

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

BETWEEN:

DELTA AIR LINES INC.

APPLICANT
(Respondent)

– and –

DR. GÁBOR LUKÁCS

RESPONDENT
(Appellant)

RESPONSE TO THE APPLICATION FOR LEAVE TO APPEAL
(DR. GÁBOR LUKÁCS, RESPONDENT)

(Pursuant to Rule 27 of the *Rules of the Supreme Court of Canada*, SOR/2002-156)

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Table of Contents

MEMORANDUM OF ARGUMENT

PART I	OVERVIEW & STATEMENT OF FACTS	1
	A. Overview	1
	B. Background	2
	i. The regulatory scheme	2
	ii. The public interest advocacy of Dr. Gábor Lukács	3
	C. Procedural history	5
	i. Before the Canadian Transportation Agency	5
	ii. Before the Federal Court of Appeal	6
PART II	QUESTIONS IN ISSUE	8
PART III	STATEMENT OF ARGUMENT.....	9
	A. The proposed appeal is premature and contrary to the intent of Parliament	9
	B. The judgment of the Federal Court of Appeal does not give rise to a question of public importance and is correct.....	10
	i. Straw men in Delta’s submissions.....	10
	ii. Delta’s attempt to introduce evidence in the guise of authorities	12
	iii. The “floodgate” argument	13
	iv. The Federal Court of Appeal’s judgment is correct	13
	C. The question of applicability of the law of standing in administrative law is ill-defined.....	14
PART IV	SUBMISSIONS CONCERNING COSTS	15
PART V	ORDER SOUGHT.....	16
PART VI	TABLE OF AUTHORITIES	17
PART VII	STATUTES, REGULATIONS, AND MINISTERIAL ORDERS.....	20

PART I – OVERVIEW & STATEMENT OF FACTS

A. Overview

1. Delta is seeking leave to appeal from a unanimous judgment of the Federal Court of Appeal, which reads as follows:¹

The matter is returned to the Agency to determine, otherwise than on the basis of standing, whether it will inquire into, hear and decide the appellant’s complaint.

The proposed appeal fails to identify any issue of national importance warranting the intervention of this Court, is based on frivolous mischaracterization of the FCA Reasons, and is premature.

2. The Federal Court of Appeal did not order the Agency (or any other tribunal) to inquire into, hear or decide every complaint; on the contrary, it recognized that “the Agency retains a gate-keeping function and has been granted the discretion to screen the complaints that it receives.”² The appeal before the FCA turned on a narrow question of law that is specific to the Agency’s mandate to act in the public interest to eliminate unreasonable and unduly discriminatory terms and conditions that are unilaterally imposed by air carriers on the travelling public. The narrow question was whether standing is a relevant consideration in the exercise of the Agency’s gatekeeping function in the specific context of this public interest mandate.

3. The Federal Court of Appeal applied the deferential “reasonableness” standard of review,³ and based its analysis on the considered and consistent view of the Agency about its own function and home statute.⁴ The FCA correctly found that the Agency’s function is to prevent damage to the public at large that could result from unreasonable and unduly discriminatory terms and conditions, rather than merely compensating individuals who have been affected *ex post facto*. Consequently, focusing on the identity of complainant instead of the substance of the complaint would frustrate the will of Parliament in creating a regulatory regime to achieve certain policy objectives.⁵ Therefore, the FCA correctly concluded that the Agency cannot reasonably “refuse to look into a complaint on the sole basis that the complainant does not meet the standing requirements developed by courts of civil jurisdiction”⁶ (emphasis added).

