similar situation arises when the business is dependent upon the guarantee of the non-Canadian investor to finance the business. The reliance on non-Canadians for normal business financing activities strongly indicates non-Canadian control in fact.

#### *Risk Mitigation*

There may be situations where a non-Canadian invests a significantly higher proportion of capital than the Canadian shareholders, but accepts a disproportionately lower voting share in order to comply with the maximum permitted voting interest for non-Canadians under the Act. In these situations, applicants should ensure any agreements are structured



to limit the non-Canadian to a more passive role in the business and to have only those rights necessary to protect its investment in a minority voting situation.

To avoid raising control in fact concerns, the long-term viability of the business should not be entirely dependent on receiving future investment by the non-Canadian investor.

With respect to guarantees, applicants should ensure they are not dependent upon a non-Canadian investor to guarantee their debt. This is to avoid any concerns that the non-Canadian is assuming the majority of the investment risk.

## **2. Concentration of Voting Interests**

The concentration of voting interests owned and controlled by Canadians versus non-Canadians can show where control in fact lies. Situations can arise where the majority of the voting interests—while owned and controlled by Canadians—are dispersed among a large number of unrelated individuals each holding a small interest. In this situation, if a non-Canadian or a group of non-Canadians holds a concentration of the voting interests, it could indicate Canadian shareholders are not able to exercise control in fact.

As defined in the Act, the voting interest requirement contains restrictions to ensure that affiliated non-Canadians collectively do not hold more than 25 percent of the total voting interests. The Agency will verify that this restriction is being respected. It will also scrutinize the ownership structure to see whether a relatively small number of unaffiliated non-Canadians hold a disproportionate amount of the voting interests (versus a large number of unrelated Canadian shareholders with relatively small shareholdings).

### *Risk Conditions (Risk Level: Medium)*

Non-Canadian control in fact may be indicated when there are multiple Canadian shareholders and only one or two non-Canadian shareholders exist. In these situations, the non-Canadian shareholder(s) may try to create a strategic voting bloc. By aligning themselves with one or more of the Canadian shareholders, the non-Canadian shareholder(s) could instruct votes. While not necessarily indicating control in fact by the non-Canadian

shareholder(s), the Agency will consider whether the non-Canadian shareholder(s) could be in a position to influence the votes of a Canadian shareholder to vote.

### *Risk Mitigation*

Applicants should ensure that the ownership structure is designed in such a way to avoid situations where a small group of affiliated and/or unaffiliated shareholders could form a voting bloc.

## **Business Affairs and Activities Factors**

### **1. Debt**

Debt transactions executed in the normal course of business activity do not normally raise any control in fact concerns. However, there could be control in fact implications in cases where the monetary size of the debt is significant to the other sources of financing. Concerns may be raised if there is reason to believe the intent for the transaction extends beyond typical financing. In these cases, the specific terms of the agreements would be of particular significance. The Agency would scrutinize the following in particular:

- Provisions that provide for the debt to be converted into voting securities of the company; and
- Restrictions or veto rights that go beyond what would normally be expected from a passive lender.

The nature of the debt holders and their relationship to the air carrier would be equally important. A non-Canadian financial or lending institution would not normally have an interest in managing or influencing the direction of an air carrier. This would not raise concerns regarding control in fact. However, a non-Canadian air carrier or other non-Canadian investor might have different intentions. These could magnify indicators of control in fact.

*Risk Conditions (Risk Level: Medium)*

Non-Canadian control in fact may be indicated when the applicant relies on substantial debt financing provided by a non-Canadian who is not at arm's length from the non-Canadian shareholder.

*Risk Mitigation*

Commercial loans that are not guaranteed by non-Canadians and that are obtained from arm's length lenders such as financial institutions for the purpose of financing business operations do not raise control in fact concerns.

Loans obtained from non-Canadian lenders who have a relationship with the applicant, such as a shareholder of the business, should be based on commercial lending terms that reflect an arm's length relationship to avoid raising control in fact concerns.

Any restrictive covenants must be strictly limited to standard commercial lending clauses limited to the protection of a creditor. These covenants cannot interfere in any way with the normal day to day operations of the business.

**2. Guarantees**

A debt or loan guarantee is a promise by a person or an entity to assume a debt obligation in the event of non-payment by the borrower. When a non-Canadian provides the guarantee, control in fact considerations will include:

- the monetary size,
- the terms,
- the borrower's level of dependence, and
- the guarantor's intent.

*Risk Conditions (Risk Level: Medium)*

Non-Canadian control in fact is indicated when an applicant is dependent upon a guarantee from a non-Canadian (e.g., a non-Canadian shareholder) to obtain or secure debt financing.

### *Risk Mitigation*

To avoid raising control in fact concerns, lending agreements must not contain any means for a non-Canadian guarantor to exercise its influence over the direction of the air carrier.

### **3. Lease of Assets**

The operation of an air service is a capital-intensive business. It often involves the purchase or lease of aircraft, hanger space and other key assets.

An agreement with arm's length parties for the use of assets at market terms would not normally indicate control in fact. Control in fact is not normally indicated even in cases where a high concentration of assets is being provided by one or more parties.

Control in fact may be indicated when an air carrier is dependent on a specific party to provide assets that cannot be obtained practically or financially elsewhere. In these cases, the Agency would consider the following:

- The nature of the relationship;
- The terms of the agreement; and
- The intent or ability of the lessor party to influence the affairs of the air carrier.

### *Risk Conditions (Risk Level: Medium)*

Control in fact concerns are raised when an applicant is dependent upon a non-Canadian who is not at arm's length from the non-Canadian shareholder to provide the aircraft. Control in fact concerns are also arranged when the terms of the arrangement contain provisions that allow the non-Canadian to exercise dominant and determining influence. An example of such influence would include any provision that covers day-to-day business decisions such as aircraft routes and flight frequency.

### *Risk Mitigation*

To avoid raising control in fact concerns, asset lease agreements involving non-Canadians should reflect standard terms associated with an arm's

length business relationship. If the lease agreement contains any standard restrictive covenants, they must be limited to provisions that are intended to protect the assets and credit risk to the lessor. Covenants cannot infringe upon the normal day-to-day or strategic business operations of the applicant.

#### **4. Financial Strength and Business Activity**

The comparative financial strength, business activity and relevant expertise of individual shareholders can indicate which shareholders exercise influence and control in fact over an air carrier. This is especially true when dealing with shareholders who are non-Canadian air carriers. In these situations, the nature of the non-Canadian shareholders equity investment is important. This could be a passive investment from a private equity investment firm, or an investment from a business with extensive knowledge and experience in the aviation sector that intends to be active in the business operations. Also important is the ability or the need for the non-Canadian shareholders to offer financial, managerial and operational assistance to the air carrier.

The greater the financial ability and airline business acumen of the individual Canadian shareholders, the less likely a large, non-Canadian investor would be viewed as raising any control in fact concerns.

##### *Risk Conditions (Risk Level: Risky When Combined With Other Factors)*

Control in fact concerns are raised when non-Canadian shareholders have the ability to exercise dominant and determining influence through their greater experience and business knowledge in the aviation sector.

##### *Risk Mitigation*

If an applicant can show that the Canadian shareholders have the aviation sector experience and expertise necessary for the operation of the business, this reduces concerns that the non-Canadian investors may use their business experience as a means to exercise control in fact.

## 5. Management Agreements

Management services can be an essential component of an air carrier's business strategy. However, some management agreements could result in an independent entity managing the affairs of the air carrier. Payment should be based on services rendered. Any incentive bonus should represent a small percentage of the overall fee and the overall corporate profit.

### *Risk Conditions (Risk Level: Medium)*

Control in fact concerns are raised when the person providing management services is a non-Canadian shareholder or is affiliated with a non-Canadian shareholder.

Non-Canadian control in fact is indicated when an agreement does not allow the board of directors of the applicant to have:

- the unilateral right to accept or reject any advice given by the manager; or
- the right to terminate the agreement.

### *Risk Mitigation*

When management services are provided by a non-Canadian, the following terms should be met to avoid any control in fact concerns:

- The manager should be an independent contractor in the airline management business rather than an employee of a carrier or an affiliate of any non-Canadian shareholders;
- The board of directors should have the authority for all major decisions; and
- The board of directors should have the right to terminate the management agreement (on reasonable notice and terms) if they are not satisfied with the manager's performance.

## 6. Operational or Service Agreements

Operational or service agreements for the provision of services to the air carrier can sometimes include the provision of an aircraft with flight crew, maintenance

activities, ground-handling services, and reservations and other computer-based services.

Non-Canadian control in fact is indicated when:

- the service provider handles operations of the air carrier; or
- the service provider fee is based directly or indirectly on the profit or loss of the air service.

#### *Risk Conditions (Risk Level: Medium)*

Control in fact concerns are raised when a non-Canadian management services provider performs many or all of the major operational activities of the air service business on its behalf. This includes:

- managers who are not at arm's length from a non-Canadian shareholder; and
- any non-Canadian shareholders or their affiliates acting in the capacity of a management services provider.

#### *Risk Mitigation*

When an air carrier contracts a non-Canadian service provider to perform the day-to-day operational functions of the air carrier, or enters into an arrangement (such as a joint venture) with a non-Canadian air carrier, all major decisions (such as approval of the business plan, incursion of large debt and operational expansion) should remain with the air carrier's board of directors in order to avoid any control in fact implications. The air carrier must also be entitled to the profit and be responsible for any loss associated with the operation of the air service.

## **7. Charterer/Air Carrier Relationship**

A charterer leases the full aircraft capacity from the air carrier, which it then sells to the public, typically through a travel agent. Charterers fall under provincial jurisdiction. They are not subject to the Canadian ownership and control requirement of the Act. Charterers have the ability to enter into contracts with air carriers that dictate items such as the level of service, routes and schedules.

Normally, these charterer/air carrier relationships do not pose any federal control in fact implications.

*Risk Conditions (Risk Level: Medium)*

Control in fact concerns are raised when:

- a non-Canadian charterer assumes the role and responsibility of the air carrier, as shown by the assumption of the risks and entitlement to the benefits relating to the air carrier's operations;
- the air carrier intends to conduct business with only one charterer; or
- the air carrier does not have an arms' length relationship with the non-Canadian charterer.

*Risk Mitigation*

Charterer/air carrier relationships do not pose control in fact concerns on the air carrier if:

- the air carrier assumes the risks and benefits relating to the air carrier's operations; and/or
- the charterer, if non-Canadian, is in an arm's length relationship with the carrier.



## Annex D: Examples of Previous Canadian Ownership Determinations

Below are links to some of the Agency's previous public decisions that specifically address the requirement to be Canadian. There is particular emphasis in this list on decisions discussing the voting interest and control in fact requirements.

This list is not exhaustive, and is not presented in any particular order of priority. This list will be updated periodically.

- Decision No. [297-A-1993](#) (Canadian Airlines Decision)
- Decision No. [299-A-2000](#) (Air Canada Decision)
- Decision No. [511-A-2004](#) (ACE Decision)
- Decision No. [10-A-2010](#) (Sunwing Airlines Decision)
- [Public redacted version of October 6, 2010 Confidential Decision](#) (CHC Helicopters Canada Decision)
- Decision No. [32-A-2012](#) (Thunderhook Air Charter Services Decision)
- Decision No. [359-A-2012](#) (Cougar Helicopters Decision)
- Decision No. [423-A-2012](#) (Sunwing Airlines Inquiry)
- Decision No. [493-A-2012](#) (Alpine Helicopters Decision)

Exhibit E of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

---

Signature



19)

Updated 24 April 2020

## Summary

- A pneumonia of unknown cause detected in Wuhan, China was first reported to the WHO Country Office in China on 31 December 2019.
- WHO is working 24/7 to analyse data, provide advice, coordinate with partners, help countries prepare, increase supplies and manage expert networks.
- The outbreak was declared a Public Health Emergency of International Concern on 30 January 2020.
- The international community has asked for US\$675 million to help protect states with weaker health systems as part of its Strategic Preparedness and Response Plan.
- On 11 February 2020, WHO announced a name for the new coronavirus disease: COVID-19.
- To stay up to date, follow [@DrTedros](#) and [@WHO](#) on Twitter, read WHO's [daily situation reports](#) and [news releases](#), and watch our regular [press conferences](#).

# Global leaders unite to ensure equitable access new vaccines, tests and treatments for COVID-19

24 April 2020

At a virtual event with heads of state and global health leaders WHO Director-General Dr Tedros Adhanom Ghebreyesus announced the launch of the Access to COVID-19 Tools Accelerator, or the ACT Accelerator. This is a landmark collaboration to accelerate the development, production and equitable distribution of vaccines, diagnostics, and therapeutics for COVID-19.

“We will only halt COVID-19 through solidarity,” said Dr Tedros. “Countries, health partners, manufacturers, and the private sector must act together and ensure that the fruits of science and research can benefit everybody.”

The event was co-hosted by the World Health Organization, the President of France, the President of the European Commission, and the Bill & Melinda Gates Foundation.

”  
**A world free of [#COVID19](#) requires a massive collective effort and today leaders came together to accelerate the search to find a vaccine.**  
**Human health is the quintessential global public good.**  
**Let's makes sure everyone is safe and no one is left behind. [pic.twitter.com/PtDNDzOh7f](https://pic.twitter.com/PtDNDzOh7f)**  
— Amina J Mohammed (@AminaJMohammed) [April 24, 2020](#)”

## Key materials:

[News release](#)

[Call to Action \(web version\)](#)

[Call to Action \(PDF\)](#)

[WHO Director-General's remarks](#)

Event notice with video stream

## 2020 could see a doubling of malaria deaths in sub-Saharan Africa compared to 2018

23 April 2020

A modelling analysis released today considered scenarios for potential disruptions in access to core malaria control tools during the COVID-19 pandemic in 41 countries.

Under the worst-case scenario, in which all insecticide-treated net (ITN) campaigns are suspended and there is a 75% reduction in access to effective antimalarial medicines, the estimated tally of malaria deaths in sub-Saharan Africa in 2020 would reach 769 000, twice the number of deaths reported in the region in 2018. This would represent a return to malaria mortality levels last seen 20 years ago.

Countries across the region have a critical window of opportunity to minimize disruptions in malaria prevention and treatment and save lives at this stage of the COVID-19 outbreak.

"  
**Countries in sub-Saharan Africa need to move fast & distribute [#malaria](#) prevention & treatment tools at this stage of the [#COVID19](#) outbreak to avoid an increase in malaria related deaths**

<https://t.co/TGovpNLsHu> [pic.twitter.com/DiW1FGjDfy](https://pic.twitter.com/DiW1FGjDfy)

— World Health Organization (WHO) (@WHO) [April 23, 2020](#)"

WHO and partners have developed guidance on the prevention of infection through vector control and chemoprevention, testing, treatment of cases, clinical services, supply chain and laboratory activities.

**Key materials:**

## Statement

Guidance: Tailoring malaria interventions in the COVID-19 response

The potential impact of health service disruptions on the burden of malaria: a modelling analysis for countries in sub-Saharan Africa

# New joint effort to reach billions who are offline with vital health information

20 April 2020

The World Health Organization and the International Telecommunication Union (ITU), with support from UNICEF, are set to work with telecommunication companies to text people on their mobile phones with vital health messaging to help protect them from COVID-19. These text messages will reach people that aren't able to connect to the internet for information.

Around the world, an estimated 3.6 billion people remain offline, with most people who are unconnected living in low-income countries. The collaboration will start in the Asia Pacific region and then roll out globally. The goal is to reach everyone with vital health messages, whatever their connectivity level.

"

**"We're calling on all telecommunications companies globally to join this initiative to help unleash the power of communication technology to save lives"-@DrTedros #COVID19**  
<https://t.co/n7K4BpeOAh>

— World Health Organization (WHO) (@WHO) April 22, 2020"

## Key materials:

ITU-WHO Joint Statement: Unleashing information technology to defeat COVID-19

# One World: Together At Home concert

18 April 2020

WHO and Global Citizen co-hosted a global on-air special to celebrate and support frontline healthcare workers.

Curated in collaboration with Lady Gaga, the broadcast included appearances by Andrea Bocelli, Chris Martin, Eddie Vedder, Elton John, FINNEAS, Idris and Sabrina Elba, John Legend, Lang Lang, Lizzo, Maluma, Paul McCartney, Priyanka Chopra Jonas, Shah Rukh Khan and Stevie Wonder.

This historic global event was hosted by TV show hosts Jimmy Fallon, Jimmy Kimmel and Stephen Colbert. It also featured real experiences from doctors, nurses and families around the world.

Benefits from the concert will go to the [COVID-19 Solidarity Response Fund](#), in addition to local and regional charities that provide food, shelter and healthcare to those that need help most.

Watch messages from the Director-General and WHO's technical lead for COVID-19, Dr Maria Van Kerkove from the broadcast.

"  
**"We are all in this together. Trust in science and know that the world is working hard on a vaccine and treatments. Keep being kind to one another and always find joy in your days"-  
 @mvankerkhove, One world: #TogetherAtHome #COVID19 [pic.twitter.com/eMfzu3TiO](https://pic.twitter.com/eMfzu3TiO)**  
 — World Health Organization (WHO) (@WHO) April 19, 2020"

## Key materials:

[Recording: 'One World: Together At Home' global special](#)

[News release announcing the concert](#)

# How the World Health Organization works with all people, everywhere

15 April 2020



"Our mandate is to work to promote the health of all people everywhere...without distinction of race, religion, political belief, economic or social condition." Steven Solomon, Principal Legal Officer, WHO.

## A relentless commitment to science, solutions and solidarity

15 April 2020



Speaking at the COVID-19 media briefing, WHO's Director-General stressed that our "commitment to public health, science and to serving all the people of the world without fear or favour remains absolute."

"  
**Since the beginning, @WHO has been fighting the #COVID19 pandemic with every ounce of our soul and spirit. We will continue to work with every country and every partner, to serve the people of the world, with a relentless commitment to science, solutions and solidarity.**  
[pic.twitter.com/7UrxtxQYwp](https://pic.twitter.com/7UrxtxQYwp)

— Tedros Adhanom Ghebreyesus (@DrTedros) April 15, 2020"

"The United States of America has been a longstanding and generous friend to WHO, and we hope it will continue to be so.

We regret the decision of the President of the United States to order a halt in funding to the World Health Organization.

With support from the people and government of the United States, WHO works to improve the health of many of the world's poorest and most vulnerable people.

In due course, WHO's performance in tackling this pandemic will be reviewed by WHO's Member States and the independent bodies that are in place to ensure transparency and accountability. This is part of the usual process put in place by our Member States.

No doubt, areas for improvement will be identified and there will be lessons for all of us to learn.

But for now, our focus – my focus – is on stopping this virus and saving lives.

WHO is grateful to the many nations, organizations and individuals who have expressed their support and commitment to WHO in recent days, including their financial commitment.

We welcome this demonstration of global solidarity, because solidarity is the rule of the game to defeat COVID-19.

WHO is getting on with the job."

**Key materials:**

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 15 April 2020](#)

## Major update to COVID-19 dashboard

14 April 2020

Supported by the WHO Technology for COVID-19 initiative, a pro-bono collaboration of technology companies, WHO released a substantial update to its COVID-19 information dashboard.

Users can view:

- A mobile-friendly version of the dashboard.
- New and confirmed cases and deaths globally with daily statistics.
- National info by clicking on any country on the interactive map.
- Reported cases by WHO region including daily and cumulative statistics.
- Confirmed cases and deaths, and changes over time in a specific country, region, or territory, on the interactive chart.
- A new explorer tab designed to provide complex datasets for easy access and use, with variables selectable across three axes.

In future, the platform should be updated with new data sets from national and sub-national levels, as well as clinical trials and country-specific public health measures.

"

**WHO updates [#COVID19](#) dashboard with better data visualization** 

**<https://t.co/h7o3A0MiHj> [#coronavirus](#) [pic.twitter.com/0kghRaLiPQ](https://pic.twitter.com/0kghRaLiPQ)**

— World Health Organization (WHO) (@WHO) April 14, 2020"

**Key materials:**

[COVID-19 information dashboard](#)

[Feature story: WHO updates COVID-19 dashboard with better data visualization](#)

## Major relief airlift will bring vital medical supplies to all African nations

14 April 2020

Today the first United Nations “Solidarity Flight” departed from Addis Ababa, Ethiopia. From there, vital medical cargo will be transported to all countries in Africa, where supplies are desperately needed to contain the spread of COVID-19.

WHO cargo is being transported by the World Food Programme (WFP), and includes a large quantity of medical supplies donated by Ethiopian Prime Minister Abiy Ahmed and the Jack Ma Foundation Initiative to reverse COVID-19 in Africa. The African Union, through the Africa Centres for Disease Control and Prevention (Africa CDC), is providing technical support and coordination for the distribution of the supplies.

The crucial WHO cargo includes laboratory supplies to support surveillance and detection, one million face masks, and enough personal protective equipment to enable health workers to care for more than 30 000 patients across the continent.

The Government of the United Arab Emirates generously supported this operation, with WHO’s regional logistics hub in Dubai playing a key role in making sure the supplies are prepared and shipped to where they are most needed.

"

Very glad to share this news: today, the 1st @UN solidarity flight departs Addis Ababa, ET carrying vital #COVID19 medical supplies to all African nations. The Solidarity Flight is part of a larger effort to ship lifesaving medical supplies to 95 countries <https://t.co/IRPiOP4fg6> [pic.twitter.com/1hTD1XBOjh](https://pic.twitter.com/1hTD1XBOjh)

— Tedros Adhanom Ghebreyesus (@DrTedros) April 14, 2020"

### Key materials:

[Joint AU-WFP-WHO News Release](#)

## Expert group forms to collaborate on vaccine development

13 April 2020

Coordinated by WHO, scientists, physicians, funders and manufacturers have come together to help speed up the availability of a vaccine against COVID-19.

"

Our response to the #COVID19 pandemic must be led by science & solidarity. Under @WHO's coordination, a group of experts with diverse backgrounds is working towards the development of vaccines against #COVID19: <https://t.co/Fa7VgvAWbz>

— Tedros Adhanom Ghebreyesus (@DrTedros) April 13, 2020"

### Key materials

## Five Heroic Acts campaign goes live

10 April 2020

"  
I would like to thank [@readmark](#) and [@WPP](#) for their support and creativity as we fight [#COVID19](#). Messages of solidarity and shared purpose can help us all at this time, as we see in this inspiring new spot for our Five Heroic Acts campaign.  
[pic.twitter.com/QGMQn5KqSj](https://pic.twitter.com/QGMQn5KqSj) [#coronavirus](#)  
— Tedros Adhanom Ghebreyesus ([@DrTedros](#)) April 10, 2020"


## Book released to help children and young people cope with COVID-19

9 April 2020

"My Hero is You, How kids can fight COVID-19!", a new story book to help children understand and come to terms with COVID-19 has been produced by a collaboration of more than 50 organizations working in the humanitarian sector.

More than 1700 children, parents, caregivers and teachers from around the world shared how they were coping with the COVID-19 pandemic, which helped script writer and illustrator Helen Patuck and the project team ensure the book resonated with children from different backgrounds.

"

 A new story book “My Hero is You, How kids can fight COVID-19!” - aimed at children aged 6-11 years old, is released today to help children understand and come to terms with #COVID19 <https://t.co/L23wN2LZwB#coronavirus> [pic.twitter.com/HDC5aAsHna](https://pic.twitter.com/HDC5aAsHna)

— World Health Organization (WHO) (@WHO) April 9, 2020"

Howard Donald gave the book's first public reading, as part of the #ReadTheWorld initiative, run by WHO, UNICEF and the International Publishers Association.



### Key materials:

[News release of the Inter-Agency Standing Committee](#)

['My Hero is You, Storybook for Children on COVID-19 \(PDF available in 12 languages\)](#)

[YouTube recording of public reading by Howard Donald](#)

## "Please quarantine politicising COVID-19"

8 April 2020

The WHO Director-General appealed for national unity and global solidarity in responding to COVID-19.

"  
***My message to political parties: do not politicize this virus. If you care for your people, work across party lines and ideologies.*** [@DrTedros](#) appeals for unity over [#COVID19](#) [pic.twitter.com/pDMN6Lu5np](https://pic.twitter.com/pDMN6Lu5np)  
— UN Geneva (@UNGeneva) [April 8, 2020](#)"

To help alleviate suffering and save lives, WHO has been working night and day in five key ways:

1. Helping build countries' capacity to prepare and respond
2. Providing accurate information and fight the infodemic, together with numerous partners
3. Ensuring supplies of essential medical equipment for frontline health workers.
4. Training and mobilizing health workers.
5. Accelerating research and development.

**Key materials:**

[YouTube recording of WHO Director-General's opening remarks](#)

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 8 April 2020](#)

## **New tools to help hospitals manage surge in COVID-19 patients**

8 April 2020

WHO has released three surge calculators to help with forecasting supplies, diagnostics, equipment requirements, beds needed and estimating how many of each type of health worker are required each day.

"  
**WHO has launched two new tools to assist health planners across the WHO European Region during the #COVID19 pandemic.**

Find out more [👉 https://t.co/6KcFcmhi9K](https://t.co/6KcFcmhi9K) [pic.twitter.com/V6B1w44QOQ](https://pic.twitter.com/V6B1w44QOQ)

— WHO/Europe (@WHO\_Europe) April 9, 2020"

### **Key materials:**

[EURO news release](#)

[WHO COVID-19 Essential Supplies Forecasting Tool \(ESFT\)](#) - as of 30 March 2020

[Adaptt Surge Planning Support Tool](#) - 8 April 2020

[Health Workforce Estimator](#) - 8 April 2020

[Latest technical guidance for resource planning](#)

## **Ad-hoc consultation on managing the COVID-19 infodemic**

8-9 April 2020



Bringing together scientists, public health decision-makers, medical journalists, technology and social media platforms and civil society, this consultation aimed to develop a framework for interventions to help share reliable information, while reducing misinformation, rumours and myths about COVID-19.

Topics included raising awareness of the volume of information on the Internet, perceptions of the use of qualified sources for health decision-making and strengthening digital literacy.

"  
**We're in a pandemic - and an #infodemic. Day 2 of #illustrating for the #WHO about #infodemicCOVID19.**

**An infodemic is too much information – some accurate and some not, and also info that's always changing. It's a special challenge for communicating with health workers.  
[pic.twitter.com/z0XSHgmlhY](https://pic.twitter.com/z0XSHgmlhY)**

— Sam Bradd (@drawing\_change) [April 8, 2020](#)"

## Nurses and midwives celebrated on World Health Day

7 April 2020

In this International Year of the Nurse and the Midwife, World Health Day highlights the critical role played by nurses and midwives, who are at the forefront of the COVID-19 response globally.

"

**It's #WorldHealthDay!**

**Today, we celebrate the work of nurses & midwives by showing our appreciation for their bravery, courage & resolve in the global #COVID19 response.**

**Tell us who your favourite nurse or midwife is 🧑🏻‍⚕️.**

**#SupportNursesAndMidwives  <https://t.co/ZFkbyJFmG0> <pic.twitter.com/02Skex6uW8>**

**— World Health Organization (WHO) (@WHO) April 6, 2020**"

Our #ThanksHealthHeroes challenge launches, calling on individuals to tell the world about a nurse or a midwife they are personally grateful to.



WHO Director-General Dr Tedros Adhanom Ghebreyesus and Chief Nursing Officer Elizabeth Iro held a Facebook Live discussion on COVID-19 with nurses and midwives in Pakistan, Iran, Italy and Malawi.

**Key materials:**

[The State of the World's Nursing Report - 2020](#)

[World Health Day Campaign page](#)

[#ThanksHealthHeroes Challenge page](#)

[Facebook Live on COVID-19 and nursing](#)

## 133 countries provided with critical supplies

7 April 2020

Since the beginning of the outbreak, the Operations Support and Logistics (OSL) unit at WHO has shipped more than 900 000 surgical masks, 62 000 N95 masks, 1 million gloves, 115 000 gowns, 17 000 goggles and 34 000 face shields to 133 countries.

OSL has also shipped COVID-19 testing kits to 126 countries.

