



Air Passenger Protection Regulations – Frequently Asked Questions

As the air transportation system continues to recover from the impacts of the pandemic, there has been much discussion and debate regarding the Air Passenger Protection Regulations (APPR), and the amendments passed by the federal government and the regulations proposed by the Canadian Transportation Agency (CTA).

In order to provide greater clarity on the intent and current status of APPR, the National Airlines Council of Canada (NACC) has produced the following Frequently Asked Questions (FAQs) document.

What changes are being proposed to the APPR?

A: In June 2023, Parliament passed a number of amendments to APPR. Subsequently, in July 2023, the Canadian Transportation Agency (CTA) released a set of draft regulations to implement the changes Parliament passed to the APPR, and launched a 30 day public consultation on those draft regulations. Overall, these changes are more punitive on airlines, and put more burden and cost on airlines including for incidents for which they have no control nor are responsible.

A copy of the CTA's proposed regulations can be found here: <https://otc-cta.gc.ca/eng/publication/consultation-paper-proposed-changes-clarify-simplify-and-strengthen-air-passenger>

Changes proposed to the APPR would make airlines responsible for paying compensation in every situation where there is a disruption, except in "exceptional circumstances". Why do airlines oppose creating a list of events from which airlines would be exempt from paying passenger compensation?

A: Airlines have always supported having a clear list of exceptional circumstances to ensure that passengers and airlines alike have a consistent understanding of when compensation is owed or not.

However, the proposed list developed by the CTA currently does not prioritize safety. When disruptions are necessary for safety reasons, airlines should not be financially penalized. In fact, this is contrary to the non-punitive approach known in aviation as Safety Management Systems (SMS), which are required by Transport Canada. The default should always be to ensure safe operations.

After extensive consultation with safety experts, airlines have proposed a list of exceptional circumstances rooted in safety – a copy of that list can be downloaded from [NACC's submission](#) to the CTA this past summer.

Do airlines use "safety" as an excuse to avoid any sort of responsibility?

A: No. Safety is, and always will be the most important consideration for aviation. Airlines and the air travel system must adhere to a long list of safety related practices, programs, and regulations – and these must never be compromised. It is true that adherence to safety practices, protocols and



regulations can sometimes be a cause for a flight disruption – and although it is the objective of airlines to minimize disruptions, safety considerations will always be the top operational priority. Customers also choose airlines on the basis of safety and rely on airlines to make the correct safety decision, even if it disrupts a journey. Being penalized for adhering to strict safety standards – which are required by government regulations – simply makes no sense, and runs contrary to every international aviation principle and declaration that Canada has signed on to for decades.

I understand that flight disruptions sometimes occur, but why can't airlines do a better job at communicating problems when they occur?

A: Airlines have acknowledged that communications with passengers can be improved. Through the APPR consultation process, airlines have put forward a number of concrete policy solutions for better communications that strengthen the proposals suggested by the CTA.

However, airlines can only communicate the information they have. When the cause of a disruption is related to other service providers in Canada's aviation ecosystem, airlines often lack the information needed to properly communicate it. That is why airlines have called for enhanced communication protocols as part of a "shared accountability" system. The CTA itself acknowledges on its website that the cause of a delay may not be immediately known, saying: "*Be aware that delays and cancellations are often complex. What happened and what you are entitled to can sometimes only be confirmed after your travel journey is over, after contacting the airline, or after making a complaint to the Agency.*"

The European Union passenger rights regime has been cited by passenger rights advocates as the best in the world. Why shouldn't Canada simply copy the EU regulations for our APPR?

A: There have been misleading statements on the EU passenger rights regime, also known as EU261 which has led to public misunderstanding of these complex rules. For instance, EU261 contains an exceptional circumstances provision without any definition. Instead, European courts have had to define such a list over the past 10 years, which has led to an extremely litigious system. Furthermore, unlike Canada, there is no centralized appeal system to address passenger complaints, resulting in wide-spread inconsistencies in application, and a very expensive and time-consuming process for passengers to file claims.

It should also be noted that Europe has a much smaller geography, a larger population and a temperate climate. The weather in Canada and the US makes it more difficult to recover in the way that carriers often can in Europe. Furthermore, the compensation levels in EU261 are less than what is being proposed for Canada by the CTA under the proposed regulations.

It should also be noted that Europe has a larger number of alternative travel modes, for instance its more developed rail network, which provides more options when disruptions occur.



Additional responsibilities on airlines through a revised APPR will translate into airlines delivering a better travel experience a reduction in disruptions – isn't that true?

A: Evidence suggests there is no correlation between the quality of the travel experience and tougher passenger rights' rules. As a real-world example, studies commissioned by the EU have shown that the modified EU261 rules have had no impact on flight disruptions, and that disruptions have not decreased. Flight disruptions are caused by many factors, most of which are outside of the control of airlines. For instance, weather, cyber incidents, unplanned manufacturing or technical defects, or delays caused by airports or air navigation are all potential causes of a flight delay. More costly APPR will do nothing to address these issues. Instead, more costly regulations simply make airlines the de facto "insurance agent" for the entire air travel system, regardless of culpability.