¹ FCA Judgment – **Application for Leave to Appeal (Application), Tab 2D, p. 37.**

² FCA Reasons, ¶ 16 – **Application, Tab 2C, p. 27.**

³ FCA Reasons, ¶ 15 – **Application, Tab 2C, p. 25.**

⁴ FCA Reasons, ¶¶ 28-29 – **Application, Tab 2C, p. 33.**

⁵ FCA Reasons, ¶ 19 – **Application, Tab 2C, p. 28.**

⁶ FCA Reasons, ¶ 30 – **Application, Tab 2C, p. 34.**

4. The proposed appeal is also premature, because the judgment of the Federal Court of Appeal dealt only with a preliminary objection, and does not affect the substantive rights of Delta. Granting leave to appeal at this stage would waste the scarce judicial resources of this Court and unnecessarily delay the determination of the issues been the parties by the Agency, contrary to the direction of Parliament that proceedings before the Agency be determined within 120 days.⁷

B. Background

i. The regulatory scheme

5. In enacting the *Canada Transportation Act* [the *CTA*], Parliament imposed on the transportation by air of passengers and cargo within, to, and from Canada a regulatory scheme entailing numerous economic and consumer protectionist measures set out in Part II of the *CTA*. These measures are enforced through the requirement that the operator of an air service must obtain an appropriate licence from the Agency.⁸

6. Canada, unlike the European Union or the United States, does not have any kind of air passenger bill of rights (although Canada is a party to the *Montreal Convention*). Instead, licence holders are required to create and publish a tariff clearly stating the terms and conditions of carriage with respect to an enumerated list of core areas. The tariff serves as the contract of carriage between the passengers and the air carrier, and can be enforced by Canadian courts and the Agency.⁹

7. Licence holders set their terms and conditions unilaterally, without any input from passengers, and based on their own interests,¹⁰ but the terms and conditions must be just and reasonable and must not be unjustly (or unduly) discriminatory.¹¹

8. In order to eliminate unreasonable and unjustly discriminatory terms and conditions, Parliament conferred on the Agency the power to disallow any tariff rule that fails to be reasonable or which is unjustly discriminatory, and to substitute the disallowed tariff rule with another one.¹²

⁷ *Canada Transportation Act*, S.C. 1996, c. 10, s. 29(1).

⁸ *Canada Transportation Act*, S.C. 1996, c. 10, s. 57(a).

⁹ *Air Transportation Regulations*, S.O.R./88-58, ss. 107, 110, 113.1, and 122; *Canada Transportation Act*, S.C. 1996, c. 10, ss. 67, 67.1, and 86(1)(h); *Lukács v. Canada (CTA)*, 2015 FCA 269, ¶¶ 20-21.

¹⁰ *Lukács v. Air Canada*, Canadian Transportation Agency, Decision No. 250-C-A-2012, ¶ 9.

¹¹ *Air Transportation Regulations*, S.O.R./88-58, s. 111; *Canada Transportation Act*, S.C. 1996, c. 10, s. 67.2(1).

¹² *Air Transportation Regulations*, S.O.R./88-58, s. 113; *Canada Transportation Act*, S.C. 1996, c. 10, ss. 67.2(1) and 86(1)(h)(i)-(ii); *Lukács v. Canada (CTA)*, 2015 FCA 269, ¶ 23.

9. For historic reasons, the legislative provisions governing tariffs of international licence holders are found mostly in the *Air Transportation Regulations* [the *ATR*], while the corresponding provisions with respect to tariffs of domestic licence holders are mostly found in the *CTA*. Sections 111 and 113 of the *ATR* serve the same purpose of eliminating unreasonable and unjustly discriminatory tariff provisions as s. 67.2(1) of the *CTA*. The only difference is that the former allow the Agency to act even in the absence of a complaint from a member of the public, on its own motion.

10. To summarize, the Agency has been granted two different types of powers and mandates:

- (a) granting individual remedies by awarding compensation to “any person adversely affected” by the failure of a licence holder to honour its tariff;¹³ and
- (b) granting systemic or preventive remedies by ordering a licence holder to take corrective measures or by disallowing and/or substituting unreasonable or unjustly discriminatory tariff rules.¹⁴

ii. The public interest advocacy of Dr. Gábor Lukács

11. Dr. Gábor Lukács is a Canadian air passenger rights advocate,¹⁵ who volunteers his time and expertise for the benefit for the travelling public. Since 2008, Dr. Lukács has filed more than two dozen successful tariff complaints with the Agency challenging the tariffs of licence holders, resulting in orders directing them to amend their conditions of carriage and offer better protection to passengers.¹⁶ The work and public interest litigation of Dr. Lukács has been recognized by the Federal Court of Appeal in a number of judgments.¹⁷

¹³ *ATR*, s. 113.1(b); *CTA*, 67.1(b).