**Key materials:**

[Situation Report 78 - 7 April 2020](#)

# Advice on the use of masks

6 April 2020

WHO issued updated guidance on masks, including a new section on advice to decision-makers on mask use by healthy people in communities.

"  
"There is no black or white answer, and no silver bullet. Masks alone cannot stop the **#COVID19** pandemic. Countries must continue to find, test, isolate and treat every case and trace every contact"-**@DrTedros #coronavirus**  
— World Health Organization (WHO) (@WHO) April 6, 2020"

## Key materials:

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 6 April 2020](#)

[Advice on the use of masks in the context of COVID-19](#)

[WHO Twitter thread on use of masks](#)

# WHO launches #BeActive campaign with FIFA

6 April 2020

WHO has joined forces with FIFA to launch the #BeActive campaign on the UN International Day of Sport for Development and Peace to encourage people to be #HealthyAtHome as the world comes together in the fight against COVID-19, today and every day.

The campaign kicks off with Real Madrid CF, FC Barcelona, Liverpool FC and Manchester United FC asking football fans to set aside their rivalries and to come together to #BeActive.

**Key materials:**

[News release](#)

[Launch video with Trent Alexander-Arnold \(Liverpool FC\) and Marcus Rashford \(Manchester United FC\)](#)

## **WHO helps boost availability of COVID-19 laboratory supplies in Iraq**

5 April 2020

With a global shortage of supplies and equipment to fight the coronavirus pandemic, WHO and Basra University are successfully producing urgently needed laboratory items for testing suspected COVID-19 cases in Iraq.

"  
In cooperation with the [@WHOIraq](#), the [#Covid\\_19](#) Crisis Cell of [@BasraUniversity](#) in southern [#Iraq](#) has successfully produced urgently-needed laboratory supplies to speed up the testing of suspected cases. More in <https://t.co/bDxvPx3R8j>. 1/4  
[pic.twitter.com/BfcBGcBzXK](https://pic.twitter.com/BfcBGcBzXK)  
— WHO Iraq (@WHOIraq) [April 5, 2020](#)"

### Key materials:

[News release](#)

[UN News article](#)

## IMF and WHO make joint call to protect lives & livelihoods

3 April 2020

WHO held a joint press conference with the International Monetary Fund (IMF), with IMF Managing Director Kristalina Georgieva speaking and taking questions.

The conference covered the profound economic impacts of the pandemic, highlighting the importance of debt relief to avoid economic collapse and social welfare programs to ensure people have essentials.



The WHO Director-General and IMF Managing Director also co-authored an op-ed arguing that the trade-off between saving lives or jobs is a false dilemma.

"  
**My sister [@KGeorgieva](#) and I are joining forces to fight [#COVID19](#) and protect lives and livelihoods. Here is our shared opinion piece: <https://t.co/pz8RwCH0Sj>**  
— Tedros Adhanom Ghebreyesus ([@DrTedros](#)) [April 3, 2020](#)"

### **Key materials:**

[YouTube recording of media briefing](#)

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 3 April 2020](#)

[Opening remarks by Kristalina Georgieva](#)

[Op-ed by Kristalina Georgieva and Dr Tedros Adhanom Ghebreyesus](#)

# #HealthyAtHome campaign begins

2 April 2020

WHO is providing advice to help you and your family be healthy at home, with tips on staying physically active, looking after our mental health, quitting tobacco and healthy parenting.

We are also encouraging people to share how they are staying #HealthyAtHome as part of our new challenge.

"  
**Many people are making great sacrifices to #StayHome & protect their health & that of others from #COVID19.**

**Here some ideas to stay healthy:**

 **Be active**

 **Eat healthy**

 **Don't smoke**

 **Meditate**

 **Read books**

**Join the new @WHO challenge & show us what you do to be #HealthyAtHome!  
[pic.twitter.com/f9adab39Ci](https://pic.twitter.com/f9adab39Ci)**

— World Health Organization (WHO) (@WHO) April 2, 2020"

## Key materials:

[#HealthyAtHome campaign website](#)

[Challenge launch video](#)



# 'Read the World' launches on International Children's Book Day

2 April 2020

WHO joined with UNICEF and the International Publishers Association to launch a reading initiative to support children and young people in isolation.

The collaboration began with a reading by Italian author Elisabetta Dami, creator of the popular character Geronimo Stilton.

"

Today is [#InternationalChildrensBookDay](#). 📖!

WHO, [@UNICEF](#) and [@IntPublishers](#), launch [#ReadTheWorld](#) initiative to support children and young people in isolation during [#COVID19](#) 📖 <https://t.co/tl00tZdj8P>  
[pic.twitter.com/q8F5nmzvAH](https://t.co/tl00tZdj8P)

— World Health Organization (WHO) (@WHO) April 2, 2020"

## Key materials:

[News release](#)

# Polio programme supports COVID-19 response

2 April 2020

To reduce the risk of increasing transmission of COVID-19, the Polio Oversight Board made the difficult decision to suspend house-to-house vaccination campaigns. For the next four to six months, Global Polio Eradication Initiative (GPEI) programmatic and operational assets and human resources, from global to country level, will be made available to enable a strong response to COVID-19, while maintaining critical polio functions, such as surveillance and global vaccine supply management.

"  
"The Global Polio Eradication Initiative is working to ensure that once it is safe to do so, countries can be supported to rapidly restart polio vaccination campaigns. While all our energy may be focused on [#COVID19](#) now, our commitment to [#EndPolio](#) is unshakeable"-[@DrTedros](#)

— World Health Organization (WHO) ([@WHO](#)) [April 3, 2020](#)"

## Key materials:

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 3 April 2020](#)

[Global Polio Eradication Initiative's Call to action to support COVID-19 response](#)

[Nigeria's polio infrastructure bolsters COVID-19 response](#)

# New tool to analyse COVID-19 responses across Europe launched

2 April 2020

The COVID-19 Health System Response Monitor (HSRM) online platform is a joint undertaking between the WHO Regional Office for Europe, the European Commission and the European Observatory on Health Systems and Policies. It will systematically map and analyse responses, offer cross-country comparisons and track wider public health initiatives.

"

A joint project with WHO/Europe, [@OBShealth](#) & [@EU\\_Commission](#), the new platform will provide policy-makers and governments with clear, comparable evidence to:

- ✓ inform policy
- ✓ strengthen their capacity to respond to [#COVID19](#)

(ENDS)

— WHO/Europe ([@WHO\\_Europe](#)) [April 2, 2020](#)"

## Key materials:

[EURO press release](#)

[COVID-19 Health System Response Monitor](#)


# WHO in Africa holds first 'hackathon' for COVID-19

1 April 2020

WHO's Regional Office for Africa hosted a virtual 'hackathon' bringing together 100 leading innovators to pioneer creative local solutions to the COVID-19 pandemic and to address critical gaps in the regional response.

Proposals ranged from mobile-driven self-diagnosis, screening and mapping tools to alternative low-cost methods for producing personal protective equipment (PPE). The three highest ranking groups will now receive seed funding and WHO support to help develop and implement their solutions.

"

**This week, @WHO AFRO launched the first virtual #COVID19 innovation "Hackathon".** 

**The event is bringing together 100 innovators from all over #Africa to create home-grown solutions to challenges & gaps in the COVID-19 response on the continent.**

**[pic.twitter.com/ysgeRHZsGd](https://pic.twitter.com/ysgeRHZsGd)**

— WHO African Region (@WHOAFRO) [April 1, 2020](#)"

### Key materials:

[News release](#)

## WHO launches chatbot with Rakuten Viber

31 March 2020

Viber is a free messaging and calling app. Once subscribed to the WHO Viber chatbot, users will receive notifications with the latest news and information directly from WHO. Users can also learn how to protect themselves and test their knowledge on coronavirus through an interactive quiz that helps bust myths.

WHO and @Viber fight #COVID19 misinformation with interactive chatbot in multiple languages

<https://t.co/sMe1lp3j6U> [pic.twitter.com/j8kDYp3TvC](https://pic.twitter.com/j8kDYp3TvC)

— World Health Organization (WHO) (@WHO) April 1, 2020"

### Key materials:

[WHO Viber service](#)

[Web story](#)

## Falsified medical products, including in vitro diagnostics, that claim to prevent, detect, treat or cure COVID-19

31 March 2020

This Medical Product Alert warns consumers, healthcare professionals, and health authorities against a growing number of falsified medical products that claim to prevent, detect, treat or cure COVID-19.

The Coronavirus disease (COVID-19) pandemic (caused by the virus SARS-CoV-2) has increased demand for medicines, vaccines, diagnostics and reagents, all related to COVID-19, creating an opportunity for ill-intended persons to distribute falsified medical products

Due diligence is required from all actors in the procurement, use and administration of medical products, in particular those affected by the current crisis of, or related to, COVID-19.

At this stage, WHO does not recommend any medicines to treat or cure COVID-19. However, the SOLIDARITY trial, led by WHO, is reviewing potential treatments for COVID-19.

**Key documents:**

[News Release](#)




[Medical Product Alert N°3/2020](#)

## Updated guidance on maintaining access to health services

30 March 2020

Previous outbreaks have shown that when health systems are overwhelmed, deaths from vaccine-preventable and other treatable conditions can also increase dramatically.

WHO has updated operational planning guidelines to help countries balance the demands of responding directly to COVID-19 while maintaining essential health service delivery, protecting health care workers and mitigating the risk of system collapse.

"  
**Amidst #COVID19, It's vital to deliver vaccines  to protect people from old killers. New guidance  provides all countries with advice on the importance of maintaining safe immunization services during a pandemic  <https://t.co/JPh2xp1mr8>**  
— World Health Organization (WHO) (@WHO) [March 31, 2020](#)"

**Key materials:**

[Operational guidance for maintaining essential health services during an outbreak](#)

[News release on maintaining essential services](#)

[New guide to help countries expand access to essential medicines](#)

# WHO WhatsApp health alert launches in Arabic, French and Spanish

27 March 2020

Today, WHO is launching dedicated messaging services in Arabic, French and Spanish with partners WhatsApp and Facebook to keep people safe from coronavirus. This easy-to-use messaging service has the potential to reach 2 billion people and enables WHO to get information directly into the hands of the people that need it.

From government leaders to health workers and family and friends, this messaging service will provide the latest news and information on coronavirus including details on symptoms and how people can protect themselves and others. It also provides the latest situation reports and numbers in real-time to help government decision-makers protect the health of their populations.

The service can be accessed by a link that opens a conversation on WhatsApp. Users can simply type "hi", "salut", "hola" or "مرحبا" to activate the conversation, prompting a menu of options that can help answer their questions about COVID-19.

Join WHO's Health Alert on WhatsApp:

## Arabic

Send "مرحبا" to +41 22 501 70 23 on WhatsApp

[wa.me/41225017023?text=مرحبا](https://wa.me/41225017023?text=مرحبا)

## French

Send "salut" to +41 22 501 72 98 on WhatsApp

[wa.me/41225017298?text=salut](https://wa.me/41225017298?text=salut)

## Spanish

Send "hola" to +41 22 501 76 90 on WhatsApp

[wa.me/41225017690?text=hola](https://wa.me/41225017690?text=hola)

## English

Send "hi" to +41 79 893 18 92 on WhatsApp

[wa.me/41798931892?text=hi](https://wa.me/41798931892?text=hi)

# Extraordinary Virtual G20 Leaders' Summit on COVID-19

26 March 2020

Addressing the Extraordinary Summit on COVID-19, chaired by King Salman of Saudi Arabia, the WHO Director-General called on G20 leaders to fight, unite, and ignite against COVID-19.

"  
Honoured to address the [@g20org](https://www.g20.org/) Extraordinary Summit on [#COVID19](https://twitter.com/COVID19), chaired by [@KingSalman](https://twitter.com/KingSalman). I asked them to:

1. Fight like our lives depend on it, because they do.
2. Unite. We will only get out of this together.
3. Ignite a global movement to ensure this never happens again.

— Tedros Adhanom Ghebreyesus ([@DrTedros](https://twitter.com/DrTedros)) [March 26, 2020](https://www.who.int/news-room/feature-stories/20200326-g20-summit)"

## Key materials:

[News release](#)

[WHO Director General's remarks at the Extraordinary Virtual G20 Leaders' Summit on COVID-19 - 26 March 2020](#)



## Mission to Egypt concludes

25 March 2020

The team of experts noted the "significant work" being done by Egypt, "especially in the areas of early detection, laboratory testing, isolation, contact tracing and referral of patients".

With support from WHO and other partners, Egypt now has the capacity to conduct up to 200,000 tests.

WHO will work with national health authorities to enhance the isolation, quarantine and referral mechanisms, and scale up infection prevention and control practices to ensure that patients and health workers are protected.

"

اختتم الفريق التقني الذي أوفدته منظمة الصحة العالمية [@WHO](#) إلى [#مصر](#) EG مؤخراً مهمته حول [#COVID19](#) بنتائج رئيسية عن العمل الجاد الذي يتم القيام به للسيطرة على تفشي المرض، خاصة في مجالات الكشف عن الحالات وتتبع المخالطين، والفحص المختبري، وإحالة المرضى. [pic.twitter.com/aG8dwMJSCI](https://pic.twitter.com/aG8dwMJSCI)

— WHO EMRO ([@WHOEMRO](#)) [March 27, 2020](#)"

### Key materials:

[EMRO News Release](#)

## UN launches COVID-19 Global Humanitarian Response Plan to [#InvestInHumanity](#)

25 March 2020

The UN today issued a \$2 billion appeal to fight coronavirus in the most vulnerable countries.

Properly funded, it will provide laboratory materials for testing, supplies to protect health workers and medical equipment to treat the sick. It will bring water and sanitation to places facing shortages, and will help humanitarian workers and supplies get to where they are needed most to support the COVID-19 response.

"  
**Today, @antonioguterres @UNReliefChief @DrTedros @unicefchief launched the #COVID19 Global Humanitarian Response Plan, appealing for \$2 billion to fight #coronavirus in the most vulnerable countries.**  
  
**We will only win this battle through solidarity. <https://t.co/SnNVFi1FCP>**  
— Mark Lowcock (@UNReliefChief) March 25, 2020"

WHO Director-General Dr Tedros Adhanom Ghebreyesus joined UN Secretary-General Antonio Guterres for the plan's virtual launch, together with UN Under-Secretary-General for Humanitarian Affairs Mark Lowcock and UNICEF Executive Director Henrietta Fore.



Writing in the Washington Post, the WHO Director-General and UN Under-Secretary-General for Humanitarian Affairs co-authored a piece calling on countries to fund the plan while sustaining support for existing humanitarian and refugee response plans.

"

**Mark Lowcock @UNReliefChief & I are calling on countries to:**

- Support & fund the @UN global humanitarian response plan**
- Sustain funding to existing humanitarian & refugee response plans**

**Here is our full piece in the @washingtonpost:<https://t.co/Z4APoxrZZ4>**

— Tedros Adhanom Ghebreyesus (@DrTedros) March 25, 2020"

### **Key materials:**

[Global Humanitarian Response Plan: UN Coordinated Appeal \(April-December 2020\)](#)

[OCHA News Story: UN issues \\$2 billion appeal to combat COVID-19](#)

[YouTube recording: Launch of the COVID-19 Global Humanitarian Response Plan](#)

[Washington Post piece: The coronavirus threatens all of humanity. All of humanity must fight back.](#)

[UN Secretary General's Remarks](#)

## **Off-label use of medicines for COVID-19**

25 March 2020

No pharmaceutical products have yet been shown to be safe and effective for the treatment of COVID-19. However, a number of medicines have been suggested as potential investigational therapies, many of which are now being or will soon be studied in clinical trials, including the SOLIDARITY trial co-sponsored by WHO and participating countries.

In many countries, doctors are giving COVID-19 patients medicines that have not been approved for this disease. The use of licensed medicines for indications that have not been approved by a national medicines regulatory authority is considered “off-label” use. The prescription of medicines for off-label use by doctors may be subject to national laws and regulations. All health care workers should be aware of and comply with the laws and regulations governing their practice. Further, such prescribing should be done on a case-by-case basis. Unnecessary stockpiling and the creation of shortages of approved medicines that are required to treat other diseases should be avoided.

It can be ethically appropriate to offer individual patients experimental interventions on an emergency basis outside clinical trials, provided that no proven effective treatment exists; it is not possible to initiate clinical studies immediately; the patient or his or her legal representative has given informed consent; and the emergency use of the intervention is monitored, and the results are documented and shared in a timely manner with the wider medical and scientific community.[1]

The decision to offer a patient an unproven or experimental treatment is between the doctor and the patient but must comply with national law. Where it is possible and feasible for the treatment to be given as part of a clinical trial, this should be done unless the patient declines to participate in the trial.

If it is not possible to give the treatment as part of a clinical trial, appropriate records of the use of the medicine must be kept, in compliance with national law, and outcomes for patients should be monitored and recorded.

If early results from an unproven or experimental treatment are promising, the treatment should be studied in the context of a formal clinical trial to establish its safety, efficacy, risks, and benefits.

## **WHO and FIFA team up on campaign to kick out coronavirus**

**23 March 2020**

WHO and FIFA launched the “Pass the message to kick out coronavirus” campaign, led by world-renowned footballers. The campaign promotes five key steps for people to follow to protect their health in line with WHO guidance, focused on hand washing, coughing etiquette, not touching your face, physical distance and staying home if feeling unwell.

“We need teamwork to combat the coronavirus,” said FIFA President Gianni Infantino. “FIFA has teamed up with WHO because health comes first. I call upon the football community worldwide to join us in supporting this campaign to pass the message even further. Some of the greatest players to have played the beautiful game have put their names to the campaign and are united in their desire to pass the message to kick out COVID-19.”

Twenty-eight players are involved in the video campaign, which is being published in 13 languages.

"  
**Pleased to launch "Pass the message: 5 steps to kicking out [#coronavirus](#)" campaign, together with [@FIFACOM](#) Gianni Infantino & [@Alissonbecker](#). I thank them for their active involvement in passing the message against the pandemic since the very beginning![pic.twitter.com/ew5CmZDHD5](https://pic.twitter.com/ew5CmZDHD5)**

— Tedros Adhanom Ghebreyesus ([@DrTedros](#)) [March 23, 2020](#)"

### Key materials:

[Video: Pass the message: Five steps to kicking out coronavirus](#)

[News release: Pass the message: Five steps to kicking out coronavirus - with social tiles](#)

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 23 March 2020](#)

[Youtube recording of media briefing](#)

[Video clips for broadcasters](#)

# WHO Health Alert for coronavirus launches on WhatsApp

20 March 2020

To increase access to reliable information, WHO worked with WhatsApp and Facebook to launch a new WHO Health Alert messaging service today. The WhatsApp-based service will provide vital information about COVID-19 to millions of people through their mobile phones. The service uses an AI chatbot to provide updated information on the pandemic, including how to protect yourself, questions and answers, and the latest news and press coverage. The Health Alert service is now available in English and will be introduced in other languages next week. This is part of WHO's wider initiative to work with technology companies to get accurate health information into the hands of people that need it at this critical time.

"

**I am proud to announce that today we launched a new [@WHO](#) Health Alert messaging service via [@WhatsApp](#). This service will provide the latest news & information on [#COVID19](#), including details on symptoms and how to protect yourself. To subscribe, click here <https://t.co/mUvOWIGfqC>**

— Tedros Adhanom Ghebreyesus ([@DrTedros](#)) March 20, 2020"

## Key materials:

[News release](#)

[Link to receive messages from the WHO Health Alert on WhatsApp](#)

## Young people "are not invincible"

20 March 2020

Speaking at the COVID-19 media briefing, the Director-General said:

"Although older people are the hardest hit, younger people are not spared.

Data from many countries clearly show that people under 50 make up a significant proportion of patients requiring hospitalization.

Today, I have a message for young people: you are not invincible. This virus could put you in hospital for weeks, or even kill you.

Even if you don't get sick, the choices you make about where you go could be the difference between life and death for someone else.

I'm grateful that so many young people are spreading the word and not the virus."

"

**Young people are not invincible from [#COVID19](#). The [#coronavirus](#) could put you in hospital for weeks, or even kill you. Even if you don't get sick, the choices you make about where you go could be the difference between life and death for someone else.**

**<https://t.co/fOK1OkINbK> [pic.twitter.com/m6LSIMggNf](https://pic.twitter.com/m6LSIMggNf)**

— Tedros Adhanom Ghebreyesus (@DrTedros) [March 20, 2020](#)"

### **Key materials:**

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 20 March 2020](#)

[Youtube recording of media briefing](#)

[Video clips for broadcasters](#)

# #AskWHO on disability considerations during COVID-19

19 March 2020

The impact of COVID-19 is "felt by different groups in different ways".

Expert Lindsay Lee emphasises that everyone has a critical role to play to protect people with disability during the COVID-19, in her #AskWHO public Q&A session.

"  
**#AskWHO on disability considerations during #COVID19. #coronavirus**  
**<https://t.co/FxWxu4NUET>**  
— World Health Organization (WHO) (@WHO) March 19, 2020"

## Key materials:

[Periscope recording of the #AskWHO on disability considerations during COVID-19](#)

# UN Secretary-General calls for solidarity, hope and political will

19 March 2020

The coronavirus pandemic is a crisis unlike any in the UN's 75-year history.



During his press briefing on COVID-19, UN Secretary-General António Guterres asked world leaders to come together and offer an urgent and coordinated global response.



**Key materials:**

[YouTube recording of the press briefing](#)

## **WHO Regional Office for Africa holds joint COVID-19 media briefing with World Economic Forum**

19 March 2020

Speakers included Dr Matshidiso Moeti, WHO Regional Director for Africa and WHO Country Representatives Dr Lucile Imboua-Niava (Senegal) and Dr Owen Kaluwa (South Africa).

Many questions remain about how the pandemic will evolve in Africa. Of particular concern is the potential vulnerability of the roughly 26 million people living with HIV, and the 58 million children with malnutrition on the continent.

"  
**#COVID19Africa** briefing moderated by **@wef** earlier today. This is one of the biggest health challenges Africa has faced in a generation. Adopting approaches which are adaptable to the African context is key to containing the spread. [pic.twitter.com/iPejLseLhL](https://pic.twitter.com/iPejLseLhL)  
— Dr Matshidiso Moeti (@MoetiTshidi) March 19, 2020"

## Key materials

- [YouTube recording of the briefing](#)
- [World Economic Forum COVID-19 Action Platform](#)
- [AFRO News Release: More than 600 confirmed cases of COVID-19 in Africa](#)
- [AFRO News Release: Rapid Response Teams are racing against the spread of COVID in Africa](#)

## Launch of SOLIDARITY trial

18 March 2020

WHO and partners are launching an international clinical trial that aims to generate robust data from around the world to find the most effective treatments for COVID-19. The SOLIDARITY trial provides simplified procedures to enable even overloaded hospitals to participate.

"  
Research and development is an important part of our [#COVID19](#) response [@WHO](#)  
<https://t.co/f4odwpJc7n>

— Soumya Swaminathan (@doctorsoumya) [March 19, 2020](#)"

### Key materials:

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 18 March 2020](#)

[Periscope recording of the media briefing](#)

[Video clips for broadcasters](#)

## More than 320 000 learners enrol in online COVID-19 courses

18 March 2020

Real-time training during global emergencies is critical for effective preparedness and response.

The OpenWHO Massive Online Open Courses for COVID-19 provide learning resources for health professionals, decision-makers and the public. More than 320 000 learners have already enrolled.

As the pandemic continues to evolve, new resources will be added, additional language versions will continue to be rolled out, and existing courses will be updated to best reflect the changing context.

### Courses include:

[Operational Planning Guidelines to Support Country Preparedness and Response](#)

[Infection Prevention and Control](#)

[Acute Respiratory Infections \(ARIs\) and basic hygiene measures to protect against infection](#)

## Clinical Care Severe Acute Respiratory Infection

Emerging respiratory viruses, including COVID-19: methods for detection, prevention, response and control

"  
The Massive Online Open Course at <https://t.co/aDo7E824zZ> has now over 323,000 enrollments for [#COVID19](#) courses. This platform was developed in 2017 as part of pandemic preparedness together with the “managing epidemic” handbook. <https://t.co/hlC8WqjIXX>  
— Tedros Adhanom Ghebreyesus (@DrTedros) March 17, 2020"

### More information:

Managing epidemics: key facts about major deadly diseases

# WHO calls for urgent, aggressive actions to combat COVID-19, as cases soar in South-East Asia Region

17 March 2020

The World Health Organization today called on Member states in South-East Asia Region to urgently scale-up aggressive measures to combat COVID-19, as confirmed cases cross 480, and the disease claims eight lives.

### Key Materials

Press release

# New guidance on people affected by humanitarian crises

17 March 2020

To avoid the neglect and stigmatization of individuals in groups such as asylum seekers, internally displaced people and refugees, this interim guidance outlines 'Scaling-up COVID-19 Outbreak in Readiness and Response Operations in Camps and Camp-like Settings'.

WHO jointly developed the guidance with the International Federation of Red Cross and Red Crescent Societies (IFRC), International Organization for Migration (IOM) and the UN Refugee Agency (UNHCR).

"

**NEW: #COVID19 guidance on preparedness & response in humanitarian situations incl. in camp & camp-like settings <https://t.co/OL0QpK9YEF> [#coronaviruspic.twitter.com/4DKDqcEpu6](https://twitter.com/4DKDqcEpu6)**

— World Health Organization (WHO) (@WHO) March 20, 2020"

## Key materials:

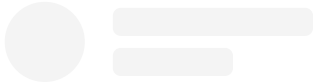
- [Interim Guidance on Scaling-up COVID-19 Outbreak in Readiness and Response Operations in Camps and Camp-like Settings \(jointly developed by IFRC, IOM, UNHCR and WHO\)](#)
- [Statement by Filippo Grandi, UN High Commissioner for Refugees, on the COVID-19 crisis](#)

# #TogetherAtHome online concert series starts

16 March 2020

Chris Martin played a mini gig at home to kick off #TogetherAtHome, a virtual no-contact concert series that aims to promote physical distancing and taking action for global health, presented by WHO and Global Citizen. More Solidarity Sessions are planned to promote health, to show support for people who are staying at home to protect themselves and others from COVID-19, and to encourage donations to the COVID-19 Solidarity Response Fund.

"



[View this post on Instagram](#)



Chris played a mini gig at home earlier today on IG Live. @gblctzn @WHO @JohnLegend #TogetherAtHome

A post shared by [Coldplay](#) 🌙 🌟 (@coldplay) on Mar 16, 2020 at 5:21pm PDT

"

**Key materials:**

[Instagram video of Coldplay #TogetherAtHome session](#)

[COVID-19 Solidarity Response Fund](#)

## **"You cannot fight a fire blindfolded."**

16 March 2020

Countries should test every suspected case of COVID-19.

If people test positive, they should be isolated and the people they have been in close contact with up to 2 days before they developed symptoms should be sought out, and those people should be tested too if they show symptoms of COVID-19.

WHO also advises that all confirmed cases, even mild cases, should be isolated in health facilities, to prevent transmission and provide adequate care.

But we recognize that many countries have already exceeded their capacity to care for mild cases in dedicated health facilities.

In that situation, countries should prioritize older patients and those with underlying conditions.

"  
"We have a simple message for all countries:  
test  
test  
test.  
  
Test every suspected **#COVID19** case.  
  
If they test positive, isolate them & find out who they have been in close contact with up to 2 days before they developed symptoms & test those people too"-[@DrTedros](#) [#coronavirus](#)  
— World Health Organization (WHO) ([@WHO](#)) [March 16, 2020](#)"

### Key materials:

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 16 March 2020](#)

[Full video of Press Conference - 16 March 2020](#)

[Video clips for broadcasters](#)

## WHO Mission to Iraq covers detection and response

15 March 2020

The mission, which comprised experts from the Eastern Mediterranean Regional Office and from WHO headquarters in Geneva, held a series of meetings with national health authorities to identify the disease detection dynamics and at-risk populations, in addition to providing guidance on strengthening response and control measures.



The mission also reviewed the Ministry's overall readiness to deal with a potential increase in case reporting and the priority of establishing an Emergency Operation Centre to speed up action now that the disease has been announced as a global pandemic.