There are a number of measures that can be taken in the short to medium term to enhance the aviation system to improve the air travel experience – investing in airport infrastructure, better use of biometrics, investing in the domestic production of sustainable aviation fuels (SAF), reviewing third party taxes and fees, and so forth. Other countries have done this – for instance, over the past several years the American government has invested billions of dollars in improvements to US airports, such as automation and new facilities. Implementing more costly APPR regulations will do nothing to improve the travel experience for Canadians.

The CTA has proposed a maximum of two flights for a so-called "knock-on" effect maximum whereby airlines would be exempted from paying compensation. What is a knock-on effect and why doesn't the current proposal reflect reality?

A: When there is a delay or disruption with a flight, it may lead to subsequent operational impacts on other flights, which industry refers to as a knock-on effect. If one flight is delayed, that means that the aircraft and/or crew from that flight may not be available for a subsequently scheduled flight, which may lead to a further disruption, and so on.

Airlines have contingency plans in place to help them recover from most irregular operations, but wide-spread events, like the major storms experienced during the 2022 holiday period throughout much of North America can reverberate through a network for days, even with the best contingency planning.

The APPR proposal of accepting that only one disrupted flight resulting from a situation outside carrier's control ignores the reality of the interconnected aviation system. A disrupted flight or disruption in one location can have knock-on effects that go well beyond just one subsequent flight. Rather than set an unrealistic, arbitrary two-flight limit, NACC has recommended a time window of 48 hours for knock-on effects, which is a more realistic assessment of how long it takes on average for flight operations to recover and resume their normal operations. However, even this longer timeframe is subject to airlines demonstrating that reasonable measures have been taken to avoid the knock-on in order to claim that knock-on disruptions remain uncontrollable.



Airlines often refer to “shared accountability” as a tangible way to enhance the passenger journey and experience. What is shared accountability and how would it prevent flight disruptions and empower the traveller?

A: Air travel in Canada is a complex undertaking; it involves significant coordination and partnership between airlines, airports, the Canadian Air Transport Security Authority (CATSA), the Canada Border Services Agency (CBSA), NAV CANADA, Transport Canada, and with foreign entities such as the United States Customs and Border Protection (CBP) for pre-cleared flights, and further, with all of these equivalent entities abroad. If a problem occurs with even one of these organizations, air travel may be disrupted. The only way that air travel will improve is if all of Canada’s aviation system and service providers are held to greater accountability, hence the concept of “shared accountability”. We envision shared accountability to mean better data sharing, stronger communication protocols, and enforceable service standards for all these entities.

At present, it is only one party in this complex system – airlines – who are held to account for disruptions and required to pay compensation. A shared accountability system would strengthen the overall system, thereby improving air travel. You can read our vision for a shared accountability system [here](#).

Are airlines opposed to APPR changes, mostly because it would hurt their bottom line?

A: Airlines take responsibilities for disruptions when they have caused them. In every audit conducted by the CTA since the APPR came into force in 2019, airlines were found to be in compliance with APPR rules – oftentimes going well beyond what is required under the regulations, such as providing goodwill compensation even when they are not responsible, as well as food and accommodation.

However, airlines also contend that a passenger rights regime has to strike a fair balance. As currently presented, the APPR proposals lack this balance. If airlines are made to pay passengers even for flight disruptions outside the airlines’ control, or for safety purposes, costs of operations will increase, as will airfare for all passengers. Additionally, other service providers in the aviation ecosystem will not be incentivized to improve.

Significant concerns have been raised in response to the changes proposed by the CTA in summer 2023 that completely up-end that balance. These concerns extend far beyond airlines. Airports, in particular rural and regional airports from across the country, the tourism sector, business groups such as the Canadian Chamber of Commerce, labour associations, Canada’s air navigation service provider (NAV CANADA), and others have raised concerns with the current proposals. These groups all recognize that if the proposed regulations proceed in their current form, they will impose significant costs to the air travel system – and this is on top of third party fees and charges that are already among the most expensive in the world.

By increasing costs and consequently airfares for travellers, passenger volumes will decrease, thus harming sectors such as tourism, especially if the viability of less profitable regional routes will be put at risk, and there will be less capacity to invest in critical services.



Have airlines made public their proposals in response to the APPR pre-consultation?

A: Yes. NACC and its member airlines have submitted comprehensive responses to the summer 2023 CTA consultation process in which fair, sensible and realistic proposals were put forth. You can download a copy of those proposals here:

- NACC: https://airlinecouncil.ca/wp-content/uploads/2023/08/NACC-Submission_CTA-APPR-Regulatory_10-Aug-2023.pdf
- Air Canada: https://otc-cta.gc.ca/sites/default/files/consultations/appr3/Air_Canada_E_APPR3.pdf
- Air Transat: https://otc-cta.gc.ca/sites/default/files/consultations/appr3/Air_Transat_APPR3.pdf
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