

The Honourable Marc Garneau, Minister of Transport

Dear Mr Garneau,

We commend Canada's intention to introduce standardized air passenger rights, however we write to you today to express significant concerns with the current proposals. They contain a critical safety issue which must be rectified, and in some cases they reduce the rights of Canadian travellers, rather than protect or improve them.

As the world's largest organization specializing in air traveller rights, we offered advice during the public consultation, based on our experience helping 7 million air passengers under the laws of the European Union (EU). Then, as now, we urge you to address the following flaws in the regulations to ensure these new laws successfully protect and enhance the rights of air passengers:

1. Excluding mechanical malfunctions creates a critical safety issue

The exclusion for mechanical malfunction perversely benefits airlines who discover mechanical faults shortly before take-off as opposed to during scheduled maintenance. This is a critical flaw with implications for aircraft safety, and endangers the lives of Canadian air passengers.

We are aware you have made statements on this issue, including an [incorrect claim](#) that the EU is introducing a similar exclusion for mechanical malfunction. This is misleading both to the public and the government. While such an amendment was proposed in 2013, it was abandoned because it failed to properly balance airline interests with passenger safety.

Canada's regulations should follow the EU's example and incentivize airlines to do their due diligence to avoid malfunctions. In our opinion, the only avenue to achieve this is to hold airlines accountable for all maintenance of their fleet.

We believe there is a solution within the current wording of the regulation. We propose that the Canadian government limit the definition of mechanical malfunctions to those that arise from hidden manufacturing defects, sabotage and terrorism. Then there will be a distinction between maintenance, which is within the control of the airlines, and external causes, such as inherent defects from aircraft production.

2. Tarmac delay times should not be longer than current rules.

The proposals on tarmac delay more than double the time that passengers can be held on a plane, from the current 90 minutes to a maximum of 3 hours and 45 minutes. This is contrary to the explicit advice of the Senate, which recommended keeping the 90-minute limit.

3. Airlines must provide care for their passengers in all cases of disruption.

The provision of food, communication, and other forms of care is an essential right for passengers facing travel disruption. Providing this most basic requirement only if the airline accepts responsibility means Canada's regulations are considerably weaker than EU laws when it comes to protecting passengers.

4. Any passenger who is denied boarding, through no fault of their own, should receive compensation.

Although the proposed regulations include compensation for denied boarding, passengers must prove their aircraft was full when it departed without them, and the airline must admit responsibility. This excludes other circumstances of denied boarding which also lie outside of the passenger's control. For example, if an airline fails to fully staff their check-in desks and passengers cannot check-in on time. Or if an airline closes their check-in desk before the published time. Moreover, airlines can avoid paying compensation by moving passengers to a different flight - even when they didn't get the passenger's consent.

5. Claim processes should not be left to the airline discretion.

Do not allow airlines to create unnecessary procedures to discourage passengers from claiming. The regulations already impose a 120-day limitation on making a claim, putting pressure on passengers to act fast. Our research in Europe, where passengers have between 1 - 10 years to make a claim, shows that 66% of passengers who have suffered a disrupted flight don't think the airline gives them enough information on their rights.

We want to see Canada succeed in introducing new air traveller regulations which protect passengers, and we are at your disposal with further insight, comments or data.

You have previously stated that EU laws are moving in the direction of the USA. With all due respect, we believe you have been misinformed. The EU introduced air passenger rights laws to protect consumers, and they maintain their commitment to doing so. In comparison, the lack of consistent air passenger regulations in the USA is just one example of their substandard consumer rights protections.

If Canada is looking for a model of transparent, clear, fair, and consistent policies, we urge you to learn from the EU. Canada's Liberal government should be a global leader, setting worldwide standards which favour fair consumer protection.

Sincerely,

AirHelp