"  
**Head of @WHOEMRO team of experts Dr. Rana Hajja held a joint press conference with the MOH minister tdy. Dr Hajjih stressed the collective responsibility for containing the spread of the virus by protecting ourselves, families, and the community. <https://t.co/RrGD7p0JDt> [pic.twitter.com/V46gyRySd2](https://pic.twitter.com/V46gyRySd2)**  
— WHO Iraq (@WHOIraq) March 12, 2020"

### **Key materials:**

[News release](#)

[Video clip from MOH and mission press conference](#)

## **Launch of #SafeHands Challenge**


13 March 2020


WHO launched the #SafeHands Challenge to promote the power of clean hands fo fight the coronavirus.

To support the challenge to encourage people to clean their hands with soap or alcohol-based hand rub, Twitter created a new #HandWashing emoji.

Heads of State, footballers, singers and more have already taken part, with more people nominated to join the challenge every day.

"

**There are several measures you can take to protect yourself from [#COVID19](#). One of the most important ones is regular & safe hand hygiene. Here are the steps recommended by [@WHO](#) **

**Show the  where and how you wash your hands. Join the WHO [#SafeHands](#) challenge! [pic.twitter.com/5EIzyiyZun](https://pic.twitter.com/5EIzyiyZun)**

— Tedros Adhanom Ghebreyesus ([@DrTedros](#)) [March 13, 2020](#)"

## Europe becomes epicenter of the pandemic

13 March 2020

Europe now has more reported cases and deaths than the rest of the world combined, apart from China.

More cases are now being reported every day than were reported in China at the height of its epidemic.

"

**5,000 people have lost their lives to [#COVID19](#) - this is a tragic milestone. Europe has now become the epicenter of the pandemic, with more reported cases and deaths than the rest of the world combined, apart from China. <https://t.co/ryTAmB9ZnI>**

— Tedros Adhanom Ghebreyesus ([@DrTedros](#)) [March 14, 2020](#)"

### Key materials:

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 13 March 2020](#)

[Periscope reading of press briefing](#)

[Video for broadcasters](#)

## Updated clinical guidance

13 March 2020

"

Updated [#COVID19](#) clinical guidance covers:

- ◆ Early case recognition
- ◆ Guidance for care of children, pregnant women, adults & older people
- ◆ Managing cases
- ◆ Infection prevention & control
- ◆ Sample collection & an update on investigational therapeutics

👉 <https://t.co/ZVaiu2C19V> [pic.twitter.com/yyOzlbtbEO](https://pic.twitter.com/yyOzlbtbEO)

— World Health Organization (WHO) (@WHO) [March 15, 2020](#)"

### Key materials

[Interim guidance: Clinical management of severe acute respiratory infection when novel coronavirus \(nCoV\) infection is suspected](#)

## WHO, UN Foundation and partners launch first-of-its-kind COVID-19 Solidarity Response Fund

13 March 2020

A new coronavirus disease (COVID-19) Solidarity Response Fund will raise money from a wide range of donors to support the work of the World Health Organization (WHO) and partners to help countries respond to the COVID-19 pandemic. The fund, the first-of-its-kind, enables private individuals, corporations and institutions anywhere in the world to come together to directly contribute to global response efforts, and has been created by the United Nations Foundation and the Swiss Philanthropy Foundation, together with WHO.

"  
**WHO, @unfoundation and partners launch first-of-its-kind #COVID19 Solidarity Response Fund.**

**More <https://t.co/WV9i5bp2LP#coronavirus> [pic.twitter.com/seT4gLQKd7](https://pic.twitter.com/seT4gLQKd7)**

— World Health Organization (WHO) (@WHO) [March 13, 2020](#)"

### **Key Materials:**

[The COVID-19 Solidarity Response Fund](#)

[Press release](#)

[Audio file of press conference - 13 March](#)

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 13 March 2020](#)

## **Expert mission to Iran concludes**

12 March 2020

A five-day expert mission to Iran with experts from WHO, GOARN partners, Robert Koch Institute in Berlin and the Chinese Center for Disease Control has concluded.

“Everybody in the country is engaged in this response. The right and timely public health measures implemented on [an] adequate scale will make a difference,” said Dr Richard Brennan, WHO Regional Emergency Director for the Eastern Mediterranean Region and mission team lead.

Looking forward, Dr Brennan said more work needs to be done to protect health workers. The mission also held constructive discussions on ways to advance epidemiological data collection and analysis.

"  
.**@WHO mission to IR #Iran was impressed w/ sanitariums set up to receive recovering #COVID19 patients & mild cases, when needed. The team has shared recommendations on case management, epidemiological analysis, infection prevention/control & monitoring the overall response. [pic.twitter.com/NH51rsQfyb](https://pic.twitter.com/NH51rsQfyb)**  
— WHO EMRO (@WHOEMRO) March 10, 2020"

### Key materials:

[News release](#)

## Azerbaijan welcomes WHO mission

12 March 2020

During its 5-day mission, a team of WHO experts worked with the national response committee on developing a national preparedness and response plan for COVID-19.

The Government of Azerbaijan is contributing to global efforts to address COVID-19, coordinating with neighbouring countries, and has pledged US\$ 5 million to WHO's strategic preparedness and response plan.

**Key materials:**

[News release](#)

## WHO characterizes COVID-19 as a pandemic

11 March 2020

Speaking at the COVID-19 media briefing, the WHO Director-General said:

"WHO has been assessing this outbreak around the clock and we are deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction.

We have therefore made the assessment that COVID-19 can be characterized as a pandemic.

Pandemic is not a word to use lightly or carelessly. It is a word that, if misused, can cause unreasonable fear, or unjustified acceptance that the fight is over, leading to unnecessary suffering and death.

Describing the situation as a pandemic does not change WHO's assessment of the threat posed by this virus. It doesn't change what WHO is doing, and it doesn't change what countries should do.

We have never before seen a pandemic sparked by a coronavirus. This is the first pandemic caused by a coronavirus.

And we have never before seen a pandemic that can be controlled, at the same time."

"

**🚨 BREAKING 🚨**

**"We have therefore made the assessment that [#COVID19](#) can be characterized as a pandemic"-[@DrTedros](#) [#coronavirus](#) [pic.twitter.com/JqdsM2051A](https://pic.twitter.com/JqdsM2051A)**

— World Health Organization (WHO) ([@WHO](#)) [March 11, 2020](#)"

### Key materials:

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020](#)

[Periscope recording of the press conference](#)

## WHO issues schools guidance with UNICEF and IFRC

10 March 2020

WHO, UNICEF and the International Federation of Red Cross and Red Crescent Societies (IFRC) outline critical considerations and practical checklists to keep schools safe, with helpful tips for parents and caregivers, as well as children and students themselves.

"

**In coordination with [@WHO](#) and [@ifrc](#), we've issued guidance for schools, teachers, parents and caregivers for the prevention and control of [#COVID19](#). [#coronavirushttps://t.co/LjvoLV0Dy4](https://t.co/LjvoLV0Dy4)**

— Henrietta H. Fore ([@unicefchief](#)) [March 10, 2020](#)"

## Key materials

[News release](#)

[Guidance: Key Messages and Actions for COVID-19 Prevention and Control in Schools](#)

# Mental health and COVID-19

10 March 2020

WHO is providing guidance to help people manage fear, stigma and discrimination during COVID-19.

In the #AskWHO film below, expert Aiysha Malik answers public questions about mental health and preventing stress during the outbreak.

"  
**[#AskWHO](#) on mental health during [#COVID19](#). Ask your questions to our expert Aiysha Malik. <https://t.co/7iUsK6sSE1>  
— World Health Organization (WHO) (@WHO) [March 10, 2020](#)"**

## Key materials

[Guidance: Mental Health Considerations during COVID-19 Outbreak](#)

[#AskWHO Q&A with Aiysha Malik](#)



# “The rule of the game is: never give up.”

9 March 2020

“We are not at the mercy of this virus,” said the WHO Director-General at the 9 March media briefing.

All countries must aim to stop transmission and prevent the spread of COVID-19, whether they face no cases, sporadic cases, clusters or community transmission.

“Let hope be the antidote to fear.

Let solidarity be the antidote to blame.

Let our shared humanity be the antidote to our shared threat”

”

**“Now that the #coronavirus has a foothold in so many countries, the threat of a pandemic has become very real.**

**But it would be the first pandemic in history that could be controlled.**

**The bottom line is: we are not at the mercy of this virus”-@DrTedros #COVID19**

— World Health Organization (WHO) (@WHO) March 9, 2020”

## Key materials:

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 9 March 2020](#)

[Periscope recording of the press conference](#)

# Interim guidance on critical preparedness, readiness and response actions

8 March 2020

Drawing on existing materials, this guidance describes the preparedness, readiness and response actions for four different transmission scenarios:

1. No cases
2. Sporadic cases: 1 or more cases, imported or locally detected
3. Clusters of cases in time, geographic location and/or common exposure
4. Community transmission: larger outbreaks of local transmission

"  
Every country should urgently take all necessary measures to slow further spread and to protect health systems from becoming overwhelmed with patients seriously ill with #COVID19 <https://t.co/4QQ7VcQPe4#coronavirus> [pic.twitter.com/mO1gBlzVGz](https://pic.twitter.com/mO1gBlzVGz)  
— World Health Organization (WHO) (@WHO) March 7, 2020"

## Key materials

- [Critical preparedness, readiness and response actions for COVID-19](#)
- [WHO Director-General Twitter thread listing examples of national containment and preparedness measures](#)

# Marking 100 000 cases


7 March 2020

Marking this sombre moment, WHO reminded all countries and communities that the spread of this virus can be significantly slowed or even reversed through the implementation of robust containment and control activities.

Every effort to contain the virus and slow the spread saves lives. These efforts give health systems and all of society much needed time to prepare, and researchers more time to identify effective treatments and develop vaccines.

Allowing uncontrolled spread should not be a choice of any government, as it will harm not only the citizens of that country but affect other countries as well.

We must stop, contain, control, delay and reduce the impact of this virus at every opportunity. Every person has the capacity to contribute, to protect themselves, to protect others, whether in the home, the community, the healthcare system, the workplace or the transport system.

"  
**Today for the first time 100 countries are reporting [#COVID19](#) cases. This comes after the  reached 100,000 cases yesterday. While very serious, this should not discourage us. There are many things everyone, everywhere can and should do now. [#coronavirushttps://t.co/7olb7FXEZ7](#)**  
— Tedros Adhanom Ghebreyesus (@DrTedros) [March 8, 2020](#)"

## Key materials

- [Statement on cases of COVID-19 surpassing 100 000](#)
- [Situation dashboard](#)

# WHO publishes draft R&D blueprint draft for COVID-19

6 March 2020

"Research—implemented as policy and practice—can save lives and needs to be integrated into the response from the start."

The R&D roadmap for COVID-19 outlines research priorities in 9 key areas. These include the natural history of the virus, epidemiology, diagnostics, clinical management, ethical considerations and social sciences, as well as longer-term goals for therapeutics and vaccines.

"

The [@WHO @rd\\_blueprint](#) draft is on our website. Was developed by a global network of scientists and outlines knowledge gaps and key research priorities for [#COVID-19](#)  
<https://t.co/rfni25Yg22>

— Soumya Swaminathan (@doctorsoumya) [March 7, 2020](#)"

## Key materials

- [A coordinated Global Research Roadmap](#)
- [R&D Blueprint page for COVID-19](#)
- [WHO Director-General's opening remarks at the media briefing on COVID-19 - 6 March 2020](#)

# Launch of Be Ready campaign

5 March 2020

WHO launches a new social media campaign called Be Ready for COVID-19, which urges people to be safe, smart and kind.

'Be Ready' was launched because everyone can prepare for COVID-19, including individuals, governments and businesses.

We're calling on people to **Be Safe** by remembering tried & tested public health measures, like regular hand washing & staying at least 1 metre (3 feet) from anyone coughing or sneezing. These ordinary measures are extraordinarily effective at fighting COVID-19.

We're asking people to **Be Smart** about COVID-19 by rejecting rumours & taking care to only share information from trusted sources. Everyone should keep informed about what is happening in their area and follow the recommendations of local authorities.

We're reminding people to **Be Kind** through addressing stigma and looking out for one another - especially the most vulnerable and those in isolation. Compassion can combat #COVID19.

Below is a tweet from footballer Paul Pogba getting involved with the campaign.

"  
**#Dab to beat #coronavirus. Follow @WHO advice to Be Ready for #COVID19**  
**<https://t.co/Ej0FqcHbj5> [pic.twitter.com/4DhQ7NsZYk](https://pic.twitter.com/4DhQ7NsZYk)**  
— Paul Pogba (@paulpogba) March 13, 2020"

## Key materials:

[WHO Director-General's opening remarks at the media briefing on COVID-19 - 5 March 2020](#)

# “The whole government should be involved”

5 March 2020

Speaking at the COVID-19 media briefing, the Director-General emphasized that the COVID-19 epidemic “can be pushed back, but only with a collective coordinated and comprehensive approach that engages the entire machinery of government.”

“  
**Leadership from the top: We call on country leaders to mobilize their plans, coordinating every part of government, not just the health ministry – security, diplomacy, finance, commerce, transport, trade, information and more – the whole government should be involved. [#COVID19](#)**

— Tedros Adhanom Ghebreyesus (@DrTedros) [March 5, 2020](#)”

## Key materials:

- [WHO Director-General's opening remarks at the media briefing on COVID-19 - 5 March 2020](#)
- [Periscope recording of the press conference](#)
- [Video clips for the broadcasters](#)
- [Daily COVID-19 situation report](#)

# “This is unprecedented”

4 March 2020

Dr Maria Van Kerkhove, WHO's technical lead for COVID-19, outlines the wealth of knowledge generated about this new disease in just eight weeks.

"  
**We are eight weeks into this [#COVID19](#) outbreak: yet we have identified the virus, we have the genetic sequence, PCR & serological assay in use. This wealth of knowledge is unprecedented for a new disease. [#coronavirus](#) [pic.twitter.com/dNAlepneek](https://pic.twitter.com/dNAlepneek)**  
— World Health Organization (WHO) (@WHO) [March 5, 2020](#)"

## **Shortage of personal protective equipment endangering health workers worldwide**

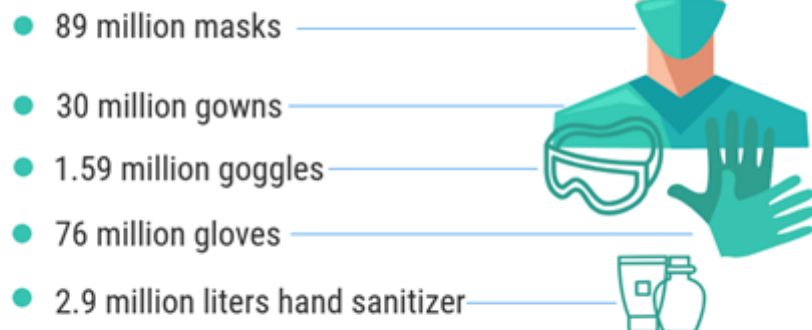
3 Mar 2020

WHO has shipped nearly half a million sets of personal protective equipment to 47 countries, but the global supply is rapidly depleting.

Shortages are leaving doctors, nurses and other frontline workers dangerously ill-equipped to care for COVID-19 patients, due to limited access to supplies such as gloves, medical masks, respirators, goggles, face shields, gowns, and aprons.

To meet rising global demand, WHO estimates that industry must increase manufacturing by 40 per cent.

Every month, frontline health responders around the world need these supplies (and more) to protect themselves and others from #COVID19



#COVID19  
#coronavirus



### Key materials:

- [News release](#)
- [Interim WHO guidance: Rational use of personal protective equipment for COVID-19](#)
- [WHO Director-General's opening remarks at the media briefing on COVID-19 – 3 March 2020](#)
- [Periscope recording of the press conference](#)
- [Video clips for the broadcasters](#)
- [Daily COVID-19 situation report](#)

## “There’s no choice but to act now”

2 March 2020

Speaking at the COVID-19 media briefing, the Director-General emphasized that the virus is capable of community transmission but can be contained with the right measures.



"

**Our message to all countries is: this is not one-way street. We can push this #coronavirus back.**

**Your actions now will determine the course of the #COVID19 outbreak in your country.**

**There's no choice but to act now. [pic.twitter.com/osNPVas2Tr](https://pic.twitter.com/osNPVas2Tr)**

— Tedros Adhanom Ghebreyesus (@DrTedros) March 2, 2020"

### Key materials:

- [WHO Director-General's opening remarks at the media briefing on COVID-19 - 2 March 2020](#)
- [Periscope recording of the press conference](#)
- [Video clips for the broadcasters](#)
- [Daily COVID-19 situation report](#)

## Mission of WHO experts arrive in Iran

2 March 2020

Landing in Tehran, the experts aim to identify transmission dynamics and at-risk populations, as well as provide guidance on strengthening and scaling up the response and readiness efforts.

The mission arrived along with a shipment containing medical supplies and protective equipment to support over 15,000 health care workers and enough laboratory kits to test and diagnose nearly 100,000 people.

The mission will build on the COVID-19 preparedness and response work already underway by WHO's country office in the Islamic Republic of Iran.

"

A team of [@WHO](#) experts has landed in Tehran, IR [#Iran](#) to work w/ health & other authorities to review/support the ongoing response to [#COVID19](#) outbreak in IR. The plane carrying the team also contained a shipment of medical supplies & protective equipment <https://t.co/Kb8Hug4INd> [pic.twitter.com/zRBS0pfpqc](https://t.co/zRBS0pfpqc)

— WHO EMRO ([@WHOEMRO](#)) [March 2, 2020](#)"

### Key materials:

[EMRO news release](#)

## UN releases US\$15 million for COVID-19 response

1 March 2020

UN Humanitarian Chief Mark Lowcock released US\$15 million from the Central Emergency Response Fund (CERF) to WHO and UNICEF to help fund global efforts to contain the COVID-19 virus.

This grant will help countries with fragile health systems boost their detection and response operations. It will fund essential activities including monitoring the spread of the virus, investigating cases, and the operation of national laboratories.

"

**\$15 million has just been released from [@UNCERF](#) to help fund global efforts to contain the [#coronavirius](#).**

**The funds will help countries with fragile health systems boost their detection and response operations. [#COVID19](#) <https://t.co/J4qWgZVG9R>**

— UN Humanitarian ([@UNOCHA](#)) [March 1, 2020](#)"

### Key materials:

# What every individual can do to protect themselves and others

28 February 2020

In a daily COVID-19 press briefing the WHO Director-General said that more than 20 vaccines are in development globally, and several therapeutics are in clinical trials. But we don't need to wait for vaccines and therapeutics. There are things every individual can do to protect themselves and others today.

"

**"There are 10 basic things that you should know.**

**1 □ clean your ✋ regularly with an alcohol-based hand rub, or wash them with □ & 💧.**

**Touching your face after touching contaminated surfaces or sick people is one of the ways the [#coronavirus](#) can be transmitted" -[@DrTedros](#) [pic.twitter.com/Ty8J0zoGKS](https://pic.twitter.com/Ty8J0zoGKS)**

— World Health Organization (WHO) ([@WHO](#)) [February 28, 2020](#)"

## Key materials

- [WHO Director-General's opening remarks at the media briefing on COVID-19 - 28 February 2020](#)
- [Periscope recording of the press conference](#)
- [Video clips for broadcasters](#)
- [Daily COVID-19 situation report](#)

# What every country should be asking itself

27 February 2020

Discussing preparedness for COVID-19, the WHO Director-General listed questions every health minister should be able to answer. Here are a selection:

- Are we ready for the first case?
- Do we have enough medical oxygen, ventilators and other vital equipment?
- How will we know if there are cases in other areas of the country?
- Do our health workers have the training and equipment they need to stay safe?
- Do we have the right measures at airports and border crossings to test people who are sick?
- Do our labs have the right chemicals that allow them to test samples?
- Are we ready to treat patients with severe or critical disease?
- Do our hospitals and clinics have the right procedures to prevent and control infections?
- Do our people have the right information? Do they know what the disease looks like?

"

**Daily media briefing on [#COVID19](#) with [@DrTedros](#) [#coronavirus](#) <https://t.co/0MwL15ofKt>**

— World Health Organization (WHO) ([@WHO](#)) [February 27, 2020](#)"

#### Key materials:

- [Periscope recording of press conference](#)
- [WHO Director-General's opening remarks at the mission briefing on COVID-19 - 27 February 2020](#)
- [Video for broadcasters](#)

## Get your workplace ready for COVID-19

26 February 2020

WHO has issued new COVID-19 guidance for businesses and employers, which outlines simple ways to prevent the spread of the virus, things to consider when employees travel and how to get your business ready in case COVID-19 arrives in your community.

**Key materials:**

[Workplace guidance](#)

## #AskWHO about COVID-19

26 February 2020

Watch Dr Maria Van Kerkhove, WHO's technical lead on the new coronavirus, answer questions from the public about COVID-19. She begins by explaining how the virus spreads and how to protect yourself from COVID-19. Dr Van Kerkhove was a member of the recent joint mission of experts to China to learn more about the outbreak.

"  
**LIVE #AskWHO on #COVID19 with @mvankerkhove #coronavirus <https://t.co/ZxbbOq5hLE>**  
— World Health Organization (WHO) (@WHO) February 26, 2020"

**Key materials:**

[WHO advice on how to protect yourself](#)

# Do your part to stop stigma and combat COVID-19

25 February 2020

The WHO Director-General has repeatedly called for "solidarity, not stigma" to address COVID-19.

WHO has worked with UNICEF and the International Federation of Red Cross and Red Crescent Societies on a guide to preventing and addressing the social stigma associated with the disease.

It's vital to fight stigma because it can drive people to hide the illness, not seek health care immediately and discourage them from adopting healthy behaviours.

This guide includes some tips and messages, as well as dos and don'ts on language when talking about COVID-19.

"

**Given that [#COVID19](#) is a new disease, it is understandable that its emergence and spread cause confusion, anxiety and fear among the general public. These factors can give rise to harmful stereotypes. <https://t.co/7kH9y0NViC> [#coronavirus](#) [pic.twitter.com/5CQK2OSNih](https://pic.twitter.com/5CQK2OSNih)**

— World Health Organization (WHO) (@WHO) [February 25, 2020](#)"

## Key materials:

[Guide to preventing and addressing social stigma](#)

# WHO-China joint mission shares findings and recommendations

25 February 2020

The team of 25 international and Chinese experts travelled to several different provinces, with a small group going to Wuhan, the epicenter of the outbreak.

Among the team's findings was that the epidemic peaked and plateaued between the 23rd of January and the 2nd of February, and has been declining steadily since then. The team also estimates that the measures taken in China have averted a significant number of cases.

In a press conference in Geneva on Tuesday 25 February, Dr Bruce Aylward, the mission's lead, reported back on what China has done, its impact and implications.

### Key materials:

- [Periscope recording of Dr Aylward's press briefing](#)
- [WHO Director-General's opening remarks at the mission briefing on COVID-19 - 26 February 2020](#)
- [Report of the WHO-China Joint Mission on Coronavirus Disease 2019 \(COVID-19\)](#)

## WHO-led team of experts travel to Italy

24 February 2020

A team of experts from WHO and the European Centre for Disease Prevention and Control (ECDC) will focus on: understanding how events developed, learning from the Italian experience and supporting control and prevention efforts by the authorities.

To limit further human to human transmission, WHO experts will provide support in the areas of clinical management, infection prevention and control, surveillance and risk communication.

"  
 Joint team of [@WHO\\_Europe](#) and [#ECDC](#) is set and ready to help [@MinisteroSalute](#) on the ground with  clinical management  infection control  surveillance  risk communication. Top priority to understand and retain [#Covid\\_19](#) transmission.  
 — Hans Kluge ([@hans\\_kluge](#)) [February 23, 2020](#)"

### Key materials:

## UN Secretary-General visits WHO

24 February 2020

UN Secretary-General António Guterres met with the WHO Director-General and other WHO leaders, receiving a briefing on COVID-19, Ebola and polio. He expressed great admiration for health workers, including in China, who are working tirelessly to save lives. The UN Secretary-General also stressed that there is no space for stigma and discrimination and said we must be guided by science and human rights-based interventions.

"

As our [@WHO](#) colleagues continue their relentless work in response to the [#coronavirus](#) outbreak, I urge people worldwide to continue following their advice.

We need to rely on science and facts, not stigma and discrimination to get through this [#COVID19](#) outbreak. [pic.twitter.com/BDgMSA7C4i](https://pic.twitter.com/BDgMSA7C4i)

— António Guterres ([@antonioguterres](#)) [February 24, 2020](#)"

"

"My strong appeal to all countries is to assume their responsibilities and to know that they can fully count on the [@WHO](#) to support them in that effort," -- UN Secretary-General visits the World Health Organization, meets with [@DrTedros](#), discusses [#COVID19](#) outbreak. [pic.twitter.com/gHghffgyLi](https://pic.twitter.com/gHghffgyLi)

— UN Geneva ([@UNGeneva](#)) [February 24, 2020](#)"

## WHO leaders address AU and Africa CDC Emergency Meeting



22 February 2020

WHO's Director-General and Regional Director for Africa addressed an emergency meeting of ministers of health to agree on a continental strategy for Africa to strengthen preparedness and responses to the COVID-19 outbreak.

"  
**It's great to see African leadership in action. Today's meeting on [#coronavirus](#) convened by the [@\\_AfricanUnion](#) and attended by [@WHO](#) and partners is a powerful demonstration of collective political commitment to tackling [#coronavirus](#) [pic.twitter.com/crsYAZIC1F](https://pic.twitter.com/crsYAZIC1F)**  
 — Dr Matshidiso Moeti ([@MoetiTshidi](#)) [February 22, 2020](#)"

## 11 000 African health care workers have been trained on COVID-19

22 February 2020

During the past month about 11 000 African health workers have been trained using WHO's online courses on COVID-19, which are available free of charge in English, French & other languages.

"  
**"During the past month about 11,000 African [#healthworkers](#) have been trained using WHO's online courses on [#COVID19](#), which are available free of charge in English, French & other languages at <https://t.co/RjHSBkVjIH>"-[@DrTedros](#) [#coronavirus](#)**  
 — World Health Organization (WHO) ([@WHO](#)) [February 22, 2020](#)  
 "

## Special envoys on COVID-19 selected

21 February 2020

The WHO Director-General appointed six special envoys on COVID-19, to provide strategic advice and high-level political advocacy and engagement in different parts of the world.

The six envoys are:

- Professor Dr Maha El Rabbat, former Minister of Health of Egypt;
- Dr David Nabarro, former special adviser to the United Nations Secretary-General on the 2030 Agenda for Sustainable Development and Climate Change;
- Dr John Nkengasong, Director of the African Centres for Disease Control and Prevention;
- Dr Mirta Roses, former Director of the WHO Region of the Americas;
- Dr Shin Young-soo, former Regional Director of the WHO Region of the Western Pacific;
- Professor Samba Sow, Director-General of the Center for Vaccine Development in Mali.

"

To reinforce political advocacy on **#COVID19** around the globe, **@WHO** named 6 global envoys. Africa is ably represented by Dr **@JNkengasong**, director of **@AfricaCDC**, Dr Samba Sow, DG of the Centre for Vaccine Development in **#Mali** +Prof Maha El Rabbat, former Health Min of **#Egypt**. [pic.twitter.com/lmyED8YLMz](https://pic.twitter.com/lmyED8YLMz)

— Moussa Faki Mahamat (@AUC\_MoussaFaki) [February 22, 2020](#)"

"

I am pleased to be appointed as one of the **@WHO** Special Envoys for the global **#COVID19** response. Thank you for the opportunity. I will contribute as best I can to the collective response effort. <https://t.co/XdpqYAld4g>

— Dr David Nabarro (@davidnabarro) [February 22, 2020](#)

"

### Key materials:

[WHO Director-General's opening remarks at the 21 February 2020 media briefing](#)

# WHO Director-General warns that the window of opportunity is “narrowing”

21 February 2020

Dr Tedros Adhanom Ghebreyesus emphasised that the window of opportunity to contain the outbreak is “narrowing” and that the international community needs to act quickly, including through financing.

“  
**Countries with weaker health systems need the 🌐's focus & support now, due to the potential for #COVID19 to spread to those locations.  
We must take advantage of the window of opportunity we have to contain the outbreak. We don't want to look back later & regret failing to act.**  
— Tedros Adhanom Ghebreyesus (@DrTedros) February 21, 2020”

## WHO and countries are engaged in massive preparedness activities

18 February 2020

WHO has shipped supplies of personal protective equipment to 21 countries.

By the end of this week, 40 countries in Africa and 29 in the Americas are due to have the ability to detect COVID-19.

Key materials:

- [WHO Director-General's remarks](#)
- [Periscope recording of press briefing \(34m52s\)](#)
- [Video for broadcasters](#)

# WHO issues guidance on mass gathering and taking care of ill travellers

17 February 2020

Based on lessons from H1N1 and Ebola, WHO has outlined planning considerations for organizers of mass gatherings, in light of the COVID-19 outbreak. It has also issued advice on how to detect and take care of ill travellers, who are suspected COVID-19 cases.

## Interim guidance:

- [Key planning recommendations for Mass Gatherings in the context of the current COVID-19 outbreak](#)
- [Management of ill travellers at Points of Entry – international airports, seaports and ground crossings – in the context of COVID -19 outbreak](#)

# WHO Director-General calls for solidarity at Munich Security Conference

15 February 2020

"We must be guided by solidarity, not stigma. The greatest enemy we face is not the virus itself; it's the stigma that turns us against each other. We must stop stigma and hate."

WHO Director-General Dr Tedros Adhanom Ghebreyesus called on the international community to use the window of opportunity to prepare for COVID-19 at the [Munich Security Conference](#), a leading global forum on preeminent crises and future security challenges.

## Key materials:

- [WHO Director-General's remarks at the Munich Security Conference](#)
- [MSC video recording of the WHO Director-General's remarks](#)

# UN activates WHO-led Crisis Management Team

12 February 2020

The Crisis Management Team (CMT) mechanism brings together WHO, [OCHA](#), [IMO](#), [UNICEF](#), [ICAO](#), [WFP](#), [FAO](#), the [World Bank](#) and several UN Secretariat departments.

The CMT will be managed by the Executive Director of WHO Health Emergencies Programme, Dr Mike Ryan. It will help WHO focus on the health response while the other agencies will bring their expertise to bear on the wider social, economic and developmental implications of the outbreak.

## Key materials:

[Situation report - 23](#)

# Research and innovation forum sets priorities for COVID-19 research

12 February 2020

More than 400 experts and funders met at WHO's Geneva HQ to accelerate research to stop the COVID-19 outbreak. Featuring updates from the frontlines of the response in China, the meeting addressed issues such as: developing easy-to-apply diagnostics, accelerating existing vaccine candidates and preventing infection.

## Key materials:

- [WHO news release](#)
- [R&D Blueprint webpage](#)

# Novel coronavirus disease named COVID-19

11 February 2020

Guidelines mandated that the name of the disease could not refer to a geographical location, an animal, an individual or group of people. It also needed to relate to the disease and be pronounceable. This choice will help guard against the use of other names that might be inaccurate or stigmatizing.

"

**🚨 BREAKING 🚨**

"We now have a name for the #2019nCoV disease:

**COVID-19.**

I'll spell it: C-O-V-I-D hyphen one nine – COVID-19"

-@DrTedros #COVID19 [pic.twitter.com/Kh0wx2qfzk](https://pic.twitter.com/Kh0wx2qfzk)

— World Health Organization (WHO) (@WHO) February 11, 2020"

## Global community asks for US\$675 million to help protect vulnerable countries from outbreak

5 February 2020

With the 2019-nCoV outbreak set to test the resilience of countries, the US\$675 million Strategic Preparedness and Response Plan (SPRP) aims to protect states with weaker health systems.

Covering areas ranging from international coordination to country readiness to research and innovation, the SPRP aims to limit transmission, provide early care, communicate key information and minimize social and economic impacts.

**Key materials:**

- [WHO news release](#)
- [Strategic Preparedness and Response Plan](#)
- [Video for broadcasters: WHO press conference](#)

## Public Health Emergency of International Concern declared

30 January 2020

WHO Director-General Dr Tedros Adhanom Ghebreyesus declared the 2019-nCoV outbreak a Public Health Emergency of International Concern, following a second meeting of the Emergency Committee convened under the International Health Regulations.

Acknowledging that cases have been reported in five WHO regions in one month, the Committee noted that early detection, isolating and treating cases, contact tracing and social distancing measures – in line with the level of risk – can all work to interrupt virus spread.

**Key materials:**

- [Statement on the second meeting of the International Health Regulations \(2005\) Emergency Committee](#)
- [WHO Director-General's statement](#)
- [Press conference video for broadcasters](#)

# WHO and China leaders meet in Beijing to discuss coronavirus outbreak

28 January 2020

WHO Director-General Dr Tedros Adhanom Ghebreyesus met with China's President Xi Jinping in Beijing about the coronavirus outbreak.

Dr Tedros was joined by WHO Regional Director Dr Takeshi Kasai and Executive Director of the WHO Health Emergencies Programme Dr Mike Ryan, and also met State Councilor and Minister of Foreign Affairs Wang Yi and Minister of Health Ma Xiaowei.

The discussions focused on continued collaboration on containment measures in Wuhan, public health measures in other cities and provinces, conducting further studies on the severity and transmissibility of the virus, continuing to share data, and for China to share biological material with WHO. These measures will advance scientific understanding of the virus and contribute to the development of medical countermeasures such as vaccines and treatments.

The two sides agreed that WHO would send international experts to visit China as soon as possible to work with Chinese counterparts on increasing understanding of the outbreak to guide global response efforts.

"

**Stopping the spread of the new [#coronavirus](#) both in [#China](#) and globally is [@WHO](#)'s highest priority. We are working closely with the [CN](#) government on measures to understand the virus and limit transmission. <https://t.co/WGadkXEpP5>**

**— Tedros Adhanom Ghebreyesus ([@DrTedros](#)) [January 28, 2020](#)**

"

**Key materials:**

[News release](#)



# Launch of free online introductory course on the novel coronavirus

25 January 2020

Covering topics such as why the novel coronavirus is a global threat to human health and how to effectively engage communities in the response, this free online course gives an introduction to the novel coronavirus. It is available for free and online in English, French, Spanish and Chinese.



[WHO\\_nCoV\\_Introductory\\_Video](#) from [openWHO](#) on [Vimeo](#)

## **Key materials:**

OpenWHO course: [Emerging respiratory viruses, including nCoV: methods for detection, prevention, response and control](#)

# First meeting of Emergency Committee regarding the novel coronavirus outbreak

23 January 2020

On 22-23 February, the WHO Director General convened the Emergency Committee to consider the outbreak of the novel coronavirus in China, with cases also reported in the Republic of Korea, Japan, Thailand and Singapore.

Several Committee members considered it still too early to declare a Public Health Emergency of International Concern (PHEIC), given its restrictive and binary nature. Among other recommendations, the Committee advised that it be recalled in approximately 10 days.

## Key materials:

[Statement on the first meeting of the International Health Regulations \(2005\) Emergency Committee](#)

# WHO makes field visit to Wuhan, China

21 January 2020

The delegation observed and discussed active surveillance processes, temperature screening at Wuhan Tianhe airport, laboratory facilities, infection prevention and control measures at Zhongnan hospital and its associated fever clinics, and the deployment of a test kit to detect the virus.

The delegation also discussed public communication efforts and China's plan to expand the case definition for the novel coronavirus, which will build a clearer picture of the spectrum of severity of the virus.

At the end of the visit, the Chinese Government released the primers and probes used in the test kit for the novel coronavirus to help other countries detect it. Chinese experts also shared a range of protocols that will be used in developing international guidelines, including case definitions, clinical management protocols and infection control.

## Key materials:

Statement

## First case of novel coronavirus outside of China confirmed

13 January 2020

Officials confirmed a case of the novel coronavirus in Thailand. It was not unexpected that cases of the novel coronavirus would emerge outside of China and reinforces why WHO calls for active monitoring and preparedness in other countries.

"  
On 13 January 2020, the TH#Thailand's Ministry of Public Health @pr\_moph reported the first imported case of lab-confirmed novel #coronavirus (2019-nCoV) from #Wuhan, #China CN <https://t.co/Wr6VZTnCj2> [pic.twitter.com/U7Njua8gvr](https://pic.twitter.com/U7Njua8gvr)  
— World Health Organization (WHO) (@WHO) January 14, 2020"

### Key materials:

[News release](#)

## China makes genome sequencing of novel coronavirus publicly available

11 - 12 January 2020

China shares the genetic sequence of the novel coronavirus, which will be very important for other countries as they develop specific diagnostic kits.

### Key materials:

[Disease outbreak news item](#)

## WHO issues its first guidance on the novel coronavirus

10 January 2020

Developed with reference to other coronaviruses, such as [SARS](#) and [MERS](#), WHO issued a tool for countries to check their ability to detect and respond to a novel coronavirus.

This information is to help with identifying main gaps, assessing risks and planning for additional investigations, response and control actions.

### Key materials:

[National capacities review tool](#)

## WHO reports on pneumonia of unknown cause in China

5 January 2020

WHO published its risk assessment and advice and reported on the status of patients and the public health response by national authorities to the cluster of pneumonia cases in Wuhan.

### Key materials:

[Disease outbreak news item](#)

# WHO responding to a cluster of pneumonia cases in Wuhan

4 January 2020

WHO announced it would work across its 3 levels – country office, regional office and HQ – to track the situation and share details as they emerged.

"  
**#China** has reported to WHO a cluster of **#pneumonia** cases —with no deaths— in Wuhan, Hubei Province CN . Investigations are underway to identify the cause of this illness.  
 — World Health Organization (WHO) (@WHO) January 4, 2020"

## Pneumonia of unknown cause reported to WHO China Office

31 December 2019

At the close of 2019, the WHO China Country Office was informed of a pneumonia of unknown cause, detected in the city of Wuhan in Hubei province, China. According to the authorities, some patients were operating dealers or vendors in the Huanan Seafood market.

Staying in close contact with national authorities, WHO began monitoring the situation and requested further information on the laboratory tests performed and the different diagnoses considered.

### Key materials:

[Disease outbreak news item](#)

Exhibit F of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a trailing flourish, positioned above a horizontal line.

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Signature



[Canada.ca](#) > [Health](#) > [Diseases and conditions](#) > [Coronavirus disease \(COVID-19\)](#)

# Coronavirus disease (COVID-19): Outbreak update

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[Outbreak update](#)

[Symptoms and treatment](#)

[Prevention and risks](#)

[Being prepared](#)

[For health professionals](#)

[Canada's response](#)

[Travel restrictions and exemptions](#)

[Awareness resources](#)

## On this page

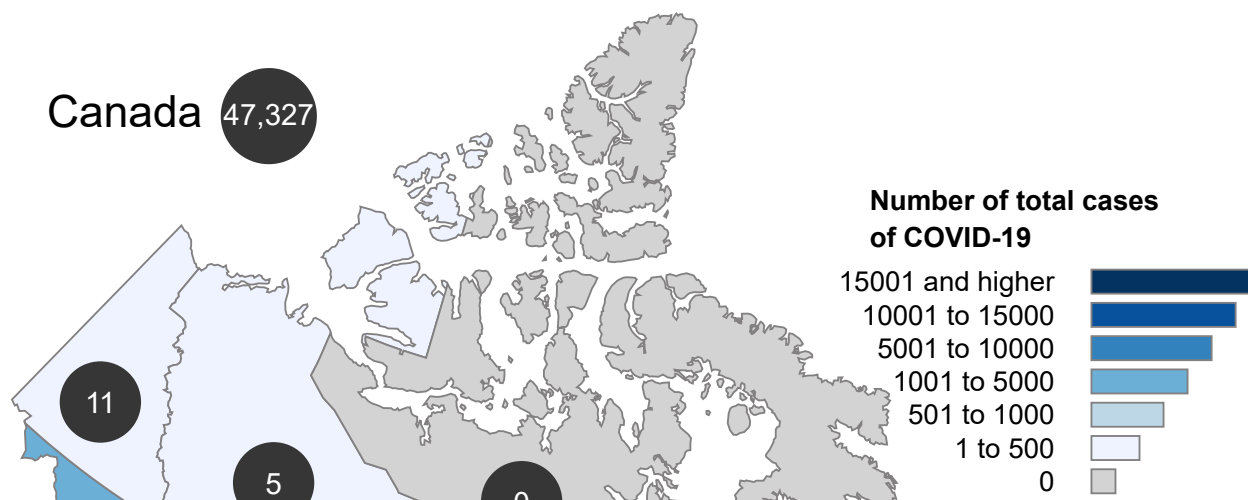
- [Current situation](#)
- [Risk to Canadians](#)
- [Who is most at risk](#)
- [How Canada is monitoring COVID-19](#)
- [History](#)
- [Contact us](#)
- [Email updates](#)
- [News](#)

## Current situation

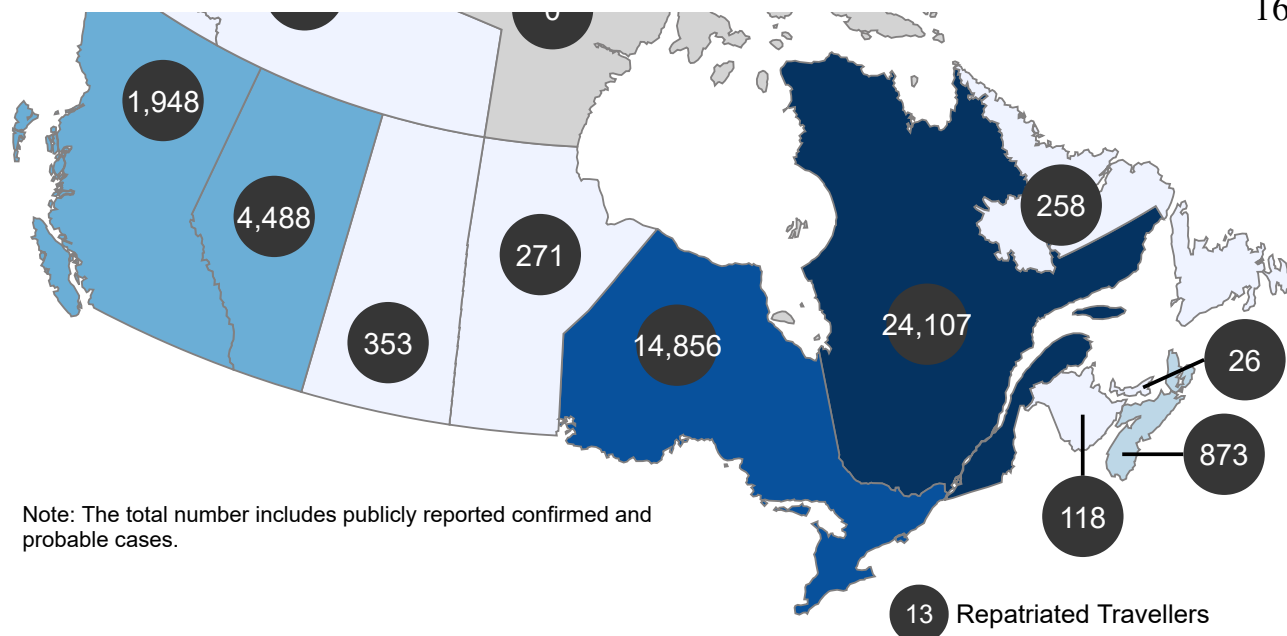
Number of COVID-19 **Total Cases** in Canada on April 27th, 2020

Last Data Update 2020-04-27 11:01 EDT

**i** Hover over provinces and territories to see cases over time or hit the play button to animate the map.







The number of COVID-19 total cases in **Nunavut** was **0** as of April 27th, 2020.

## Nunavut

Number of Total Cases

► Map - Total Number of COVID-19 Cases in Canada - Text Description

Additional COVID-19 case information:

- [epidemiological summary](#).
- [full epidemiological report \(PDF\)](#)
- [preliminary data tables related to confirmed cases \(dataset\)](#)
- [interactive map and graphs of COVID-19 cases and deaths in Canada](#)

- [using data and modelling to inform public health action](#) (PDF)

## Global

On March 11, 2020, [the World Health Organization \(WHO\) assessed COVID-19 as a pandemic](#).

This assessment by the WHO is not unexpected. Describing the situation as a pandemic does not change the WHO's assessment of the threat posed by COVID-19 and it does not change what the WHO is doing. It also does not change what countries around the world should do. For that reason, it does not change the approach we are taking in Canada.

Canada's public health system is prepared. Since the outset, the Public Health Agency of Canada (along with [public health authorities](#) at all levels of government across the country) have been working together to ensure that our preparedness and response measures are appropriate and adaptable, based on the latest science and the evolving situation.

Aside from Canada, other countries and regions are reporting cases (listed below). An official [global travel advisory](#) is in effect: avoid non-essential travel outside Canada until further notice.

▶ North America

▶ Central America, Caribbean and South America

▶ Africa

▶ Europe

▶ Asia

▶ Oceania

# Risk to Canadians

COVID-19 is a serious health threat, and the situation is evolving daily. The risk will vary between and within communities, but given the increasing number of cases in Canada, the risk to Canadians is considered **high**.

This does not mean that all Canadians will get the disease. It means that there is already a significant impact on our health care system. If we do not flatten the epidemic curve now, the increase of COVID-19 cases could impact health care resources available to Canadians.

We continue to reassess the public health risk based on the best available evidence as the situation evolves.

## Who is most at risk

While COVID-19 can make anyone sick, some Canadians with specific health circumstances are at an increased risk of more severe outcomes, including individuals:

- aged 65 and over
- with compromised immune systems
- with underlying medical conditions

In addition, social and economic circumstances may also be a factor in identifying someone who is vulnerable to COVID-19. This includes anyone who has:

- economic barriers
- difficulty accessing transportation
- difficulty accessing medical care or health advice
- unstable employment or inflexible working conditions
- insecure, inadequate, or nonexistent housing conditions

- ongoing specialized medical care or needs specific medical supplies
- social or geographic isolation, like in remote and isolated communities
- difficulty reading, speaking, understanding or communicating
- ongoing supervision needs or support for maintaining independence
- difficulty doing preventive activities, like frequent hand washing and covering coughs and sneezes

Think you might have COVID-19?

Take a self-assessment

## How Canada is monitoring COVID-19

The health and safety of all Canadians is our top priority.

The Public Health Agency of Canada is working with provinces, territories and international partners, including the World Health Organization, to actively monitor the situation. Global efforts are focused on containment of the outbreak and the prevention of further spread.

Canada's Chief Public Health Officer of Canada is in close contact with provincial and territorial Chief Medical Officers of Health to ensure that any cases of COVID-19 occurring in Canada continue to be rapidly identified and managed in order to protect the health of Canadians.

Canada's National Microbiology Laboratory is performing diagnostic testing for the virus that causes COVID-19. The laboratory is working in close collaboration with provincial and territorial public health laboratories, which are now able to test for COVID-19. A summary of people tested in Canada is available and updated each week day.

**National Microbiology Laboratory's summary of people tested in Canada as of April 27, 2020, 10 am EDT**

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<b>Total number of patients tested in Canada</b>	<b>Total positive</b>	<b>Total negative</b>
717,451	48,990	666,689

This testing summary represents information collected by the laboratory and **not** the total reported cases in Canada. The remainder of tests not reported here are still being resolved.

Should there be any differences with the national case count compared with testing numbers reported by provincial and territorial public health officials, provincial data should be considered the most up-to-date.

For more information, visit [Canada's response page](#).

## History

### ▼ April 2020

- On April 3, Canada announces an investment of \$100 million to **improve access to food** for Canadians facing social, economic, and health impacts of the COVID-19 pandemic.
- On April 3, worldwide COVID-19 cases reach **1 million**.
- On April 2, Canada launches the **Canada COVID-19 app** on iOS and Android to provide Canadians with the latest information on COVID-19 and a way to check their symptoms.
- On April 2, Canada surpasses **10,000 confirmed cases** of COVID-19.

### ▼ March 2020

- On March 31, Canada announces new **partnerships with Canadian industries**, under Canada's Plan to Mobilize Industry to fight COVID-19. The Government of Canada plans to invest \$2 billion to support diagnostic testing and to purchase ventilators and protective personal equipment.
- On March 30, Canada states that all passengers flying in Canada will be subject to a **health check prior to boarding**.
- On March 29, Canada introduces measures to support **vulnerable Canadians** to help cope with the health, social, and economic impacts of COVID-19.
- On March 27, Canada announces support for **small businesses** facing impacts of the pandemic, as part of the COVID-19 Economic Response Plan.
- On March 23, Canada announces support to quickly **mobilize Canadian researchers and life sciences companies** to support large-scale efforts towards countermeasures to combat COVID-19, including potential vaccines and treatments.
- On March 23, Canada announces new measures to support **local farmers and agri-food businesses** in Canada facing financial hardship due to the impacts of the COVID-19 pandemic.
- On March 18, Canada announces **financial help**, through the COVID-19 Economic Response Plan, for Canadians and businesses facing hardship as a result of the COVID-19 outbreak.
- On March 18, Canada implements a **ban on foreign nationals** from all countries, except the United States from entering Canada, **Canada-U.S. border closes** to all non-essential travel, and

**redirects international passenger flight arrivals** to four airports in Calgary, Vancouver, Toronto and Montreal.

- On March 16, Canada advises travellers entering Canada to **self-isolate for 14 days**.
- On March 13, Canada advises Canadians to avoid all **non-essential travel** outside of Canada until further notice.
- On March 11, the World Health Organization declares the global outbreak of COVID-19 a **pandemic**.
- On March 9, Canada confirms its **first death related to COVID-19**.

▶ February 2020

▶ January 2020

▶ December 2019

## Contact us

For information on COVID-19, refer to our [frequently asked questions](#). If you are looking for information on COVID-19, specific to your province, refer to our [resources page](#).

If you have additional questions that are not answered on our website:

- call us at 1-833-784-4397 (interpretation services are available in multiple languages)
- email us at [phac.covid19.aspc@canada.ca](mailto:phac.covid19.aspc@canada.ca)

Note that we are currently experiencing a high volume of requests and long wait times.

# Email updates

[Get COVID-19 email updates.](#) Sign up to receive important health and safety information from the Government of Canada.

## News

Filter items

Showing 1 to 4 of 64 entries

Show  entries

Title <input type="button" value="↑"/> <input type="button" value="↓"/>	Date <input type="button" value="↑"/> <input type="button" value="↓"/>
<a href="#"><u>Statement from the Chief Public Health Officer of Canada on COVID-19</u></a>	2020-04-26
<a href="#"><u>Chloroquine and hydroxychloroquine can have serious side effects</u></a>	2020-04-25
<a href="#"><u>Foreign ministers from 13 countries agree on key principles to keep transportation links and supply chains open</u></a>	2020-04-17
<a href="#"><u>New measures introduced for non-medical masks or face coverings in the Canadian transportation system</u></a>	2020-04-17

### **i** What COVID-19 information do you need?

- Health and safety
  - Prevention and risks
    - [What is my risk of getting COVID-19 in Canada?](#)
    - [Quarantine \(self-isolate\) vs isolate](#)



- Physical (social) distancing and how it helps minimize COVID-19
- Am I able to go outside?
- Surface contamination
- Pregnancy and risks related to COVID-19
- Can COVID-19 be transmitted through food?
- Can my pet or other animals get sick from this virus?
- Hygiene
- Wearing masks
- Symptoms and treatment
  - Self-assessment tool to help determine if your symptoms require further care
  - What are the symptoms?
  - How is it transmitted?
  - Treatment?
  - Should I call my doctor?
  - What can I do to care for my mental health?
- Being prepared
  - For individuals
  - Communities
  - Schools and daycares
  - Workplaces
  - How do I care for a person with COVID-19 at home?
  - I am essential employee, what can I do to protect myself while on the job?
  - Public health measures to prevent and reduce the spread of COVID-19 in the workplace
  - Are small gatherings still allowed to take place?
- Drug and medical device supply monitoring

- Travel restrictions and exemptions
  - Are Canadians currently able to travel to the U.S.?
  - Travellers arriving in Canada
  - Avoid all non-essential travel
  - Avoid all travel on cruise ships
  - Registration of Canadians Abroad service
  - Check if you have been exposed
  - I have to travel for essential reasons. How can I reduce my risk of infection?
  - I am a Canadian travelling abroad and I need support. Who can I contact?
  - I am a traveller trying to return home to Canada. How do I get financial support while abroad?
- For clinical trial sponsors
- Income support
  - Canada Emergency Response Benefit (CERB)
  - CERB: Questions and Answers
- Additional economic and financial support
  - Individuals
    - Individuals and families
      - Increasing the Canada Child Benefit
      - Special Goods and Services Tax credit payment
      - Extra time to file income tax returns
      - Mortgage support
    - Indigenous peoples
      - Indigenous Community Support Fund
      - Supporting preparedness in First Nations and Inuit communities
    - People who need it most

- Homeless shelters
- Women's shelters and sexual assault centers
- Youth support for mental health
- Seniors
  - Reduced minimum withdrawals for Registered Retirement Income Funds
  - Supporting the delivery of items and personal outreach
  - Immediate and essential services through the New Horizons for Seniors Program
- Students and recent graduates
  - Suspend repayment and interest on Canada Student Loans and Canada Apprentice Loans
  - Temporary changes to Canada Summer Jobs program
- Support for businesses
  - Avoiding layoffs and rehiring employees
    - Canada Emergency Wage Subsidy
    - Temporary 10% Wage Subsidy
    - Extending the Work-Sharing program
    - Temporary changes to Canada Summer Jobs program
  - Deferred payments
    - More time to pay income taxes
    - Deferral of Sales Tax Remittance and Customs Duty Payments until June
  - Access to credit
    - Establishing a Business Credit Availability Program
    - Canada Emergency Business Account
  - Self-employed individuals

- Deferral of Sales Tax Remittance and Customs Duty.
- Payments until June
- More time to pay income taxes
- Support for industries
  - Agriculture, fisheries, and aquaculture
  - Airports
  - Broadcasters
- About COVID-19
  - E-mail updates on COVID-19
  - Current confirmed number of COVID-19 cases in Canada
  - More details about the cases reported in Canada
  - Canadian borders
  - Support for Canadians abroad
  - What is COVID-19?
  - Incubation period
  - How does it spread?
  - What are the risks of getting it?
  - Where can I get information specific to my province or territory?
  - How governments are working together
  - How can I make a difference in Canada's COVID-19 response efforts?

**Date modified:**

2020-04-27

Exhibit **G** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a trailing flourish, positioned above a horizontal line.

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Signature



Press Release No: 29

Date: 14 April 2020

## COVID-19 Puts Over Half of 2020 Passenger Revenues at Risk



### Translation:

[La COVID 19 menace plus de la moitié des revenus de passagers de 2020](#) (pdf)

[国际航协：2020年客运收入或因疫情损失3,140亿美元](#) (pdf)

[El COVID-19 pone en riesgo más de la mitad de los ingresos por pasajeros aéreos](#) (pdf)

**Geneva** - The International Air Transport Association (IATA) released updated analysis showing that the COVID-19 crisis will see airline passenger revenues drop by \$314 billion in 2020, a 55% decline compared to 2019.

On 24 March IATA estimated \$252 billion in lost revenues (-44% vs. 2019) in a scenario with severe travel restrictions lasting three months.

The updated figures reflect a significant deepening of the crisis since then, and reflect the following parameters:

- Severe domestic restrictions lasting three months
- Some restrictions on international travel extending beyond the initial three months
- Worldwide severe impact, including Africa and Latin America (which had a small presence of the disease and were expected to be less impacted in the March analysis).

Full-year passenger demand (domestic and international) is expected to be down 48% compared to 2019. The two main elements driving this are:

- **Overall Economic Developments:** The world is heading for recession. The economic shock of the COVID-19 crisis is expected to be at its most severe in Q2 when GDP is expected to shrink by 6% (by comparison, GDP shrank by 2% at the height of the Global Financial Crisis). Passenger demand closely follows GDP progression. The impact of reduced economic activity in Q2 alone would result in an 8% fall in passenger demand in the third quarter.
- **Travel Restrictions:** Travel restrictions will deepen the impact of recession on demand for travel. The most severe impact is expected to be in Q2. As of early April, the number of flights globally was down 80% compared to 2019 in large part owing to severe travel restrictions imposed by governments to fight the spread of the virus. Domestic markets could still see the start of an upturn in demand beginning in the third quarter in a first stage of lifting travel restrictions. International markets, however, will be slower to resume as it appears likely that governments will retain these travel restrictions longer.

"The industry's outlook grows darker by the day. The scale of the crisis makes a sharp V-shaped recovery unlikely. Realistically, it will be a U-shaped recovery with domestic travel coming back faster than the international market. We could see more than half of passenger revenues disappear. That would be a \$314 billion hit. Several governments have stepped up with new or expanded financial relief measures but the situation remains critical. Airlines could burn through \$61 billion of cash reserves in the second quarter alone. That puts at risk 25 million jobs dependent on aviation. And without urgent relief, many airlines will not survive to lead the economic recovery," said Alexandre de Juniac, IATA's Director General and CEO.

### Financial Relief

Governments must include aviation in stabilization packages. Airlines are at the core of a value chain that supports some 65.5 million jobs worldwide. Each of the 2.7 million airline jobs supports 24 more jobs in the economy.

"Financial relief for airlines today should be a critical policy measure for governments. Supporting airlines will keep vital supply chains working through the crisis. Every airline job saved will keep 24 more people employed. And it will give airlines a fighting chance of being viable businesses that are ready to lead the recovery by connecting economies when the pandemic is contained. If airlines are not ready, the economic pain of COVID-19 will be unnecessarily prolonged," said de Juniac.

IATA proposes a number of relief options for governments to consider, including:

- **Direct financial support** to passenger and cargo carriers to compensate for reduced revenues and liquidity attributable to travel restrictions imposed as a result of COVID-19;
- **Loans**, loan guarantees and support for the corporate bond market by governments or central banks. The corporate bond market is a vital source of finance for airlines, but the eligibility of corporate bonds for central bank support needs to be extended and guaranteed by governments to provide access for a wider range of companies.
- **Tax relief:** Rebates on payroll taxes paid to date in 2020 and/or an extension of payment terms for the rest of 2020, along with a temporary waiver of ticket taxes and other government-imposed levies.

Read [Alexandre de Juniac's speech](#)

Read the [COVID-19: Updated Impact Assessment, 14 April](#) (pdf), presentation by Brian Pearce, IATA's Chief Economist

### For more information, please contact:

Corporate Communications

Tel: +41 22 770 2967

Email: [corpcomms@iata.org](mailto:corpcomms@iata.org)

**Notes for Editors**

- IATA (International Air Transport Association) represents some 290 airlines comprising 82% of global air traffic.
- You can follow us at [www.twitter.com/iata](https://www.twitter.com/iata) for announcements, policy positions, and other useful industry information.

Exhibit **H** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of stylized, cursive letters, positioned above a horizontal line.

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Signature



News Releases

**Air Canada Provides Update in Response to Covid-19**

- [News Releases](#)
- [Media Centre](#)
- [Photos](#)
- [Corporate Governance](#)
- [Investor Relations](#)

MONTREAL, March 30, 2020 /CNW Telbec/ - Air Canada said today that due to the unprecedented impact of Covid-19 upon its business, the airline will reduce capacity for the Second Quarter of 2020 by 85%-90% compared to last year's Q2 and will place 15,200 members of its unionized workforce on Off Duty Status and furlough about 1,300 managers. The workplace reductions will be effective on or about April 3 and are intended to be temporary.

"The unpredictable extent and duration of the Covid-19 pandemic requires a significant overall response. To furlough such a large proportion of our employees is an extremely painful decision but one we are required to take given our dramatically smaller operations for the next while. It will help ensure that Air Canada can manage through this crisis that is affecting airlines everywhere. We believe that the temporary nature of these reductions, many achieved through voluntary programs, combined with other mitigation measures, will position us to restore regular operations as soon as the situation improves," said Calin Rovinescu, President and Chief Executive.

"I understand and regret the impact this will have upon our employees and their families. I thank all of our employees, as well as union leaders, for working with us constructively to quickly implement these measures".

In addition to the temporary workforce reductions, other measures implemented by Air Canada include:

- A company-wide cost reduction and capital deferral program, targeting at least \$500 million.
- Drawing down operating lines of credit of approximately \$1 billion, to provide additional liquidity.
- Mr. Rovinescu, Air Canada's President & Chief Executive Officer, and Michael Rousseau, Air Canada's Deputy Chief Executive and Chief Financial Officer, have agreed to forgo 100% of their salary. Senior Executives will forgo between 25% - 50% of their salary while members of Air Canada's Board of Directors have agreed to a 25% reduction. All other Air Canada managers will have their salaries reduced 10% for the entire Second Quarter.
- Air Canada suspended its share repurchase program effective March 2, 2020.

Earlier today, the Prime Minister of Canada announced a new wage subsidy program the details of which will be communicated later in the week and Air Canada will assess the impact of this on its mitigation plans. In addition, the Prime Minister also publicly acknowledged that the crisis faced by industries such as airlines will need additional help beyond wage subsidy and loan credit measures already announced by the federal government.

Subject to further government restrictions, while the crisis is ongoing Air Canada intends to continue to serve a small number of international and U.S. trans-border destinations from select Canadian cities after April 1, 2020 in addition to a reduced network in Canada. In addition, Air Canada will also continue to operate special international flights in collaboration with the Government of Canada to repatriate Canadians abroad as well as cargo-only flights to ensure the continued movement of essential goods, including medical supplies.

Information about Air Canada's Covid-19 response including all schedule changes can be found at [www.aircanada.com](http://www.aircanada.com).

## About Air Canada

Air Canada is Canada's largest domestic and international airline serving nearly 220 airports on six continents. Canada's flag carrier is among the 20 largest airlines in the world and in 2019 served over 51 million customers. Air Canada provides scheduled passenger service directly to 62 airports in Canada, 53 in the United States and 101 in Europe, the Middle East, Africa, Asia, Australia, the Caribbean, Mexico, Central America and South America. Air Canada is a founding member of Star Alliance, the world's most comprehensive air transportation network serving 1,250 airports in 195 countries. 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, which also named Air Canada the 2019 Best Airline in North America. For more information, please visit: [aircanada.com/media](http://aircanada.com/media), follow @AirCanada on [Twitter](#) and join Air Canada on [Facebook](#).

**Internet:** [aircanada.com/media](http://aircanada.com/media)

SOURCE Air Canada

For further information: [media@aircanada.ca](mailto:media@aircanada.ca)

Exhibit I of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a final flourish, positioned above a horizontal line.

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Signature

# Coronavirus | COVID 19

Recently we announced the suspension of our commercial operations for all transborder (United States, including Hawaii) and international (Europe, Mexico, Caribbean, Central America) flights as of Sunday, March 22.

Whether we are flying or not, we are always here for our guests. During this downtime, we will be doing everything we can to accommodate your changing travel needs. We will also continue to ensure our aircraft meet the highest safety and health standards. We are ready to fly when you are.

Since the situation with Coronavirus (COVID-19) is evolving day by day, we have implemented a [flexible change policy \(/en-ca/travel-info/advisories#tabpanel-1462317543748-1\)](/en-ca/travel-info/advisories#tabpanel-1462317543748-1) so you can adjust your travel plans without worry.

## What you need to know

[Flight safety](#)[Change/cancel](#)[Rewards members](#)[Flights home](#)[Boarding policy \(/en-ca/travel-info/safety\)](/en-ca/travel-info/safety)[Face mask policy \(/en-ca/travel-info/safety\)](/en-ca/travel-info/safety)

FEEDBACK

## Manage trips

Check in, change/cancel a flight, select seats and review your itinerary.

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OR

185  
Sign in

Reservation code:

Last name:

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[Lost your reservation code? >](#)



## Safety above all

Giving you more space and expanding cleaning measures, for your safety and peace of mind.

[Learn more \(/en-ca/travel-info/safety\)](/en-ca/travel-info/safety)

## Flexible change or cancellation

**There's no fee to change or cancel your flight.**

[Change/cancel your flights online \(/en-ca/...\)](#)

[Flexible change/cancel policy \(/en-ca/trav...\)](#)

Call times are high: please call only if your travel is within 72 hours.

If you are unable to cancel your flight online, please use [this form \(/en-ca/travel-info/advisories/cancel-booking\)](#).

The full value of your cancelled flight will be credited to a [Travel Bank \(/en-ca/contact-us/faqs/travel-credits\)](#), valid for 24 months from the date of issue. WestJet Vacation packages will be credited as [WestJet dollars \(/en-ca/contact-us/faqs/westjet-dollars\)](#), valid for 24 months.

To request cancellation of a WestJet Vacations package, please [contact us \(/en-ca/contact-us/phone/index\)](#) directly.

If you booked through a Travel Agent (online or directly), Corporate Travel arranger, or another airline, please contact them directly.

FEEDBACK

## Bringing Canadians home

### **We're adding seats to help more Canadians come home**

Available seats on extra flights are capped at our lowest economy fare.

[See all extra flights ↗ \(https://blog.westje...](https://blog.westjet.com)

[Book now \(/en-ca/book-trip/flight\)](/en-ca/book-trip/flight)

## Suspension of transborder and international flights

On Sunday, March 22, 2020 at 11:59pm local time, we suspended flights to and from the United States (including Hawaii), Europe, Mexico, Caribbean, and Central America.

Guests on international flights that depart after 11:59 p.m. March 22 can check the list of [additional flights available \(https://blog.westjet.com/westjet-repatriation-flights-bringing-guests-home-to-canada/\)](https://blog.westjet.com/westjet-repatriation-flights-bringing-guests-home-to-canada/) and [book now \(https://www.westjet.com/en-ca/index\)](https://www.westjet.com/en-ca/index).

If you are unable to secure a flight back to Canada on WestJet, please contact the Canadian Government via [travel.gc.ca](https://travel.gc.ca) to register.

Read the [announcement](#) regarding the suspension of flights.

## Connecting Canadian airports

As international borders close, WestJet is committed to keeping economic lifelines open within Canada. From March 23 to June 4, we are offering flights to all of the cities we currently serve in Canada, but with less frequency.

[See flight schedule \(/en-ca/travel-info/do](/en-ca/travel-info/do)

## WestJet Rewards

### Companion vouchers

We are extending the validity period on the following companion vouchers:

- Unredeemed companion vouchers expiring in March, April or May 2020

- Companion vouchers with an earlier expiry date, that were redeemed for travel between April 1 and June 30, 2020, where travel was cancelled due to COVID-19

[Sign in \(/en-ca/rewards/my-benefits/vouchers\)](/en-ca/rewards/my-benefits/vouchers) to see extended vouchers after April 7, or within 14 days from your cancellation.

## Tier status

We extended or upgraded members who were on track to achieve status in March, April or May and will continue to look after those whose tier status may be impacted in the months ahead. [Learn more \(/en-ca/rewards/tiers/index\)](/en-ca/rewards/tiers/index).

## Travel help and resources

[What you need to know if you're travelling \(/en-ca/travel-info/advisories\)](#)

### Helpful resources

[Government Travel Advice and Advisories](#) [↗](#)

[World Health Organization](#) [↗](#)

[IATA – Air transport & communicable diseases](#) [↗](#)

[Public Health Agency of Canada](#) [↗](#)

[See all travel advisories \(/en-ca/travel-info/advisories\)](/en-ca/travel-info/advisories)

### NOTICE: Affected WestJet Flights

Find out more regarding WestJet's latest Coronavirus (COVID-19) operational updates here.

[See updates \(https://blog.westjet.com/op\)](https://blog.westjet.com/op)



## Frequently asked questions

### 1. Is it safe to travel?

Safety is WestJet's top priority and we are committed to providing our guests and WestJetters a safe travel and work environment. The health risk at this time remains low for Canada and for Canadian travellers. WestJet continues to monitor the situation closely.

### 2. How are WestJet aircraft cleaned?

WestJet has taken additional precautionary measures to expand and increase frequency of our aircraft sanitization at busiest bases.

### 3. Can I cancel my flight?

We have relaxed our cancellation policy for all fare types, so you can change or cancel your flight one time, without a fee.

### 4. WestJet has cancelled my flight – will I get a refund?

The full value of your flight will be refunded to a WestJet travel bank, valid for 24 months from date of issue. If you prefer a refund to original form of payment, we will provide information about when that can be requested at a later date.

### 5. What if I'm travelling on a flight with one of WestJet's partner airlines? Where can I find out more information?

Our global partners are working diligently to provide guests with the most up-to-date information. You can find out more from their pages directly below.

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[Air France](#) 

[Qantas](#) 

[Aeromexico](#) 

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Exhibit **J** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of stylized cursive letters, positioned above a horizontal line.

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Signature



# Coronavirus (COVID-19)

## Temporary suspension of our flights

Due to the coronavirus pandemic, we are temporarily suspending our flights until May 31, 2020.

If you were unable to travel due to the cancellation of our flights, we are providing a flight credit for travel within 24 months of your original return date.

These are extraordinary circumstances, when all airlines and travel companies have been forced to temporarily halt or drastically reduce their operations while governments have decided to close their borders.

This unprecedented situation is well beyond our control; we believe that the 24-month credit is an acceptable solution, and we are confident that our customers will be able to travel again in the near future, once the crisis passes.

## FAQ - Answers to Your Questions (COVID-19)

▾ [Transat cancelled my flight/package. Will I get a refund?](#)

---

▾ [I didn't show up at the airport for my Air Transat flight but didn't notify you in advance that I would not be taking my flight. Am I entitled to a refund or credit?](#)

---

▾ [I notified you between March 12 and March 31 that I would not be travelling. Am I entitled to a refund or credit?](#)

---

▾ [I would like to cancel my trip scheduled for travel after May 31. What do I need to do?](#)

---

▾ [Can I make a new booking for a later departure in 2020?](#)

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✓ [How can I know if I travelled on the same flight as people infected with COVID-19?](#)

✓ [I'm a Canadian still abroad and can't find a flight back to Canada. What can I do?](#)

✓ [I need cancellation confirmation for my insurance. How do I get it?](#)

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[\(1-877-872-6728\)](#)

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**4 a.m. – 8 p.m.**  
**(EDT)**

**7 days a week**

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**Air Transat has been named the 2019 World's Best Leisure Airline**  
[Vote for us in 2020](#)

Exhibit **K** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of a large initial 'M' followed by several loops and a final flourish.

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Signature



## Sunwing announces shift to focus on repatriating Canadians in destination

***Tour operator will temporarily suspend southbound flights and concentrate resources on returning customers safely***

As part of the ongoing efforts to protect our employees and customers and keep Canadians safe throughout the COVID-19 pandemic, Sunwing is cancelling all southbound flights from March 17th until April 9th, 2020 and focusing on repatriating customers in destination.

“The health and well-being of our customers and our employees is our highest priority and we are working around the clock to keep them safe. It’s important that we do our part to contain the spread of COVID-19, while assuring our customers and their families that we are fully committed to bring each and every one of them home to Canada,” said Stephen Hunter, President and CEO, Sunwing Travel Group. Sunwing currently has approximately 100,000 customers in destination.



This morning, the first four rescue flights departed, three from Toronto and one from Montreal. These initial flights will bring over 500 Canadians home from Honduras, Aruba and Panama, all countries that have announced the imminent closure of their borders. Sunwing is working closely with the governments of all our destinations, in collaboration with Canadian government authorities, to continue repatriation flights in the coming days.

In addition to these immediate repatriation measures, Sunwing is temporarily suspending all outgoing flights to most of its sun destinations from March 17th to April 9th inclusive. This decision is essential to the company’s focus on containing the spread of COVID-19 and ensuring all customers return safely. All customers within this window will be eligible for a full cash refund or future travel credit. Customers who opt for the latter, can receive an additional \$100 per person to use towards a future booking.

Sunwing has set up a [dedicated page](#) on their website providing customers with real time updates along with all the options available to them to defer or cancel their travel plans.

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[SellOffVacations.com](#)

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[Starfish Resorts](#)  
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### Tour operations

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### Destination management

[NexusTours](#)

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Exhibit L of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of a large 'M' followed by a stylized 'D' and 'S'.

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Signature



## Porter Airlines temporarily suspending flights to support COVID-19 relief efforts

*Operations restarting June 1, allowing public health initiatives to take effect*

TORONTO/March 18, 2020 - Porter Airlines is temporarily suspending all flights at the close of operations on Friday, March 20, with plans to resume service on June 1. This decision is being made in support of ongoing public health efforts to contain COVID-19.

Michael Deluce, Porter's president and CEO stated: "COVID-19 is having an unprecedented effect on people around the world and Porter is determined to do our part to support the efforts of the Canadian, U.S. and global authorities in their responses. Restricting activities by people in all communities is what's required to keep our team members and passengers healthy, and ultimately to end this fast-spreading pandemic. A temporary suspension of all flights allows the public health crisis to diminish and then time to restart our operations.

"Remaining flights through March 20, will allow customers to complete existing trips and return home, or make last-minute reservations to reach a destination."

The existing waiver of change and cancellation fees means there is no cost to customers for modifying an existing itinerary.

Porter is also prepared to help recovery efforts by operating flights to support the movement of government officials, public health requirements and economic recovery efforts. Porter FBO at Billy Bishop Toronto City Airport will remain open to support these needs, as well as Ontario's provincial medevac service and other general aviation.

Reservations are currently being taken for Porter flights starting June 1. All flights booked in June will be fully changeable and refundable to give passengers maximum flexibility as travel resumes.

Passengers can cancel existing reservations online at [www.flyporter.com](http://www.flyporter.com). The volume of inquiries at our call centre has been consistently high this month. It is requested that only passengers with immediate travel needs through March 20, who cannot resolve their request online, use the call centre in order to alleviate wait times.

Michael Deluce added: "It is regrettable that this situation requires us to issue temporary layoffs across the business. We are doing everything possible to support our team during this period and intend to welcome back all of our team members as operations restart. Executive Chairman Robert Deluce and I will not receive any salary during this time, in alignment with the impact on our team members. All other management who remain during the temporary suspension will see salary reductions of up to 30 percent until flights resume.

"Porter's team is exceptional. Our resilient culture has seen the company through difficult times in the past and it will allow us to do so again. We intend to come back stronger than ever and ready to meet the needs of customers."

**About Porter Airlines**

Porter Airlines has revolutionized short-haul flying with a warm and effortless approach to hospitality, restoring glamour and refinement to air travel. Porter is an Official 4 Star Airline® in the World Airline Star Rating®.

The airline currently offers flights to Toronto, Ottawa, Montreal, Quebec City, Fredericton, Saint John, Moncton, Halifax, St. John's, Stephenville, N.L., Thunder Bay, Sault Ste. Marie, Sudbury, Timmins, Windsor, New York (Newark), Chicago (Midway), Boston and Washington (Dulles), and has seasonal flights to Mt. Tremblant, Que., Muskoka, Ont., and Myrtle Beach, S.C.

Visit [www.flyporter.com](http://www.flyporter.com) or follow @porterairlines on Instagram, Facebook and Twitter.

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Exhibit **M** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a trailing flourish, positioned above a horizontal line.

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Signature



Brussels, 18.3.2020  
C(2020) 1830 final

**COMMUNICATION FROM THE COMMISSION**

**Commission Notice**

**Interpretative Guidelines on EU passenger rights regulations in the context of the  
developing situation with Covid-19**

## COMMISSION NOTICE

### Interpretative Guidelines on EU passenger rights regulations in the context of the developing situation with Covid-19

*Passengers and the European transport industry are hit hard by the Covid-19 outbreak. Containment measures of authorities, such as travel restrictions, lock-downs and quarantine zones, imply that transport may be one of the most severely affected sectors of this pandemic. The situation is stressful for many passengers, whose travel arrangements have been cancelled and/or who do not wish or are not allowed to travel anymore.*

*The European Union (EU) is the only area in the world where citizens are protected by a full set of passenger rights, whether they travel by air, rail, bus and coach or ship.*

*Given the unprecedented situation Europe has been experiencing due to the Covid-19 outbreak, the European Commission believes it would be helpful to clarify in this context the rights of passengers when travelling by air, rail, bus and coach or ship, as well as the corresponding obligations for carriers.*

#### 1. PURPOSE

These interpretative guidelines aim at clarifying how certain provisions of the EU passenger rights legislation apply in the context of the Covid-19 outbreak, notably with respect to cancellations and delays.

The guidelines complement the guidelines previously published by the Commission<sup>1</sup> and are without prejudice to the interpretation of the Court of Justice.

The guidelines cover the following passenger rights legislation:

- Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91<sup>2</sup>
- Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations<sup>3</sup>;
- Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004<sup>4</sup>,

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<sup>1</sup> Commission Notice — Interpretative Guidelines on Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and on Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents as amended by Regulation (EC) No 889/2002 of the European Parliament and of the Council, OJ C 214, 15.6.2016, p. 5.; Communication from the Commission — Interpretative Guidelines on Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations, OJ C 220, 4.7.2015, p. 1.

<sup>2</sup> OJ L 46, 17.2.2004, p. 1.

<sup>3</sup> OJ L 315, 3.12.2007, p. 14.

<sup>4</sup> OJ L 334, 17.12.2010, p. 1.

- Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004<sup>5</sup>.

These guidelines do not cover Directive (EU) 2015/2302 on package travel and linked travel arrangements.<sup>6</sup>

## 2. GUIDANCE ACROSS TRANSPORT MODES

### 2.1. Right to choose between reimbursement and rerouting

The four Regulations make specific provisions for this right in the case of cancellation or of certain delays.

As regards re-routing<sup>7</sup>, the circumstances of the COVID-19 outbreak may have an incidence on the right to choose re-routing at the “earliest opportunity”.<sup>8</sup> Carriers may find it impossible to re-route the passenger to the intended destination within a short period of time. Moreover, it may not be clear for some time when re-routing will become possible. This situation may for example arise where a Member State suspends flights or stops trains, buses, coaches or ships arriving from certain countries. Depending on the case, therefore, the “earliest opportunity” for re-routing may be considerably delayed and/or subject to considerable uncertainty. Reimbursement of the ticket price or a re-routing at a later stage “at the passenger’s convenience” might therefore be preferable for the passenger. Details are set out further below for each transport mode.

### 2.2. Situations where passengers cannot travel or want to cancel a trip

The EU’s passenger rights regulations do not address situations where passengers cannot travel or want to cancel a trip on their own initiative. Whether or not a passenger is reimbursed in such cases depends on the type of ticket (reimbursable, possibility to rebook) as specified in the carrier's terms & conditions.

It appears that various carriers are offering vouchers to passengers, who do not want to (or are not authorised to) travel any more as a result of the outbreak of Covid-19. Passengers can use these vouchers for another trip with the same carrier within a timeframe established by the carrier.

This situation has to be distinguished from the situation where the carrier cancels the journey and offers only a voucher instead of the choice between reimbursement and re-routing. If the carrier proposes a voucher, this offer cannot affect the passenger’s right to opt for reimbursement instead.

<sup>5</sup> OJ L 55 28.2.2011, p. 1.

<sup>6</sup> Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC, OJ L 326, 11.12.2015, p. 1–33.

<sup>7</sup> Some instruments also refer in parallel to a “continuation of the journey”.

<sup>8</sup> Points (a) and (b) of Article 8(1) of Regulation (EC) No 261/2004; points (a) and (b) of Article 16 of Regulation (EC) No 1371/2007; points (a) and (b) of Article 18(1) of Regulation (EU) No 1177/2010; points (a) and (b) of Article 19(1) of Regulation (EU) No 181/2011.



### **2.3. Specific national rules in the context of the Covid-19 outbreak**

In some cases specific national rules have been adopted in the context of the Covid-19 outbreak, which create the obligation for carriers to refund passengers or issue a voucher to passengers in case the passenger could not take a flight that has been operated.

Such national measures do not fall under the scope of the EU passenger rights regulations. They are not addressed in these guidelines, which deal only with the interpretation of the rules on passenger rights adopted by the Union.

## **3. AIR PASSENGER RIGHTS (REGULATION (EC) NO 261/2004)**

### **3.1. Information to passengers**

Apart from the rules regarding information on the rights available, Regulation (EC) No 261/2004 does not contain specific provisions on information on travel disruptions. However, rights to compensation in case of cancellation are linked to the carrier failing to give notice sufficiently in advance. This aspect is thus covered by the considerations below on rights to compensation.

### **3.2. Right to reimbursement or re-routing**

In the case of a flight cancellation by the airlines (no matter what the cause is), Article 5 obliges the operating air carrier to offer the passengers the choice among:

- a) reimbursement (refund);
- b) re-routing at the earliest opportunity, or
- c) re-routing at a later date at the passenger's convenience.

Regarding reimbursement, in cases where the passenger books the outbound flight and the return flight separately and the outbound flight is cancelled, the passenger is only entitled to reimbursement of the cancelled flight, i.e. here the outbound flight.

However, if the outbound flight and the return flight are part of the same booking, even if operated by different air carriers, passengers should be offered two options if the outbound flight is cancelled: to be reimbursed for the whole ticket (i.e. both flights) or to be re-routed on another flight for the outbound flight (Interpretative Guidelines, Point 4.2).

As regards re-routing, and as explained above, “the earliest opportunity” may under the circumstances of the COVID-19 outbreak imply considerable delay, and the same may apply to the availability of concrete information on such “opportunity” given the high level of uncertainty affecting air traffic.

The application of Article 5 of Regulation (EC) No 261/2004 may have to take into consideration these circumstances. However, at any rate:

First, passengers should be informed about delays and/or uncertainties linked to them choosing re-routing instead of reimbursement.

Second, should a passenger choose nonetheless re-routing at the earliest opportunity, the carrier should be considered to have fulfilled its information obligation towards the

passenger if it communicated on its own initiative, as soon as possible and in good time, the flight available for rerouting.

### **3.3. Right to care**

According to Article 9 of the Regulation, which provides all relevant details, passengers who are affected by a flight cancellation must also be offered care by the operating air carrier, free of charge. This consists of meals and refreshments in a reasonable relation to the waiting time; hotel accommodation if necessary, and transport to the place of accommodation. Moreover, airports are to provide assistance to disabled passengers and passengers with reduced mobility in accordance with Regulation 1107/2006<sup>9</sup>.

It is worth recalling that when the passenger opts for reimbursement of the full cost of the ticket, the right to care ends. The same happens when the passenger chooses re-routing at a later date at the passenger's convenience (Article 5(1)(b) in conjunction with Article 8(1)(c)).

The right to care subsists only as long as passengers have to wait for a rerouting at the earliest convenience (Article 5(1)(b) in conjunction with Article 8(1)(b)).

The intention underlying the Regulation is that the needs of passengers waiting for their return flight or re-routing are adequately addressed. The extent of adequate care will have to be assessed on a case-by-case basis, taking into account the needs of passengers in the circumstances and the principle of proportionality (i.e.: according to the waiting time). The price paid for the ticket or the length of the inconvenience suffered should not interfere with the right to care (Interpretative Guidelines Point 4.3.2).

According to the Regulation, the air carrier is obliged to fulfil the obligation of care even when the cancellation of a flight is caused by extraordinary circumstances, that is to say circumstances that could not have been avoided even if all reasonable measures had been taken.

The Regulation contains nothing that recognises a separate category of 'particularly extraordinary' events, beyond the 'extraordinary circumstances' referred to in Article 5(3) of the Regulation. The air carrier is therefore not exempted from all of its obligations, including those under Article 9 of the Regulation, even during a long period. Passengers are especially vulnerable in such circumstances and events.<sup>10</sup> In exceptional events, the intention of the Regulation is to ensure that adequate care is provided in particular to passengers waiting for re-routing under Article 8(1)(b) of the Regulation.

### **3.4. Right to compensation**

Regulation 261/2004 also provides for fixed sum compensations in some circumstances. This does not apply to cancellations made more than 14 days in advance or where the cancellation is caused by 'extraordinary circumstances' that could not have been avoided

<sup>9</sup> Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air, OJ L 204, 26.7.2006, p. 1–9.

<sup>10</sup> Case C-12/11, McDonagh, ECLI:EU:C:2013:43, paragraph 30 and Point 4.3.3. of the Interpretative Guidelines.

even if all reasonable measures had been taken. For details, see Article 5(1) and Article 7 of the Regulation.

The Commission considers that, where public authorities take measures intended to contain the Covid-19 pandemic, such measures are by their nature and origin not inherent in the normal exercise of the activity of carriers and are outside their actual control.

Article 5(3) waives the right to compensation on condition that the cancellation in question “is caused” by extraordinary circumstances, which could not have been avoided even if all reasonable measures had been taken.

This condition should be considered fulfilled, where public authorities either outright prohibit certain flights or ban the movement of persons in a manner that excludes, *de facto*, the flight in question to be operated.

This condition may also be fulfilled, where the flight cancellation occurs in circumstances where the corresponding movement of persons is not entirely prohibited, but limited to persons benefitting from derogations (for example nationals or residents of the state concerned).

Where no such person would take a given flight, the latter would remain empty if not cancelled. In such situations, it may be legitimate for a carrier not to wait until very late, but to cancel the flight in good time (and even without being certain about the rights of the various passengers to travel at all), in order for appropriate organisational measures to be taken, including in terms of care for passengers owed by the carrier. In cases of the kind, and depending on the circumstances, a cancellation may still be viewed as “caused” by the measure taken by the public authorities. Again, depending on the circumstances, this may also be the case in respect of flights in the direction opposite to the flights directly concerned by the ban on the movement of persons.

Where the airline decides to cancel a flight and shows that this decision was justified on grounds of protecting the health of the crew, such cancellation should also be considered as “caused” by extraordinary circumstances.

The above considerations are not and cannot be exhaustive in that other specific circumstances in relation to Covid-19 may also fall under the ambit of Article 5(3).

#### **4. RAIL PASSENGER RIGHTS (REGULATION (EC) NO 1371/2007)**

##### **4.1. Right to be informed**

Before selling a ticket, railway undertakings and ticket vendors must provide passengers, upon request, with pre-journey information - including information on any activities likely to disrupt or delay services. Railway undertakings must also provide passengers with information during the journey – including information on delays, security and safety issues. Moreover, where railway undertakings and competent authorities, responsible for public service railway contracts, decide to discontinue a rail service, they must make the decision public and before it is implemented. Details of the right to travel information are set out in Article 8 and Annex II of Regulation (EC) No 1371/2011.

#### **4.2. Right to reimbursement or continuation of the journey / re-routing**

Article 16 of Regulation (EC) No 1371/2007 sets out the rights in respect of this matter. In summary the following can be retained. Where it can reasonably be expected that the delay in the arrival at the final destination will be more than 60 minutes, passengers have the choice between reimbursement of the ticket price or to continue the journey or re-routing. In particular:

- a) the right to the reimbursement concerns the cost of the ticket for the part or parts of the journey not made and for the parts of the journey already made if the journey is no longer serving the purpose for which the passenger was planning it, together with (where relevant) a return service to the first point of departure;
- b) continuation of the journey or re-routing have to take place under comparable transport conditions. At the passenger's choice, they have to take place either at the earliest opportunity or at another point in time at his/her convenience.

As regards continuation of the journey/ re-routing, and as explained above, "the earliest opportunity" may under the circumstances of the COVID-19 outbreak imply considerable delay, and the same may apply to the availability of concrete information on such "opportunity" given the high level of uncertainty affecting rail traffic.

First, passengers should be informed about delays and/or uncertainties when offering them the choice between the two possibilities.

Second, should a passenger choose nonetheless continuation of the journey or re-routing at the earliest opportunity, the carrier should be considered to have fulfilled its information obligation towards the passenger if it communicated on its own initiative, as soon as possible and in good time, the train available for continuation or rerouting.

#### **4.3. Right to assistance**

In the case of a delay in arrival or departure, passengers have the right to receive information on the situation and the estimated departure and arrival time as soon as this information becomes available. In case of a delay exceeding 60 minutes, they also have the right to receive meals and refreshments within reasonable limits; accommodation where a stay of one or more nights becomes necessary where and when physically possible; transport to the railway station or to the alternative departure point or to the final destination, where and when physically possible, if the train is blocked on the track. Details are set out in Article 18(2) of Regulation (EC) No 1371/2007.

According to the Regulation, the railway undertaking is obliged to fulfil the above obligations even when the cancellation of a train is caused by circumstances such those linked to Covid-19. The Regulation contains nothing that would allow the conclusion that, under particular circumstances, the railway undertaking is exempted from its obligation to provide assistance in accordance with Article 18(2) of Regulation (EC), which may be required even during a long period where relevant. The intention of the Regulation is to ensure that adequate assistance is provided in particular to passengers waiting for re-routing at the earliest opportunity under Article 16. Regulation (EC) No 1371/2007 provides that assistance to persons with disabilities and persons with reduced mobility must be adapted to the needs of those passengers, including as regards the information referred to above.

#### 4.4. Right to compensation

Where passengers have not opted for reimbursement but ask for the continuation of the journey or re-routing, passengers have also the right to compensation. For delays of 60 to 119 minutes the compensation amounts to 25% of the ticket price, whereas for delays of 120 minutes and more the compensation is 50% of the ticket price. Details are set out in Article 17 of Regulation (EC) No 1371/2007,

Unlike in other transport modes, the existence of extraordinary circumstances, if any, does not affect the right to compensation in cases of delays (including those entailed by cancellations).<sup>11</sup>

### 5. BUS PASSENGER RIGHTS (REGULATION (EU) NO 181/2011)<sup>12</sup>

#### 5.1. Right to be informed

According to Article 24 of the Regulation, carriers and bodies that manage terminals must, within their respective areas of competence, provide passengers with adequate information throughout their travel. Article 20 of the Regulation contains detailed provisions regarding information to be provided in case of cancellation or delay in departure.

#### 5.2. Right to continuation of the journey / re-routing or reimbursement

In case of regular bus services with a scheduled distance of 250 km or more, Regulation (EU) No 181/2011 provides for rerouting or reimbursement in certain cases as specified in Article 19. Thus, notably, where a carrier reasonably expects the departure of a regular service from a terminal to be cancelled or delayed for more than 120 minutes, passengers have the right to choose between continuation or re-routing to the final destination at no additional cost at the earliest opportunity under comparable conditions or reimbursement of the full ticket price. This can be combined, where relevant, with a free of charge return service at the earliest opportunity to the first point of departure set out in the transport contract. The same choice is available to the passenger if the departure is cancelled or delayed from a bus stop.

As regards continuation of the journey/ re-routing, and as explained above, “the earliest opportunity” may under the circumstances of the COVID-19 outbreak imply considerable delay, and the same may apply to the availability of concrete information on such “opportunity” given the high level of uncertainty affecting bus and coach traffic.

First, passengers should be informed about delays and/or uncertainties when offering them the choice between continuation of the journey / re-routing and reimbursement.

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<sup>11</sup> See Case C-509/11 *ÖBB Personenverkehr* ECLI:EU:C:2013:613.

<sup>12</sup> The rights to re-routing or reimbursement (point 4.2) and the right to care (point 4.3) and the right to compensation (point 4.4) does not apply to domestic services in Croatia, Estonia, Hungary, Latvia, Portugal, Slovakia, Slovenia, and to services with a significant part of the service (including at least one scheduled stop) operated outside the European Union in case of Croatia, Estonia, Greece, Finland, Hungary, Latvia, Slovakia and Slovenia.

Second, should a passenger choose nonetheless re-routing at the earliest opportunity, the carrier should be considered to have fulfilled its information obligation towards the passenger if it communicated on its own initiative, as soon as possible and in good time, the service available for continuation or rerouting.

### **5.3. Right to assistance**

Rights to assistance are set out in Article 21 of Regulation (EU) No 181/2011, and the following can be retained in summary. Where the departure of a long-distance service with a scheduled duration of more than 3 hours is cancelled or delayed for more than 90 minutes, passengers are entitled to snacks, meals or refreshments, in reasonable relation to the waiting time, provided they are available on the bus or in the terminal or can reasonably be supplied. Accommodation needs to be provided if passengers have to stay overnight – for up to 2 nights, at a maximum rate of €80 per night – and transport to their accommodation and return to the terminal.

This Regulation contains nothing that would allow the conclusion that the carrier can be exempted from all its obligations, including those for assistance. The intention of the Regulation is to ensure that adequate care is provided in particular to passengers waiting for re-routing under Article 21.

### **5.4. Right to compensation**

In the case of bus services, the passenger has a right to compensation under the conditions set out in Article 19(2) of Regulation (EC) No 181/2011. It amounts to 50 % of the ticket price in case the service is cancelled, but is available only if the carrier fails to offer the passenger the choice between reimbursement and rerouting.

## **6. MARITIME AND INLAND WATERWAY PASSENGER RIGHTS (REGULATION (EU) NO 1177/2010)**

### **6.1. Right to be informed**

As further specified in detail in Article 16 of Regulation (EU) No 1177/2010, passengers must be informed of the situation as soon as possible and in any event not later than 30 minutes after the scheduled time of departure and of the estimated departure time and estimated arrival time as soon as that information is available.

### **6.2. Right to re-routing or reimbursement**

Where a carrier reasonably expects a passenger service to be cancelled or delayed in departure from a port terminal for more than 90 minutes, the carrier must offer passengers a choice between two possibilities:

- re-routing to the final destination under comparable conditions, as set out in the transport contract, at the earliest opportunity and at no additional cost or
- reimbursement of the ticket price and, where relevant, a return service free of charge to the first point of departure, as set out in the transport contract, at the earliest opportunity.

Details are set out in Article 18 of Regulation (EU) No 1177/2010.

As regards continuation of the journey/ re-routing, and as explained above, “the earliest opportunity” may under the circumstances of the COVID-19 outbreak imply considerable delay, and the same may apply to the availability of concrete information on such “opportunity” given the high level of uncertainty affecting sea and inland waterway traffic.

First, passengers should be informed about delays and/or uncertainties when offering them the choice between re-routing and reimbursement.

Second, should a passenger choose nonetheless re-routing at the earliest opportunity, the carrier should be considered to have fulfilled its information obligation towards the passenger if it communicated on its own initiative, as soon as possible and in good time, the service available for rerouting.

The provisions on re-routing and reimbursement as well as compensation do not apply to cruise ships (Article 2 (1)(c)).

### **6.3. Right to assistance**

Under the conditions set out in Article 17 of Regulation (EU) No 1177/2010, passengers are entitled to 1) assistance in the form of snacks, meals or refreshments, in proportion to the waiting time, provided they are available or can reasonably be supplied and 2) accommodation if passengers where a stay of one or more nights or a stay additional to that intended by the passenger becomes necessary – for up to 3 nights, at a maximum rate of €80 per night – and 3) transport to the accommodation and return to the terminal.

### **6.4. Right to compensation**

Without losing the right to transport, passengers may request compensation from the carrier if they are facing a delay in arrival at the final destination as set out in the transport contract. The minimum level of compensation must be 25 % of the ticket price for varying delays, in function of the scheduled duration of the journey. If the delay exceeds double that duration, the compensation must be 50 % of the ticket price. Details are set out in Article 19 of Regulation (EU) No 1177/2010.

Article 20(4) of Regulation (EU) No 1177/2010 provides for certain exemptions from the right to compensation, among other things, on account of extraordinary circumstances.

The Commission considers that, where public authorities take measures intended to contain the Covid-19 pandemic, such measures are by their nature and origin not inherent in the normal exercise of the activity of carriers and are outside their actual control.

Article 20(4) waives the right to compensation on condition that the cancellation in question “is caused” by extraordinary circumstances, hindering the performance of the passenger service which could not have been avoided even if all reasonable measures had been taken.

This condition should be considered fulfilled, where public authorities either outright prohibit certain transport services or ban the movement of persons in a manner that excludes, *de facto*, the transport service in question to be operated.

This condition may also be fulfilled, where the cancellation occurs in circumstances where the corresponding movement of persons is not entirely prohibited, but limited to

persons benefitting from derogations (for example nationals or residents of the state concerned).

Where no such person would travel, the vessel or ship would remain empty if the service is not cancelled. In such situations, it may be legitimate for a carrier not to wait until very late, but to cancel the transport service in good time (and even without being certain about the rights of the various passengers to travel at all), in order for appropriate organisational measures to be taken, including in terms of care for passengers owed by the carrier. In cases of the kind, and depending on the circumstances, a cancellation may still be viewed as “caused” by the measure taken by the public authorities. Again, depending on the circumstances, this may also be the case in respect of transport services in the direction opposite to the services directly concerned by the ban on the movement of persons.

Where the carrier decides to cancel a transport service and shows that this decision was justified on grounds of protecting the health of the crew, such cancellation should also be considered as “caused” by extraordinary circumstances.

The above considerations are not and cannot be exhaustive in that other specific circumstances in relation to Covid-19 may also fall under the ambit of Article 20(4).



Exhibit N of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a trailing flourish, positioned above a horizontal line.

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Signature



Human Environment and Transport  
Inspectorate  
*Ministry of Infrastructure  
and Water Management*

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## Coronavirus (COVID-19) and air passenger rights - EC261/2004 and Corona (Covid-19)

**Due to the recent pandemic outbreak of coronavirus (COVID-19), the Dutch Human Environment and Transport Inspectorate (ILT), enforcement body for EC 261/2004 considers it important to clarify how certain aspects of this Regulation are interpreted.**

### Care and assistance

EC 261/2004 offers important rights to passengers even during this outbreak. When flights are cancelled or there are long delays, passengers have right of information on their rights and have right to care and assistance. For cancelled flights passengers must be offered the choice between refund and re-routing (alternative flight or later date).


Between March 1st and 31 July 2020, vouchers are temporarily tolerated on the basis of a ministerial instruction. The vouchers issued must be valid for at least 1 year and if not used by the passenger(s), the airline needs to proceed payout on own initiative. ILT supervises possible misuse.

### Compensation

ILT considers the outbreak of corona as extraordinary. Even circumstances where airlines cancel flights within the 14 days period due to economic and environmental consequences of operating flights with only a small number of passengers on-board are considered by ILT as extraordinary.

Please note that in individual cases a civil court can decide otherwise.

Exhibit **O** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a trailing line, positioned above a horizontal line.

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## FAQs: Statement on Vouchers

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*The CTA has been asked a number of questions about its Statement on Vouchers. Below are answers to the most frequently-posed questions.*

### **What is the purpose of the Statement on Vouchers?**

The Statement on Vouchers, although not a binding decision, offers suggestions to airlines and passengers in the context of a once-in-a-century pandemic, global collapse of air travel, and mass cancellation of flights for reasons outside the control of airlines.

This unprecedented situation created a serious risk that passengers would simply end up out-of-pocket for the cost of cancelled flights. That risk was exacerbated by the liquidity challenges faced by airlines as passenger and flight volumes plummeted.

For flights cancelled for reasons beyond airlines' control, the *Air Passenger Protection Regulations*, which are based on legislative authorities, require that airlines ensure passengers can complete their itineraries but do not obligate airlines to include refund provisions in their tariffs.

The statement indicated that the use of vouchers could be a reasonable approach in the extraordinary circumstances resulting from the COVID-19 pandemic, when flights are cancelled for reasons outside airlines' control and passengers have no prospect of completing their itineraries. Vouchers for future travel can help protect passengers from losing the full value of their flights, and improve the odds that over the longer term, consumer choice and diverse service offerings -- including from small and medium-sized airlines -- will remain in Canada's air transportation sector. Of course, as noted in the statement, passengers can still file a complaint with the CTA and each case will be decided on its merits.

### **Why did the CTA talk about vouchers when US and EU regulators have said that airlines should give refunds?**

The American and European legislative frameworks set a minimum obligation for airlines to issue refunds when flights are cancelled for reasons outside their control. Canada's doesn't. That's the reason for the difference in the statements.

Some jurisdictions have relaxed the application or enforcement of requirements related to refunds in light of the impacts of the COVID-19 pandemic, including European countries that have approved the issuance of vouchers instead of refunds.

### **Do I have to accept a voucher if I think I'm owed a refund?**


The Statement on Vouchers suggests what could be an appropriate approach in extraordinary circumstances, but doesn't affect airlines' obligations or passengers' rights.

Some airline tariffs might not provide for a refund and others might include *force majeure* exceptions to refund provisions.

If you think that you're entitled to a refund for a flight that was cancelled for reasons related to the COVID-19 pandemic and you don't want to accept a voucher, you can ask the airline for a refund.

Sometimes, the airline may offer a voucher that can be converted to a refund if the voucher hasn't been used by the end of its validity period. This practice reflects the liquidity challenges airlines are facing as a result of the collapse of air travel while giving passengers added protection in the event that they ultimately can't take advantage of the voucher.

If you think you are entitled to a refund and the airline refuses to provide one or offers a voucher with conditions you don't want to accept, you can file a complaint with the CTA, which will determine if the airline complied with the terms of its tariff. Each case will be decided on its merits.

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**Date modified:**  
2020-04-22

Exhibit **P** of the affidavit of Meredith Desnoyers  
affirmed before me on April 28, 2020

A handwritten signature in blue ink, consisting of several loops and a final flourish, positioned above a horizontal line.

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CONSUMER

# Canadian Transportation Agency clarifies statement on travel vouchers during COVID-19 pandemic



BY ANNE DREWA - GLOBAL NEWS

Posted April 24, 2020 1:32 pm

Updated April 24, 2020 1:33 pm



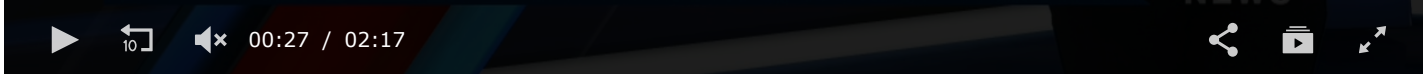
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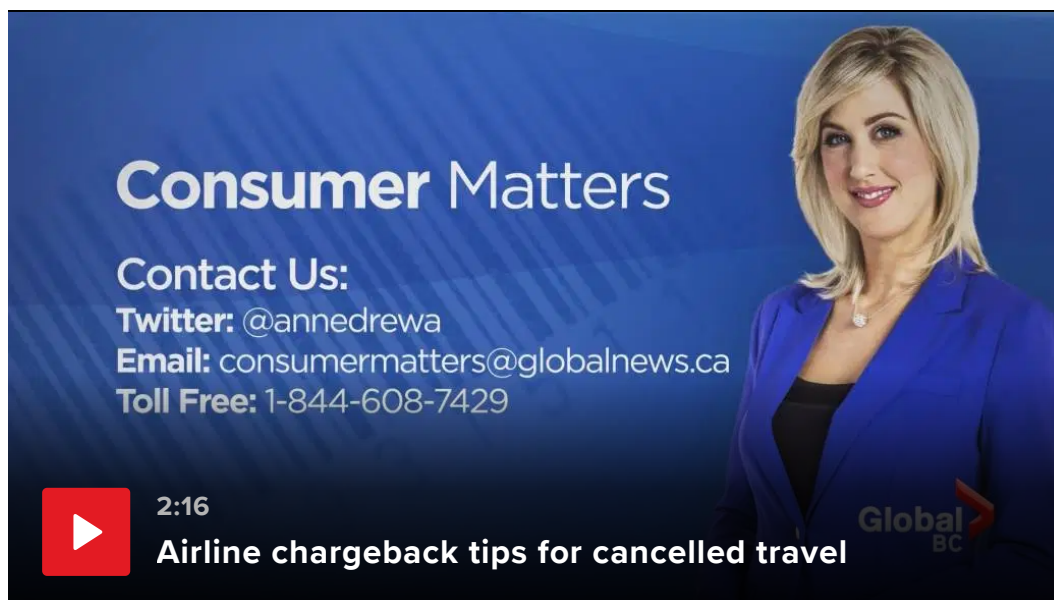
— Across the country, many passengers who've had their flights interrupted by COVID-19 have been angered they can't get refunds. Airlines and travel companies were relying on a statement by the Transportation Agency that vouchers could be a reasonable option. Consumer Matters reporter Anne Drewa has some clarification that might help you get your money back.



The [Canadian Transportation Agency](#) has clarified its statement on travel vouchers

for travellers affected by the COVID-19 pandemic in an online [FAQ \(Frequently Asked Questions\) post](#).

“The CTA has received a number of questions since releasing its statement on vouchers on March 25, 2020, including questions about the nature of the statement, and recourse for passengers,” the agency told Consumer Matters in an email.



— Airline chargeback tips for cancelled travel

The CTA said its statement on travel credits is not a binding decision.

The latest statement could open the door to more refunds from carriers which have cited the agency’s stance in denying passenger requests to get back cash for services not rendered.

“In terms of the public, this is a positive development because I’ve seen the original statement on vouchers being used by airlines and tour companies to dispute chargebacks by insurance companies relying on it,” said Gabor Lukacs, founder of non-profit consumer advocacy group Air Passenger Rights.

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**READ MORE: [Coronavirus: Airlines obliged to offer credit, not refunds, watchdog says](#)**

Last month the CTA stated on its website:

“While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time (24 months would be considered reasonable in most cases).”

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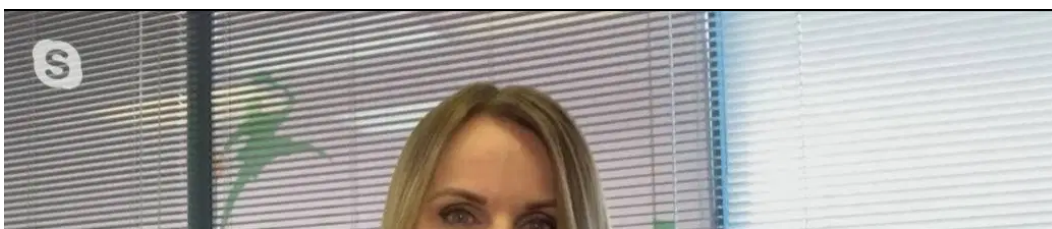
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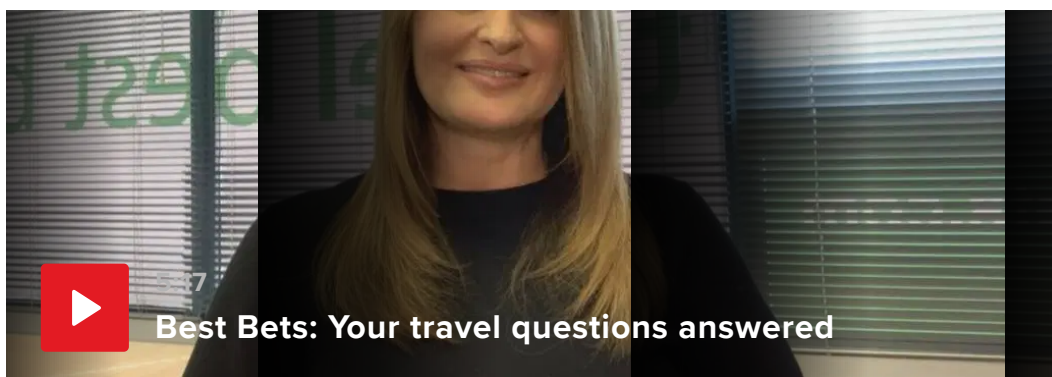
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Lukacs is challenging the CTA’s statement on vouchers in the Federal Court of Appeal and is asking the courts to order the regulator to take its statement on vouchers off its website altogether.

“The Canadian Transportation Agency has now conceded that their statement is not a legally binding document and that it doesn’t affect the rights of passengers or obligations to airlines. It is a strategic move on their part to try and save face,” said Lukacs.





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“The Canadian Transportation Agency now acknowledges that what they put out before was misleading.”

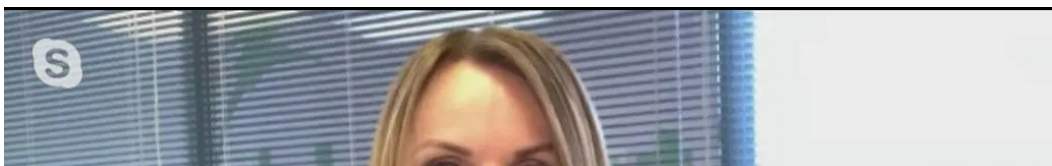
The CTA also clarifies that if passengers think they are entitled to a refund for a flight that was cancelled for reasons related to the COVID-19 pandemic and don't want to accept a voucher, they can ask the airline for refund.

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Consumer Matters has heard from countless airline passengers who've been frustrated by airlines refusing to offer refunds based on the CTA's statement on vouchers.

The situation was made worse after the U.S. Department of Transportation issued enforcement to airlines stating passengers impacted by COVID-19 are entitled to refunds for cancelled flights.

The European Union made a similar move.





— COVID-19 pandemic: Advice around cancelled travel

“The American and European legislative frameworks set a minimum obligation for airlines to issue refunds when flights are cancelled for reasons outside their control. Canada doesn’t. That’s the reason for the difference in the statements,” said the CTA in its FAQ.

Lukacs suggested that affected travellers who are looking for refunds call their credit card company and tell them they paid for a service they did not receive and they have not agreed to take a voucher.

“The credit card company has to look at the agreement between the consumer and the merchant at the time the contract was made,” he said.

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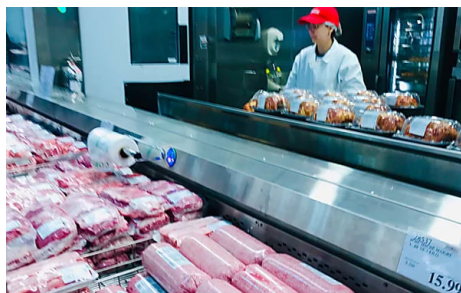
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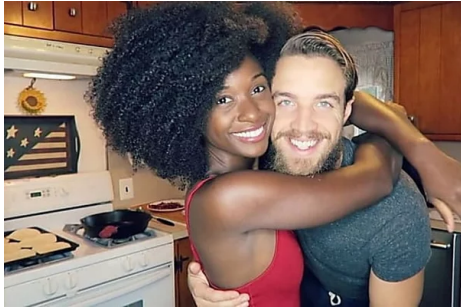
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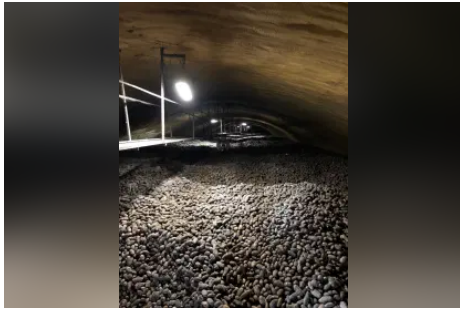
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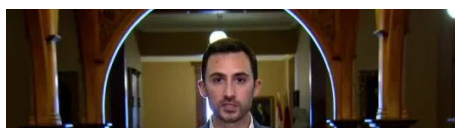
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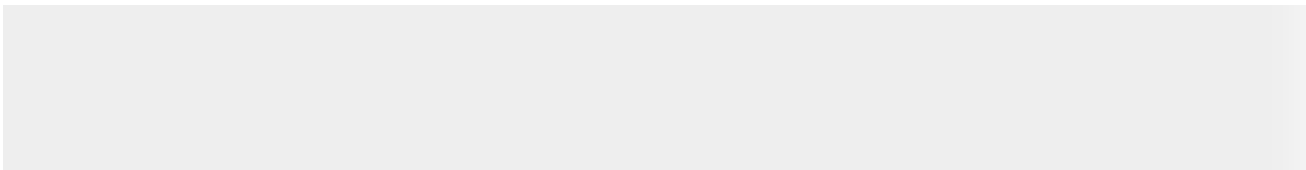
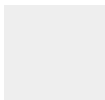
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Court File No.: A-102-20

**FEDERAL COURT OF APPEAL**

BETWEEN:

**AIR PASSENGER RIGHTS**

Applicant  
(Moving Party)

– and –

**CANADIAN TRANSPORTATION AGENCY**

Respondent  
(Respondent)

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**MEMORANDUM OF FACT AND LAW OF THE RESPONDENT,  
CANADIAN TRANSPORTATION AGENCY  
(Motion for Mandatory Interlocutory Injunction)**

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CANADIAN TRANSPORTATION AGENCY  
(Motion for Mandatory Interlocutory Injunction)**

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**PART I – OVERVIEW & STATEMENT OF FACTS****A. Overview**

1. The moving party challenges a statement that has been published on the website of the Canadian Transportation Agency ("Agency"). The statement suggests that a reasonable approach could be for airlines to provide passengers with vouchers when flights are cancelled as a result of the COVID-19 pandemic.
2. Judicial review is only available when administrative action affects legal rights, imposes legal obligations or causes prejudicial effects. The Applicant's position, with which the Agency agrees, is that this statement is not a binding decision and does not affect the rights of passengers or the obligations of airlines. The statement merely offers suggestions in the context of an unprecedented situation and therefore judicial review is not available in this case.
3. In order to obtain a mandatory interlocutory injunction, as is sought in this motion, the Applicant must demonstrate, *inter alia*, that the Application for judicial review represents a

"strong *prima facie* case". The Application, however, is doomed to fail. The statement is not capable of being reviewed by this Court, nor is the relief sought available. The Application for judicial review is frivolous and without merit. The motion for interlocutory relief should be dismissed, as should the Application itself.

## **B. Statement of Facts**

### The Agency

4. The Agency is Canada's longest-standing independent, quasi-judicial tribunal and regulator. It has a broad mandate in respect of all transportation matters under the legislative authority of Parliament. The Agency performs two key functions. First, in its role as a quasi-judicial tribunal, it resolves commercial and consumer transportation-related disputes, including accessibility-related complaints. Second, the Agency functions as a regulator, making regulations and determinations, and issuing licenses and permits to carriers that are within the ambit of Parliament's authority. In both roles, the Agency may be called upon to deal with matters of significant complexity.<sup>1</sup>
5. The Agency's enabling statute is the *Canada Transportation Act*.<sup>2</sup> It is highly specialized regulatory legislation with a strong policy focus.<sup>3</sup>
6. This Court has stated that "the Agency is expected to bring its transportation policy knowledge and experience to bear on its interpretations of its assigned statutory mandate."<sup>4</sup> The Federal Court of Appeal has also confirmed that the Agency legitimately draws upon its regulatory experience, its knowledge of the industry and its expertise in the transportation sector when interpreting legislation within its mandate.<sup>5</sup>
7. The Agency has three core mandates. The Agency;

(a) helps ensure that the national transportation system runs efficiently and

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<sup>1</sup> *Lukács v Canada (Transportation Agency)*, [2014 FCA 76](#) at paras 50-52.

<sup>2</sup> [SC 1996, c 10](#) [the "CTA" or the "Act"].

<sup>3</sup> *Council of Canadians with Disabilities v VIA Rail Canada Inc.*, [2007 SCC 15](#) at para 98.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Canadian National Railway Company v Emerson Milling Inc. et al.*, [2017 FCA 79](#) at para 73 [*CN v EMI*].

smoothly in the interests of all Canadians: those who work and invest in it; the producers, shippers, travelers and businesses who rely on it; and the communities where it operates.

(b) protects the human right of persons with disabilities to an accessible transportation network.

(c) provides consumer protection for air passengers.<sup>6</sup>

8. In addition to issuing formal decisions and regulatory determinations, the Agency also regularly issues non-binding guidance to industry and the travelling public regarding the rights and obligations of transportation service providers and consumers. For example:

(a) The Interline Baggage Rules for Canada Interpretation Note provides information and guidance to clarify to air carriers and their agents, and inform the travelling public, how baggage rules should be applied (for both checked and unchecked baggage) for interline and code-share travel;<sup>7</sup>

(b) The Notice to Industry: Applications for Exemptions from Section 59 of the *Canada Transportation Act* provides details regarding the considerations the Agency will use when determining whether to give an exemption from the requirement to have a license when selling, causing to be sold or publicly offering for sale in Canada an air service;<sup>8</sup>

and

(c) The Guide to Canadian Ownership and Control in Fact for Air Transportation explains how the legal requirement for an air licence holder to be "Canadian" as defined in the Act is to be interpreted and applied.<sup>9</sup>

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<sup>6</sup> Canadian Transportation Agency, "Organization and Mandate of the Canadian Transportation Agency" (02 May 2015), online: *Canadian Transportation Agency* <<https://www.otc-cta.gc.ca/eng/organization-and-mandate>>; Affidavit of Meredith Desnoyers, sworn the 28 day of April, 2020, Exhibit "A" [*Desnoyers Affidavit*].

<sup>7</sup> Canadian Transportation Agency, "Interline Baggage Rules for Canada: Interpretation Note" (02 October 2015), online: *Canadian Transportation Agency* <<https://otc-cta.gc.ca/eng/publication/interline-baggage-rules-canada-interpretation-note>>; *Desnoyers Affidavit*, Exhibit "B".

<sup>8</sup> Canadian Transportation Agency, "Notice to Industry: Applications for Exemptions from Section 59 of the Canada Transportation Act" (27 March 2013), online: *Canadian Transportation Agency* <<https://otc-cta.gc.ca/eng/publication/notice-industry-applications-exemptions-section-59-canada-transportation-act-sc-1996-c>>; *Desnoyers Affidavit*, Exhibit "C".

<sup>9</sup> Canadian Transportation Agency, "Guide to Canadian Ownership and Control in Fact for Air Transportation", online: *Canadian Transportation Agency* <[https://otc-cta.gc.ca/sites/default/files/new\\_guide\\_to\\_canadian\\_ownership\\_requirement\\_and\\_control\\_in\\_fact.pdf](https://otc-cta.gc.ca/sites/default/files/new_guide_to_canadian_ownership_requirement_and_control_in_fact.pdf)>; *Desnoyers Affidavit*, Exhibit "D".

9. When exercising its role as a quasi-judicial tribunal, the Agency is not bound by statements or guidance material posted on its website. In *Azar v Air Canada*, a decision of the Agency, the airline argued that a provision in its tariff complied with the suggested wording in the "sample tariff" drafted by the Agency and posted on its website. The applicant in that case argued that it was up to the Agency to consider and decide whether the impugned tariff provision was clear, and that the panel was not bound in any way by the sample tariff posted on the Agency's website. The panel accepted the applicant's arguments and concluded that it was not bound by the sample tariff. The panel found that the impugned tariff provision was unclear and issued an Order that it be amended.<sup>10</sup>

The framework for the regulation of terms and conditions of carriage

10. Until recently, the terms and conditions of carriage contained in air carriers' tariffs, the contract between the carrier and air passengers, were essentially determined by the carriers themselves. The carrier's tariff, must, under the Act or the *Air Transportation Regulations*<sup>11</sup> (ATR), be made available for public inspection, be published on the carrier's website (when used to sell tickets) and, in the case of international carriers, filed with the Agency.<sup>12</sup> The ATR prescribes the terms and conditions that the tariffs must contain, including the air carrier's policy in respect of flight cancellation. While neither the CTA nor the ATR prescribe any requirement in terms of the substance of the specific terms and conditions that should be contained in a carrier's tariff, the Agency retained jurisdiction to review these tariffs for reasonableness.<sup>13</sup> In other words, carriers were free to determine the terms and conditions of carriage applicable to their services, but those terms and conditions had to be reasonable and they remained subject to Agency oversight.

11. The Act was amended by the *Transportation Modernization Act*<sup>14</sup> in 2018. Subsection 86.11(1) was added to the CTA to require that the Agency make regulations in relation to

<sup>10</sup> Canadian Transportation Agency [Decision No. 264-C-A-2013](#) dated July 10, 2013.

<sup>11</sup> [SOR/88-58](#) [ATR].

<sup>12</sup> CTA, *supra* note 2 at s 67(1)(a); ATR, *supra* note 11 at ss 107(1), 110(1), 116(2), 122(c).

<sup>13</sup> CTA, *supra* note 2 at s 67.2(1); ATR, *supra* note 11 at ss 111(1), 113.1(1).

<sup>14</sup> 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*, 1st Sess, 42nd Parl, 2018, [SC 2018, c 10](#).

flights to, from and within Canada, including connecting flights, respecting certain obligations of air carriers to passengers. In particular, the Act directed the Agency to make regulations respecting the carrier's obligations in the case of flight delays, flight cancellations and denial of boarding, including;

(i) the minimum standards of treatment of passengers that the carrier is required to meet and the minimum compensation the carrier is required to pay for inconvenience when the delay, cancellation or denial of boarding is within the carrier's control,

(ii) the minimum standards of treatment of passengers that the carrier is required to meet when the delay, cancellation or denial of boarding is within the carrier's control, but is required for safety purposes, including in situations of mechanical malfunctions,

(iii) the carrier's obligation to ensure that passengers complete their itinerary when the delay, cancellation or denial of boarding is due to situations outside the carrier's control, such as natural phenomena and security events, and

(iv) the carrier's obligation to provide timely information and assistance to passengers.

12. The Act did not authorize the making of regulations regarding the obligations of carriers to provide a refund when the delay, cancellation or denial of boarding is outside the carrier's control.<sup>15</sup>

#### The Air Passenger Protection Regulations

13. Pursuant to subsection 86(1), section 86.1 and subsections 86.11(1) and 177(1) of the CTA, the Agency made the *Air Passenger Protection Regulations* ("APPR").<sup>16</sup>

14. Section 10 of the APPR applies to a carrier when there is a delay, cancellation or denial of boarding due to situations outside the carrier's control, including but not limited to the following:

(a) war or political instability;

(b) illegal acts or sabotage;

<sup>15</sup> CTA, *supra* note 2 at para 86.11(1)(b).

<sup>16</sup> [SOR/2019-150](#).

- (c) meteorological conditions or natural disasters that make the safe operation of the aircraft impossible;
- (d) instructions from air traffic control;
- (e) a NOTAM, as defined in subsection 101.01(1) of the Canadian Aviation Regulations;
- (f) a security threat;
- (g) airport operation issues;
- (h) a medical emergency;
- (i) a collision with wildlife;
- (j) a labour disruption within the carrier or within an essential service provider such as an airport or an air navigation service provider;
- (k) a manufacturing defect in an aircraft that reduces the safety of passengers and that was identified by the manufacturer of the aircraft concerned, or by a competent authority; and
- (l) an order or instruction from an official of a state or a law enforcement agency or from a person responsible for airport security.<sup>17</sup>

15. The APPR provides for certain minimum levels of treatment when there is a flight delay, cancellation or denial of boarding outside of the carrier's control. In such a situation, a carrier must:

- (a) provide passengers with the information set out in section 13;
- (b) in the case of a delay of three hours or more, provide alternate travel arrangements, in the manner set out in section 18, to a passenger who desires such arrangements; and
- (c) in the case of a cancellation or a denial of boarding, provide alternate travel arrangements in the manner set out in section 18.<sup>18</sup>

16. The APPR also provides for certain minimum levels of treatment when there is a flight delay, cancellation or denial of boarding within the carrier's control but not required for safety. In the case of flight cancellation, a carrier must:

- (a) provide passengers with the information set out in section 13;

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<sup>17</sup> *Ibid*, s 10.

<sup>18</sup> *Ibid*, s 10(3).

(b) if a passenger is informed of the cancellation less than 12 hours before the departure time that is indicated on their original ticket, provide the standard of treatment set out in section 14;

(c) provide alternate travel arrangements or a refund, in the manner set out in section 17; and

(d) if a passenger is informed 14 days or less before the original departure time that the arrival of their flight at the destination that is indicated on their ticket will be delayed, provide the minimum compensation for inconvenience in the manner set out in section 19.<sup>19</sup>

17. With respect to minimum level of treatment when there is a flight cancellation within the carrier's control and required for safety, the airline must;

(a) provide passengers with the information set out in section 13;

(b) if a passenger is informed of the cancellation less than 12 hours before the departure time that is indicated on their original ticket, provide the standard of treatment set out in section 14; and

(c) provide alternate travel arrangements or a refund, in the manner set out in section 17.

18. There is no provision in either the CTA, the ATR or the APPR which requires an air carrier to provide a refund when a flight is cancelled for reasons outside of a carrier's control.

### The COVID-19 Pandemic

19. On December 31, 2019, a pneumonia of unknown cause detected in Wuhan, China, was first reported to the World Health Organization ("WHO"). The WHO began monitoring the situation. The virus was then detected in other countries and on January 30, 2020, the WHO declared the coronavirus ("COVID-19") outbreak a Public Health Emergency of International Concern. On March 11, 2020, the WHO assessed COVID-19 as a pandemic.<sup>20</sup>

20. On March 18, the Government of Canada implemented a ban on foreign nationals from all countries except the United States from entering Canada. The Canada-U.S. border was

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<sup>19</sup> *Ibid*, s 12(3).

<sup>20</sup> World Health Organization "Events as they Happen" (World Health Organization "Events As They Happen", online: *World Health Organization* <<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>>; *Desnoyers Affidavit*, Exhibit "E".



closed to all non-essential travel. International flight arrivals were redirected to four airports in Calgary, Vancouver, Toronto and Montréal.<sup>21</sup>

21. The impact of the COVID-19 pandemic on air carriers and the travelling public has been severe. The International Air Transport Association ("IATA") projected that the COVID-19 pandemic would see airline passenger revenues drop by \$314 billion in 2020, a 55% decline compared to 2019.<sup>22</sup> Air Canada announced that due to the unprecedented impact of COVID-19 on its business, it would reduce capacity by 85-95% and would place 15,200 members of its unionized workforce on off duty status and would place 1,300 managers on furlough.<sup>23</sup> WestJet announced the suspension of its commercial operations for all transborder and international flights effective March 22, 2020.<sup>24</sup> Air Transat suspended all flights until May 31, 2020.<sup>25</sup> Sunwing Travel Group cancelled all southbound flights and focused its business on repatriating Canadians stranded abroad.<sup>26</sup> Porter Airlines announced that it was temporarily suspending all flights effective March 20, 2020, and was issuing temporary layoffs across the business.<sup>27</sup> This of course meant that a very large number of flights were cancelled for reasons outside of the carriers' control, often in circumstances where travelers had no prospect of completing their planned itineraries.

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<sup>21</sup> Government of Canada, "Coronavirus disease (COVID-19): Outbreak" (27 April 2020), online: *Government of Canada* <<https://www.tc.gc.ca/en/initiatives/covid-19-measures-updates-guidance-tc.html>>; *Desnoyers Affidavit*, Exhibit "F".

<sup>22</sup> IATA, "COVID-19 Puts Over Half of 2020 Passenger Revenues at Risk" (14 April 2020), online: *IATA* <<https://www.iata.org/en/pressroom/pr/2020-04-14-01/>>; *Desnoyers Affidavit*, Exhibit "G".

<sup>23</sup> Air Canada, "Air Canada Provides Update in Response to Covid-19" (30 March 2020), online: *Air Canada* <<https://aircanada.mediaroom.com/2020-03-30-Air-Canada-Provides-Update-in-Response-to-Covid-19>>; *Desnoyers Affidavit*, Exhibit "H".

<sup>24</sup> WestJet, "Coronavirus | COVID 19", online: *WestJet* <<https://www.westjet.com/en-ca/travel-info/coronavirus>>; *Desnoyers Affidavit*, Exhibit "I".

<sup>25</sup> Air Transat "Coronavirus (COVID-19)", online: *Air Transat* <<https://www.airtransat.com/en-CA/travel-information/coronavirus>>; *Desnoyers Affidavit*, Exhibit "J".

<sup>26</sup> Sunwing Travel Group, "Sunwing announces shift to focus on repatriating Canadians in destination" (16 March 2020) online: *Sunwing* <<https://www.sunwingtravelgroup.com/en/news/sunwing-announces-shift-to-focus-on-repatriating-canadians-in-destination>>; *Desnoyers Affidavit*, Exhibit "K".

<sup>27</sup> Porter Airlines, "Porter Airlines temporarily suspending flights to support COVID-19 relief efforts" (18 March 2020), online: *Porter Airlines* <<https://www.flyporter.com/en-ca/about-us/news-details?title=Porter+Airlines+temporarily+suspending+flights+to+support+COVID-19+relief+efforts+2020+03>>; *Desnoyers Affidavit*, Exhibit "L".

### The Response to Cancelled Flights in the EU

22. Article 5 of the European Union Regulation establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights<sup>28</sup> provides that in the event of cancellation of a flight, regardless of the reason, passengers must be offered the choice between reimbursement or re-routing. On March 18, 2020, the European Commission issued a Communication affirming the right of passengers to reimbursement or re-routing when a flight is cancelled for whatever reason. However, it also noted that specific national rules had been adopted in the context of the COVID-19 outbreak, which create the obligation for carriers to refund passengers or issue a voucher. The Communication confirmed that the European Commission would not address these measures in the guidelines.<sup>29</sup>
23. One country which has adopted a national rule is the Netherlands. The Dutch Human Environment and Transport Inspectorate ("ILT"), the enforcement body in the Netherlands for EC 261/2004, clarified that the regulation requires that passengers must be offered the choice between re-routing and a refund in the event of a flight cancellation. However, the ILT determined that vouchers would be tolerated temporarily between March 1, 2020 and July 31, 2020, for cancelled flights in light of the COVID-19 pandemic.<sup>30</sup>

### The Agency's Response

24. The COVID-19 outbreak caused a number of countries, including Canada, to impose travel bans, restrictions or advisories. The situation evolved quickly. As a result, the Agency took steps to address the major impacts of the COVID-19 pandemic on the airline industry and to provide airlines with the flexibility to adjust flight schedules in a rapidly changing

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<sup>28</sup> EC, *Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91*, [2004] OJ, L 46/1 at 4.

<sup>29</sup> European Commission, "Interpretive Guidelines on EU Passenger rights regulations in the context of the developing situation with COVID-19" (18 March 2020), online: *European Commission* <[https://ec.europa.eu/transport/sites/transport/files/legislation/c20201830\\_en.pdf](https://ec.europa.eu/transport/sites/transport/files/legislation/c20201830_en.pdf)>; *Desnoyers Affidavit*, Exhibit "M".

<sup>30</sup> Human Environment and Transport Inspectorate, "Coronavirus (COVID-19) and air passenger rights - EC261/2004 and Corona (Covid-19)", online: *Human Environment and Transport Inspectorate* <<https://english.ilent.nl/themes/c/coronavirus-covid-19-and-air-passenger-rights---ec261-2004-and-corona-covid-19>>; *Desnoyers Affidavit*, Exhibit "N".

environment and to focus on immediate and urgent priorities, including the repatriation of Canadians stranded abroad. The Agency, while still accepting complaints, suspended its dispute resolution activities involving air carriers until June 30, 2020, to permit them to focus on immediate and urgent operational demands.<sup>31</sup>

25. The Agency also issued Determination No. A-2020-42 making temporary exemptions and adjustments to certain requirements of the APPR. These exemptions apply until June 30, 2020. The Determination reduced the amount of time before a scheduled flight that it may be cancelled without the obligation to pay compensation from 14 days to 72 hours. The Determination preserved the right of a passenger to a refund for a flight cancellation that occurs for a reason within the airline's control, or for a reason within the airline's control but required for safety under the APPR. As well, for greater clarity, the determination identified specific situations flowing from COVID-19 that would be considered outside of the carrier's control, in line with that regulatory framework.<sup>32</sup>

26. As a result of the major disruptions in domestic and international air travel, the Agency posted a statement on its website dealing with flight cancellations. The Statement on Vouchers ("Statement") noted that some airlines' tariffs provide for refunds in certain cases, but may have clauses that airlines believe relieve them of such obligations in *force majeure* situations. It was noted that passengers who have no prospect of completing their planned itineraries with an airline's assistance should not simply be out of pocket for the cost of cancelled flights. On the other hand, it was noted that airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability. The Statement makes clear that each specific situation brought before the Agency would be examined on the merits, but suggested that, generally speaking, an appropriate approach in the context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers did not expire in an

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<sup>31</sup> Canadian Transportation Agency [Order No. 2020-A-32](#) dated March 18, 2020.

<sup>32</sup> Canadian Transportation Agency [Determination No. A-2020-42](#) dated March 13, 2020.

unreasonably short period of time.<sup>33</sup> It is the Statement which is the subject of the Application for judicial review.

27. Following the posting of the Statement, the Agency posted a series of FAQ's addressing the most frequent-posed questions about it. The FAQs reiterate that the Statement is not a binding decision, and that it offers suggestions to airlines and passengers in the context of a once-in-a-century pandemic, global collapse of air travel, and cancellation of many flights for reasons outside the control of airlines. It notes that, for flights cancelled for reasons beyond airlines' control, the APPR requires that airlines ensure passengers can complete their itineraries but does not obligate airlines to include refund provisions in their tariffs. It further confirms that the use of vouchers was suggested as a reasonable approach in these extraordinary circumstances, which would protect passengers from losing the full value of their flights, and improve the odds that over the longer term, consumer choice and diverse offerings will remain in Canada's air transportation sector. The FAQ's also confirm that the Statement does not affect airlines' obligations or passengers' rights. Passengers are advised that if they believe they are entitled to a refund, they may ask the airlines for a refund. It is confirmed that if a passenger is not satisfied with the airline's response, they may file a complaint with the Agency which would determine if the airline has complied with its tariff.<sup>34</sup>

## **PART II – POINTS IN ISSUE**

28. The issue in this case is whether the Court should grant a mandatory interlocutory injunction.

## **PART III – STATEMENT OF SUBMISSIONS**

### **A. The Statement is a Prudent Expression of Policy in Extraordinary Circumstances**

29. The Applicant has failed to identify any reviewable error contained in the Statement. A plain reading of the Statement establishes that it is not a legally binding decision. It provides

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<sup>33</sup> Affidavit of Gabor Lukacs, [Statement on Vouchers](#), dated March 23, 2020 [Statement], Motion Record of the Applicant dated April 7, 2020, Volume 1, Tab 2, Exhibit "M" at 84 [Motion Record].

<sup>34</sup> Canadian Transportation Agency, "FAQ's: Statement on Vouchers" (April 22, 2020), online: *Canadian Transportation Agency* <<https://otc-cta.gc.ca/eng/faqs-statement-vouchers>>; *Desnoyers Affidavit*, Exhibit "O".

suggestions to industry and consumers in the extraordinary circumstances of a global pandemic. The Applicant concedes that it is non-binding.

30. In the Statement, the Agency identifies the issue created by the extraordinary circumstances of the COVID-19 pandemic. The risk to passengers is that an airline's tariff may not provide for a refund, or may include *force majeure* provisions upon which an airline may rely to refuse to provide a refund. The Statement notes that in these circumstances passengers should not be left out-of-pocket for the cost of a cancelled flight in a situation where they would be unable to complete their itinerary. The Statement identifies that airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability. In the circumstances, the Agency suggests that "an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel." The Statement sets out clearly that any specific situation brought before the Agency will be examined on the merits, leaving open the option for passengers to complain if not provided a refund.<sup>35</sup>
31. Following the posting of the Statement, the Agency posted a series of FAQ's addressing the most frequent-posed questions. The FAQs again reiterate that the Statement is not a binding decision, and offer suggestions to airlines and passengers in the context of a once-in-a-century pandemic, global collapse of air travel, and cancellation of many flights for reasons outside the control of airlines with no prospect that passengers could complete their itineraries. It confirms that the use of vouchers was suggested as a reasonable approach in these extraordinary circumstances. The FAQs also confirm that passengers who believe they are entitled to a refund may file a complaint with the Agency.
32. This Court has confirmed that the Agency is entitled to rely on its significant expertise in the transportation sector when fulfilling its mandate.<sup>36</sup> The Statement represents a prudent application of this expertise. It suggests a reasonable policy approach in extraordinary circumstances that benefits both airlines suffering from a drastic decline in cash flow, and air passengers who risk being left out-of-pocket for the cost of a flight that could not be

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<sup>35</sup> *Statement, supra* note 33.

<sup>36</sup> *CN v EMI, supra* note 5 at para 73.

operated, and who would benefit from a competitive marketplace going forward. Passengers who are not satisfied with a voucher are advised that they retain the right to file a complaint with the Agency.

33. The Statement represents a prudent expression of policy in extraordinary circumstances. The FAQs address any risk that the Statement, despite its clearly non-binding nature, might be misinterpreted or misrepresented as having legal effect.

#### **B. The test for a mandatory interlocutory injunction**

34. The test for an interlocutory injunction is set out in *RJR MacDonald v Canada (Attorney General)*. That test considers the following factors:

- (a) whether there is a serious issue to be tried;
- (b) whether the applicant seeking the stay would suffer irreparable harm if the application were refused; and
- (c) which of the parties would suffer greater harm from the granting or refusal of the stay pending a decision on the merits.<sup>37</sup>

35. The Supreme Court of Canada has identified exceptions to the rule that an applicant need only establish a "serious issue to be tried," and instead call for "an extensive review of the merits". One such exception is in the case of a *mandatory* interlocutory injunction. Where a *mandatory* interlocutory injunction is sought, the appropriate inquiry at the first stage of the *RJR-MacDonald* test is into whether the applicant has shown a strong *prima facie* case.<sup>38</sup>

36. The Supreme Court of Canada has explained what is entailed by showing a strong *prima facie* case.

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<sup>37</sup> [1994] 1 SCR 311 at 314-315, *CLA Vol. 1, Part B, Tab 12, Motion Record, supra* note 33 at Volume 2, Tab 25 at 536 [*RJR MacDonald*]; *Manitoba (AG) v Metropolitan Stores Ltd.*, [1987] 1 SCR 110 at 128-129, *CLA Vol. 1, Part B, Tab 9* at 531-532 [*Metropolitan Stores*].

<sup>38</sup> *R v Canadian Broadcasting Corp.*, 2018 SCC 5 at paras 13, 15, *Motion Record, supra* note 33 at Volume 2, Tab 22 at 491, 492.

"Courts have employed various formulations, requiring the applicant to establish a "strong and clear chance of success"; a "strong and clear" or "unusually strong and clear" case; that he or she is "clearly right" or "clearly in the right"; that he or she enjoys a "high probability" or "great likelihood of success"; a "high degree of assurance" of success; a "significant prospect" of success; or "almost certain" success. Common to all these formulations is a burden on the applicant to show a case of such merit that it is very likely to succeed at trial. Meaning, that upon a preliminary review of the case, the application judge must be satisfied that there is a *strong likelihood* on the law and the evidence presented that, at trial, the applicant will be ultimately successful in proving the allegations set out in the originating notice."<sup>39</sup>

37. The Applicant accepts that it must meet this elevated threshold of a "strong *prima facie* case".<sup>40</sup>

### **C. The lack of a "Strong *prima facie* case"**

38. The clearest shortcoming in the motion for interlocutory relief is the Applicant's failure to establish a strong *prima facie* case. The Application is doomed to fail and therefore the Applicant could not possibly establish any reasonable chance of success, let alone a strong one.

#### **i. No "matter" to be reviewed**

39. Subsection 18.1(1) of the *Federal Courts Act*<sup>41</sup> provides that an application for judicial review may be made by the Attorney General of Canada or by anyone directly affected by the matter in respect of which relief is sought.

40. While subsection 18.1(2) of the *Federal Courts Act* refers to "decisions" and "orders", and requires that the application for judicial review be made within 30 days of the decision or order, subsection 18.1(1) refers more generally to "matter" and includes not only a

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<sup>39</sup> *Ibid* at para 17.

<sup>40</sup> Memorandum of Fact and Law of the Applicant dated April 7, 2020 at para 48 [*Memorandum*], *Motion Record*, *supra* note 33 at Volume 1, Tab 3 at 201.

<sup>41</sup> [RSC 1985, c F-7](#).

"decision" or "order", but any matter in respect of which a remedy may be available under section 18 of the *Federal Courts Act*.<sup>42</sup>

41. Despite this broad wording, the jurisprudence recognizes many situations where, by its nature or substance, an administrative body's conduct does not trigger rights to bring judicial review. One such situation is where the conduct attacked in an application for judicial review fails to affect legal rights, impose legal obligations, or cause prejudicial effects.<sup>43</sup>
42. When administrative action does not affect an applicant's rights or carry legal consequences, it is not amenable to judicial review.<sup>44</sup>
43. More specifically, where it is determined that a statement does not have any binding legal effect, it follows that judicial review is not available.<sup>45</sup>
44. The Applicant concedes that the Agency's Statement is "not a legally binding ruling,"<sup>46</sup> that it is "public commentary"<sup>47</sup> and that it "cannot be a decision, determination, order, or other legally binding ruling of the Agency".<sup>48</sup> In other words, the Applicant admits that the Statement has no legal effect.
45. The Statement clearly does not affect the legal rights of passengers. It specifically acknowledges that the tariffs of some airlines provide for refunds in certain cases, and that "any specific situation brought before the Agency will be examined on its merits". The Statement simply suggests that in these extraordinary times an approach could be for airlines to provide affected passengers with vouchers or credits for future travel and that passengers could accept them. The rights of passengers are preserved.

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<sup>42</sup> *Air Canada v Toronto Port Authority et al*, [2011 FCA 347](#) at para 24; *Krause v Canada*, [1991 CanLII 9338](#).

<sup>43</sup> *Ibid* at para 29; *Irving Shipbuilding Inc. v Canada (Attorney General)*, [2009 FCA 116](#); *Democracy Watch v Conflict of Interest and Ethics Commission*, [2009 FCA 15](#) at para 10 [*Democracy Watch*].

<sup>44</sup> *Tsleil-Waututh Nation v Canada (Attorney General)*, [2018 FCA 153](#) at 176; *Democracy Watch*, *supra* note 43.

<sup>45</sup> *Democracy Watch*, *supra* note 43 at para 12.

<sup>46</sup> *Memorandum*, *supra* note 40 at para 3, *Motion Record*, *supra* note 33 at Volume 1, Tab 3 at 185.

<sup>47</sup> *Memorandum*, *supra* note 40 at para 61, *Motion Record*, *supra* note 33 at Volume 1, Tab 3 at 204.

<sup>48</sup> *Memorandum*, *supra* note 40 at para 63, *Motion Record*, *supra* note 33 at Volume 1, Tab 3 at 205.



46. The Applicant has even made a statement in the public domain since the filing of the Application which essentially cites the legal test and confirms that passenger rights are not affected by the Statement. In a media interview, Mr. Lukacs states that the Agency has "conceded" that the Statement "is not a legally binding document and...doesn't affect the rights of passengers or obligations to airlines."<sup>49</sup> If this is the case and the Applicant agrees it is unclear why the Application is being pursued.
47. Members of the Agency adjudicating passenger complaints are not bound by statements posted on the Agency's website. Complaints are determined on the facts and the law applicable to each individual case.
48. This Court has affirmed that the Agency is not bound by its policy documents as a matter of law. The Agency is not obligated to follow policies and may depart from them.<sup>50</sup>
49. Not only is the Agency not bound by a statement on its website, or formal guidance material, but the Agency as an administrative tribunal is not bound by its previous decisions.<sup>51</sup>
50. The Statement is not a decision on individual passenger situations, and specifically states that such cases would be decided on the merits, on a case by case basis. It is not until the Agency adjudicates a complaint from an air passenger, and addresses whether the airline has complied with its tariff, that the rights of passengers and the obligations of airlines would be determined.
51. The Statement simply offers suggestions to carriers and passengers in the context of an extraordinary and unprecedented situation. It cannot be enforced. It is not legally binding and cannot be the subject of an application for judicial review. As a result, the Application is doomed to fail. It does not rise to the level of "serious issue to be tried," let alone the required standard of a "strong *prima facie* case".

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<sup>49</sup> Global News, "Canadian Transportation Agency clarifies statement on travel vouchers during COVID-19 pandemic" (24 April 2020), online: <<https://globalnews.ca/news/6861073/cta-travel-voucher-statement/>>; *Desnoyers Affidavit*, Exhibit "P".

<sup>50</sup> *Canadian Pacific Railway Company v Cambridge (City)*, [2019 FCA 254](#) at para 5.

<sup>51</sup> *Irving Pulp & Paper v CEP Local 30*, [2013 SCC 34](#) at para 6.

ii. The Statement does not cause prejudicial effects

52. More specifically, on the question of "prejudicial effects", the crux of the Applicant's complaint is that certain third parties, including airlines, have referenced the Agency's Statement and offered vouchers to passengers as a result of the cancellation of flights due to the COVID-19 pandemic.
53. The parties agree that the Statement has no legal effect. There can therefore be no prejudice because the obligations of airlines and the rights of passengers are unaffected. The offer of a voucher, which the parties agree that the passenger would not have to accept, does not prejudice the passenger in any way. Passengers remain able to request refunds and complain to the Agency if an airline has failed to properly apply its tariff.
54. As indicated in the Statement, any specific situation could be examined by the Agency on its merits. Any party that believes that a carrier has not properly applied its tariff by refusing to provide a refund may complain to the Agency. This is the proper recourse if a passenger believes that they have been prejudiced as a result of the cancellation of a flight. Their right to file a complaint if an air carrier has failed to apply the terms and conditions of its tariff remains unaffected.
55. On the contrary, if airlines are offering vouchers when, at law, they were not required to provide any compensation, then the voucher would benefit passengers rather than cause prejudice. The suggestion that passengers could receive vouchers in the event of a flight cancellation in these circumstances, rather than detract from passengers' rights, may reinforce them by improving the chances that passengers who would otherwise receive nothing would receive some form of compensation and increasing the likelihood that choice and competition would remain in Canada's air sector over the longer term.
56. The Applicant must demonstrate that the Statement affects legal rights, imposes legal obligations, or causes prejudicial effects, in order to establish its right to bring an application for judicial review. The Applicant concedes, and the Agency agrees, that the Statement has no legal binding effect. It can therefore not be made the subject of judicial review.

iii. The Applicant is not "directly affected"

57. In addition to the fact that there is no "matter" for which judicial review is available, there is nobody who is "directly affected" by the Agency's Statement which is a prerequisite for the commencement of an application under subsection 18.1(1) of the *Federal Courts Act*.

58. In order to be "directly affected" within the meaning of subsection 18.1(1) of the *Federal Courts Act*, the impugned decision must have affected the Applicant's legal rights, imposed legal obligations upon them, or prejudicially affected them in some way.<sup>52</sup> The Applicant is not affected by the Agency's statement.

59. Despite not being directly affected, an Applicant may be granted public interest standing, however, and challenge a decision by way of judicial review. In order to be granted public interest standing, an Applicant must meet a threefold test, namely, that;

- (a) a serious issue has been raised;
- (b) the party seeking public interest standing has a genuine or direct interest in the outcome of the litigation; and
- (c) there is no other reasonable and effective way to bring the issue before the Court.<sup>53</sup>

60. The Application for judicial review is without merit. The Agency's Statement has no binding legal effect. There is no serious issue to be tried and therefore public interest standing cannot be granted.

61. In essence, because the Applicant concedes that the Agency's Statement does not affect the rights of passengers nor the obligations of airlines, there is nobody who *could* be directly affected by it. This essential prerequisite cannot be met and therefore the Application cannot succeed.

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<sup>52</sup> *League of Human Rights of B'Nai Brith Canada v Odynsky*, [2010 FCA 307](#) at para 58.

<sup>53</sup> *Ibid* at para 59; *Canadian Council of Churches v Canada (Minister of Employment and Immigration)*, [1992 CanLII 166](#), [1992] 1 S.C.R. 236 at 253

62. Because the Statement is not legally binding, and the Agency has indicated that it would consider complaints on a case by case basis on their merits, the legal rights of passengers who have had tickets cancelled as a result of the COVID-19 pandemic will have a full opportunity to make their case and remain, in the meantime, unaffected.
63. Moreover, even if air carriers or other members of the travel industry take the position that only vouchers are available when a flight is cancelled due to the COVID-19 pandemic, this does not affect the legal rights of passengers. The rights of passengers depend on the content of the airline's tariff which sets out the terms and conditions applicable to the air service.
64. The Statement specifically confirms that cases will be decided on their merits. If there is any question about the Statement and whether it would have an impact on an individual case, which it does not, then it is by the complaints process which is the most reasonable and effective way to bring the issue to Court. Section 41 of the CTA provides for an appeal to this Court with leave from a decision of the Agency. If an air passenger is not satisfied with a decision of the Agency, there is a right of appeal.
65. Not only is there no serious issue to be tried, but there are other more reasonable and efficient means to bring the Applicant's concerns to Court. As such, public interest standing should not be granted in this case where the Applicant admits that air passenger rights are not affected.
- iv. The relief requested is not available
66. The Applicant requests relief which is not available. Therefore, not only is the Statement not subject to judicial review, but the relief requested is not available even if the statement could be reviewed by this Court.
67. The Federal Court of Appeal is a statutory Court and derives its jurisdiction from the *Federal Courts Act* and any other applicable statute. The Court only has the jurisdiction granted to it by statute and has no inherent jurisdiction. The language of the *Federal Courts Act* is completely determinative of the scope of the Court's jurisdiction.<sup>54</sup>

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<sup>54</sup> *Windsor (City) v Canadian Transit Co.*, [2016 SCC 54](#) at para 33; *Prudential Steel ULC v Borusan Mannesmann*

68. Subsection 18.1(3) of the *Federal Courts Act* sets out the power of the Federal Court on judicial review.

(3) On an application for judicial review, the Federal Court may

(a) order a federal board, commission or other tribunal to do any act or thing it has unlawfully failed or refused to do or has unreasonably delayed in doing; or

(b) declare invalid or unlawful, or quash, set aside or set aside and refer back for determination in accordance with such directions as it considers to be appropriate, prohibit or restrain, a decision, order, act or proceeding of a federal board, commission or other tribunal.

69. Pursuant to paragraph 28(1)(k) of the *Federal Courts Act*, the Federal Court of Appeal has jurisdiction to hear and determine applications for judicial review made in respect of the Agency.<sup>55</sup>

70. Sections 18 to 18.5 apply, with any modifications that the circumstances require, in respect of any matter within the jurisdiction of the Federal Court of Appeal under subsection 28(1) and, when they apply, a reference to the Federal Court shall be read as a reference to the Federal Court of Appeal.

(a) Notice of Application – paragraph 1(a)

71. The Applicant seeks a declaration that the Statement is not a decision, order, determination, or any other ruling of the Agency and has no force or effect of law.<sup>56</sup> It does not seek a declaration that it is invalid or unlawful, the Applicant only wants this Court to confirm what is evident from a plain reading of the text. As such, this relief is not available under subsection 18.1(3) of the *Federal Courts Act*.

72. The Court may, in its discretion, grant a declaration where it has jurisdiction to hear the issue, where the dispute before the court is real and not theoretical, where the party raising

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*Boru Sanayi ve Ticaret A.S.*, [2017 FCA 173](#) at para 7.

<sup>55</sup> *Supra* note 41 at 28(1)(k).

<sup>56</sup> Draft Notice of Application of the Moving Party dated April 6, 2020, *Motion Record*, *supra* note 33 at Volume 1, Tab 2AI at para 1(a).

the issue has a genuine interest in its resolution, and where the respondent has an interest in opposing the declaration sought.<sup>57</sup>

73. A declaration can only be granted if it will settle a "live controversy" between the parties.<sup>58</sup>

In this case, there is no controversy. The parties agree that the Agency's Statement has no legal effect, that it is not a decision, order, determination, or any other ruling of the Agency and has no force or effect of law. It is a policy statement given in extraordinary circumstances without any effect on the obligations of airlines or the rights of passengers. In the absence of any controversy between the Applicant and the Agency, an Order in the form sought under paragraph 1(a) of the Notice of Application cannot be granted.

(b) Notice of Application – paragraph 1(b)

74. The Applicant seeks a declaration that the Statement on or about March 25, 2020, referencing of the Statement within the COVID-19 Agency Page, and the subsequent distribution of those publications is contrary to the Agency's own Code of Conduct and/or gives rise to a reasonable apprehension of bias for the Agency as a whole, or alternatively, the appointed members of the Agency who supported the Statement. This, too, is unavailable.

75. The parties agree that the Statement is not a decision of the Agency as a quasi-judicial tribunal. It is not signed by any particular Member. It is a statement of the Agency as regulator. It can therefore not be challenged on the basis of alleged bias.

76. Anyone whose rights, privileges, or interests are affected by an administrative decision is entitled to procedural fairness. Procedural fairness includes the right to a decision made by an impartial decision maker, free from a reasonable apprehension of bias.<sup>59</sup> This right does not arise in this case. There is no decision and no decision-maker. It is a statement of policy only. The Applicant's argument that it is entitled to procedural fairness and that any Member or Members of the Agency are biased cannot succeed.

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<sup>57</sup> *Ewert v Canada*, [2018 SCC 30](#) at para 81.

<sup>58</sup> *Daniels v Canada*, [2016 SCC 12](#) at para 11.

<sup>59</sup> *Oleynik v Canada*, [2020 FCA 5](#) at para 54.

77. At common law the ordinary consequence of a finding of reasonable apprehension of bias is that the decision under review is set aside.<sup>60</sup> The Applicant does not seek to set aside any decision. The Applicant wants it confirmed for what it is - a statement of policy.
78. The Applicant's allegations of bias are baseless. The Applicant consistently refers to the Agency's role as a quasi-judicial tribunal.<sup>61</sup> However, the Applicant ignores the fact that the Agency also acts as a regulator with a strong policy focus and provides guidance to transportation service providers and consumers, in addition to issuing decisions in the exercise of its role as a quasi-judicial tribunal. Policy statements of the Agency in the exercise of its regulatory function are not subject to rules of procedural fairness as are dispute resolution decisions.
79. The *Code of Conduct* to which the Applicant refers requires that Members not publicly express an opinion about any past, current, or potential cases or any other issue related to the work of the Agency, and shall refrain from comments or discussions which in public or otherwise which may create a reasonable apprehension of bias.<sup>62</sup> This is not a public statement made by any Member about any case and therefore the *Code of Conduct* does not apply.
80. There is no question but that the Statement is a suggestion of the Agency as regulator. Furthermore, it states clearly that an appropriate approach could be for airlines to provide affected passengers with vouchers. It specifically states that any specific situation would be examined on its merits. This is a clear expression of the Agency's intention to apply the facts and the law to any given situation. This cannot be the basis of a reasonable apprehension of bias.
81. Neither the APPR nor the CTA provide for refunds in the event of flight cancellation beyond an airline's control. Tariffs may have terms which airlines may believe absolve them of any obligation to compensate passengers for cancellations related to the COVID-19 pandemic.

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<sup>60</sup> *Ibid* at para 51.

<sup>61</sup> *Memorandum, supra* note 40 at paras 66-67, *Motion Record, supra* note 33 at Volume 1, Tab 3 at 206.

<sup>62</sup> Code of Conduct, Affidavit of Gabor Lukacs sworn April 7, 2020, *Motion Record, supra* note 33 at Volume 1, Tab 1T, Exhibit "T".

The Statement suggests that vouchers could be a reasonable approach in the current circumstances, which would benefit passengers if they are not otherwise entitled to or able to collect a refund. This suggestion does not suggest bias against air passengers.

82. Procedural fairness requires that the decision maker be free from a reasonable apprehension of bias. Procedural fairness does not apply to the Agency as a regulator issuing policy statements, and there is no basis upon which to challenge these statements for this reason. The proper recourse is to raise this issue, if there is any basis for making such allegations, in the context of the Agency exercising its quasi-judicial authority over a particular complaint. There is no basis in law to challenge conduct alleged to give rise to a reasonable apprehension of bias directly outside of an adjudicative process. The relief requested under subsection 1(b) of the Notice of Application is not available.

(c) Notice of Application – paragraph 1(c)

83. The Applicant, incredibly, further seeks a declaration that the Agency, or alternatively the appointed members of the Agency who supported the Statement, exceeded and/or lost its (their) jurisdiction under the Canada Transportation Act, S.C. 1996, c. 10 to rule upon any complaints of passengers about refunds from carriers relating to the COVID-19 pandemic.
84. There is no basis in law for a Court to declare that a quasi-judicial tribunal is precluded from exercising its statutory jurisdiction in future cases.

(d) Notice of Application – paragraphs 4(a)-(d)

85. In addition to the declarations, the Applicant also seeks a series of permanent orders, as follows;

4. (a) the Agency prominently post at the top portion of the COVID-19 Agency Page that the Agency's Statement has been ordered to be removed by this Court;

(b) the Agency remove the Statement, and references to the Statement within the COVID-19 Agency Page, from its website and replace the Statement with a copy of this Court's judgment;

(c) in the event the Agency receives any formal complaint or informal inquiry regarding air carriers' refusal to refund in respect of the COVID- 19 pandemic, promptly and prominently inform the complainant of this Court's judgment; and



(d) the Agency, or alternatively the appointed members of the Agency who supported the Statement, be enjoined from dealing with any complaints involving air carriers' refusal to refund passengers in respect of the COVID-19 pandemic, and enjoined from issuing any decision, order, determination or any other ruling with respect to refunds from air carriers for the COVID-19 pandemic;

86. The Applicant asks the Court to Order the Agency to do an act or thing it alleges the Agency has unlawfully failed or refused to do or has unreasonably delayed in doing pursuant to paragraph 18.1(3)(a) of the *Federal Courts Act*. It should be plain and obvious that the Applicant cannot succeed in this regard.

87. Paragraph 18.1(3)(a) of the *Federal Courts Act* provides for an Order in the form of *mandamus*. It is a discretionary equitable remedy. There must be a public legal duty which a public authority refuses or neglects to do in order to obtain an Order in the form of *mandamus*.<sup>63</sup>

88. There is no identified public legal duty to do what the Applicant requests under paragraphs 4(a), (b) and (c) of the Notice of Application. There cannot be any obligation for the Agency to post this Court's decision or to inform complainants of this Court's decision since the decision does not exist. The Agency cannot be unlawfully failing or refusing to post or communicate a decision which does not exist, which would be the prerequisite to obtaining an Order under paragraph 18.1(3)(a) of the *Federal Courts Act*.

89. Secondly, with respect to 4(d) above, there is no evidence of any obligation on the part of the Agency to recuse itself, or for Members to recuse themselves, from hearing any future complaints involving requests for refunds as a result of the COVID-19 pandemic, such that said failure or refusal to do so engages the Court's jurisdiction to issue the requested Order. The proper procedure in the event that a complainant believes that a decision maker has demonstrated a reasonable apprehension of bias is to raise the issue before the decision maker in the context of an adjudication.

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<sup>63</sup> *Khalil v Canada (Secretary of State)*, [1999 CanLII 9360](#).

90. Justice is better served when a tribunal is allowed to complete its work so that appeals can be heard on the basis that all contested issues can be reviewed in one hearing on the basis of a comprehensive record.<sup>64</sup> The Applicant seeks to permanently prevent the Agency from hearing complaints filed by members of the public, without a record at all.
91. Members are appointed pursuant to subsection 7(2) of the *Canada Transportation Act*<sup>65</sup> by the Governor in Council. As a result, they are empowered to hear complaints by members of the public against air carriers. These appointments are presumed valid and there is no authority for this Court to interfere with this state of affairs on judicial review of a policy statement that has no legal effect.
92. There is no legal authority for the Applicant's assertion that this Court can permanently disqualify the Agency or Members of the Agency from exercising their authority in particular types of cases.
93. For the above reasons the relief sought by the Applicant is not available and further supports the conclusion that the Application is without merit. The Applicant must demonstrate a "strong *prima facie* case" in order to obtain a mandatory interlocutory injunction. The record demonstrates that the Application is doomed to fail, and that the requested relief is not available. The Application falls short of establishing a strong *prima facie* case.

#### **D. There is no Irreparable Harm**

94. At the second stage of the analysis when considering whether to grant a mandatory interlocutory injunction, consideration is given as to whether the party applying for a stay will suffer irreparable harm if the injunction is not granted.
95. The parties agree that the Statement does not affect the legal rights of air passengers or the legal obligations of airlines. As a result, it cannot result in any harm if it remains published on the Agency's website.

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<sup>64</sup> *CHC Global Operations v Global Pilots Association*, [2008 FCA 344](#) at para 3.

<sup>65</sup> *CTA*, *supra* note 2, s 7(2).

96. The FAQs released by the Agency have confirmed that the Statement is not binding, removing any doubt that the Statement does not affect the obligations of airlines or the rights of passengers.
97. There is nothing that would prevent the Agency or any other Court of proper jurisdiction to determine that an air passenger is entitled to a refund instead of a voucher where this entitlement exists, even if the Agency's Statement remains published on the Agency's website. No harm will result if the mandatory interlocutory injunction is not granted. In fact, it is difficult to imagine what purpose it would serve in the circumstances.

## **E. Balance of Convenience**

### **i. The public interest must be considered**

98. At the third stage of the analysis, the balance of convenience, the public interest is considered.
99. Interlocutory relief ought not to be granted unless the public interest is taken into consideration in the balance of convenience and weighted together with the interest of private litigants.<sup>66</sup>
100. The public interest includes both the concerns of society generally and the particular interests of identifiable groups.<sup>67</sup>
101. In this case there is a public interest in having guidance for air passengers and airlines regarding how to deal with a situation of a global pandemic where some airline tariffs might not provide for a refund in the event of a flight cancellation in these circumstances, and where air passengers might be otherwise left out-of-pocket for flights that have been cancelled as a result of a situation beyond an airline's control. There is a public interest in the exercise of the Agency's authority to provide guidance to stakeholders in these circumstances.

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<sup>66</sup> *Metropolitan Stores*, *supra* note 37 at 146; *Sawridge Band v Canada*, [2004 FCA 16](#) at para 54.

<sup>67</sup> *RJR MacDonald*, *supra* note 37 at para 71, *Motion Record*, *supra* note 33 at Volume 2, Tab 25 at 543.

ii. The rights of air passengers should be considered

102. The Applicant seeks an interlocutory order the Agency shall not issue any decision, order, determination, or any other ruling with respect to refunds from air carriers in relation to the COVID-19 pandemic.<sup>68</sup> Such an Order would prevent air passengers from filing complaints against airlines who are not complying with their tariffs. Air passengers would lose access to the Agency's adjudicative processes and the relief available under the CTA and the ATR. It would be inconsistent with the principle of access to justice to prevent access to an administrative tribunal that can adjudicate a complaint efficiently and with the relevant expertise, and instead force passengers to revert to the Courts with the related expense.

103. The balance of convenience favours an Order dismissing the motion for interlocutory relief. Passengers would be prejudiced if the motion is granted. Specifically, passengers would be denied an avenue of recourse in the event that an airline has not complied with its tariff.

## **F. Conclusion**

i. The Motion Should be Dismissed

104. The Application for judicial review cannot succeed. The Agency's Statement is not a decision which can be the subject of a review by this Court. The Applicant has failed to demonstrate a "strong *prima facie* case" and the motion should be dismissed.

105. With respect to the procedural relief sought, there is no need to expedite the matter given that there is no state of affairs that needs to be addressed urgently. The Applicant's claims of urgency have proven to be unfounded thus far. Furthermore, the parties have agreed to electronic service.

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<sup>68</sup> Notice of Motion of the Moving Party dated April 7, 2020, *Motion Record*, *supra* note 33 at Volume 1, Tab 1 at para 2(c).

ii. The Application for Judicial Review Should be Dismissed

106. The question of whether the Statement posted on the Agency's website could be the subject of an Application for judicial review was identified immediately on the filing of the Applicant's materials. At the time, the Court accepted the Applicant's materials for filing and determined that the question of whether there is subject matter for judicial review can be decided after hearing from both parties.<sup>69</sup>
107. The Court has now heard from both parties. It is plain and obvious that there is no basis for judicial review in this case.
108. The Court's jurisdiction to strike a notice of application is founded not in the *Federal Courts Rules* but in the Courts' plenary jurisdiction to restrain the misuse or abuse of courts' processes.<sup>70</sup>
109. The Supreme Court of Canada has emphasized the need for modern litigation to proceed faster and more simply.<sup>71</sup> This underscores the important role that motions to strike can play in removing clearly unmeritorious cases from the Court system.<sup>72</sup>
110. Given that the Court has heard from both parties, and it is clear that there is no subject matter for judicial review, it would be appropriate to dismiss the Application at this stage. Such a decision would avoid the need for further proceedings including a separate motion to strike. It would represent an efficient use of the Court's resources and would serve to restrain the misuse of the courts' process.

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<sup>69</sup> Federal Court of Appeal Recorded Entry dated April 9, 2020, Court File No. A-102-20.

<sup>70</sup> *Forner v Professional Institute of the Public Service of Canada*, [2016 FCA 35](#) at para 9 [*Forner*].

<sup>71</sup> *Hryniak v Mauldin*, [2014 SCC 7](#) at 34.

<sup>72</sup> *Forner*, *supra* note 70 at para 10.

**PART IV – RELIEF SOUGHT**

111. The Agency seeks an Order dismissing the motion and the Application for judicial review.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Ottawa, in the Province of Ontario, this 29<sup>th</sup> day of April, 2020.



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Counsel for the Respondent, Canadian Transportation Agency

## PART V – LIST OF AUTHORITIES

### A. Appendix A - Statutes and Regulations

1. *Air Passenger Protection Regulations*, SOR/2019-150, ss 10, 12(3)
2. *Air Transportation Regulations*, SOR/88-58, ss 107(1), 110(1), 111(1), 113.1(1), 116(2), 122(c)
3. *Canada Transportation Act*, SC 1996, c 10, ss 7(2), 67(1)(a), 67.2(1), 86(1), 86.1, 86.11
4. *Federal Courts Act*, RSC 1985, c F-7 ss 18.1, 28(1)(k)

### B. Appendix B - Case Law

1. *Air Canada v Toronto Port Authority et al*, 2011 FCA 347
2. *Azar v Air Canada*, Decision No. 264-C-A-2013, dated July 10, 2013
3. *Canadian Council of Churches v Canada (Minister of Employment and Immigration)*, 1992 CanLII 166
4. *Canadian National Railway Company v Emerson Milling Inc. et al.*, 2017 FCA 79
5. *Canadian Pacific Railway Company v Cambridge (City)*, 2019 FCA 254
6. *CHC Global Operations v Global Pilots Association*, 2008 FCA 344
7. *Council of Canadians with Disabilities v Via Rail Canada Inc.*, 2007 SCC 15, *CLA Vol 3, Tab 16*
8. *Daniels v Canada*, 2016 SCC 12
9. *Democracy Watch v Conflict of Interest and Ethics Commissioner*, 2009 FCA 15
10. *Ewert v Canada*, 2018 SCC 30
11. *Forner v Professional Institute of the Public Service of Canada*, 2016 FCA 35
12. *Hryniak v Mauldin*, 2014 SCC 7
13. *Irving Pulp & Paper v CEP Local 30*, 2013 SCC 34
14. *Irving Shipbuilding Inc. v Canada (Attorney General)*, 2009 FCA 116
15. *Khalil v Canada (Secretary of State)*, 1999 CanLII 9360 (FCA), *CLA Vol. 1, Part C, Tab 17*
16. *Krause v Canada*, 1991 CanLII 9338
17. *League of Human Rights of B'Nai Brith Canada v Odynsky*, 2010 FCA 307
18. *Lukács v Canada (Transportation Agency)*, 2014 FCA 76
19. *Manitoba (AG) v Metropolitan Stores Ltd.*, [1987] 1 SCR 110, *CLA Vol. 1, Part B, Tab 9*
20. *Oleynik v Canada*, 2020 FCA 5
21. *Prudential Steel ULC v Borusan Mannesmann Boru Sanayi ve Ticaret A.S.*, 2017 FCA 173

22. *Sawridge Band v Canada*, 2004 FCA 16
23. *Tsleil-Waututh Nation v Canada (Attorney General)*, 2018 FCA 153
24. *Windsor (City) v Canadian Transit Co.*, 2016 SCC 54

### **C. Other Documents**

1. 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*, 1st Sess, 42nd Parl, 2018, SC 2018, c 10
2. EC, *Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91*, [2004] OJ, L 46/1
3. Canadian Transportation Agency, Determination No. A-2020-42
4. Canadian Transportation Agency, Order No. 2020-A-32