¹⁴ *ATR*, ss. 113 and 113.1(a); *CTA*, ss. 67.2 and 67.1(a).

¹⁵ *Lukács v. Canada (Canadian Transportation Agency)*, 2015 FCA 140, ¶ 1.

¹⁶ Highlights of Dr. Lukács’s work include: *Lukács v. Porter Airlines*, 249-C-A-2014 (denied boarding compensation amounts); *Lukács v. Porter Airlines*, 31-C-A-2014 (*Montreal Convention*, flight cancellation, schedule change, flight advancement and denied boarding); *Lukács v. British Airways*, 10-C-A-2014 (*Montreal Convention* and amount of denied boarding compensation); *Lukács v. Porter Airlines*, 344-C-A-2013 (liability for delays); *Lukács v. Air Canada*, 204-C-A-2013 and 342-C-A-2013 (denied boarding compensation amounts); *Lukács v. United Airlines*, 467-C-A-2012 (conditions inconsistent with Articles 17(2) and 19 of the *Montreal Convention*); *Lukács v. Air Canada*, 250-C-A-2012 and 251-C-A-2012, *Lukács v. Air Transat*, 248-C-A-2012, *Lukács v. WestJet*, 249-C-A-2012 and 252-C-A-2012 (*Montreal Convention* and delays caused by overbooking and flight cancellation); *Lukács v. WestJet*, 483-C-A-2010, leave to appeal to FCA denied, 10-A-42 (domestic baggage liability cap); *Lukács v. WestJet*, 477-C-A-2010, leave to appeal to FCA denied, 10-A-41 (disclaimer of liability inconsistent with Articles 17(2) and 19 of the *Montreal Convention*); *Lukács v. Air Canada*, 208-C-A-2009 (baggage liability policy inconsistent with Articles 17(2) and 19 of the *Montreal Convention*).

¹⁷ Most recently in *Lukács v. Canadian Transportation Agency*, 2016 FCA 174, ¶ 6.

12. Dr. Lukács has been offering *pro bono* representation to passengers in matters before the Canadian Transportation Agency, the Nova Scotia Small Claims Courts,¹⁸ the Office of the Privacy Commissioner of Canada, and the Canadian Human Rights Commission.

13. In 2013, the Consumers' Association of Canada recognized the achievements of Dr. Lukács in the area of air passenger rights by awarding him its Order of Merit for "singlehandedly initiating Legal Action resulting in revision of Air Canada unfair practices regarding Over Booking."¹⁹

14. Counsel for Delta, Mr. Carlos Martins, described the work of Dr. Lukács as follows:²⁰

In the consumer protection landscape, for the last several years, the field has largely been occupied by Gabor Lukács, a Canadian mathematician who has taken an interest in challenging various aspects of the tariffs filed by air carriers with the regulator, the Canadian Transportation Agency (the Agency). The majority of Mr Lukács' complaints centre on the clarity and reasonableness of the content of the filed tariffs, as well as the extent to which air carriers are applying their tariffs, as filed, in the ordinary course of business.

Mr Lukács' efforts have created a significant body of jurisprudence from the Agency - to the extent that his more recent decisions often rely heavily upon principles enunciated in previous complaints launched by him.

[...]

It is expected that, in 2014, Mr Lukács will continue in his quest to ensure that air carrier tariffs are reasonable, clear and faithfully applied.

15. The experience of Dr. Lukács in administrative law has been recognized by the Government of Nova Scotia by appointing him as a member of the Assistance Appeal Board, and designating him as a Vice-chairperson.²¹

16. Therefore, Dr. Lukács is not a "curious busybody,"²² but rather a recognized and established consumer advocate dedicated to improving the rights of Canadian air passengers.

¹⁸ *Lachance v. Air Canada*, 2014 NSSM 14.

¹⁹ Media Advisory - The Consumers' Association of Canada to present "The Order of Merit" to Mr. Gabor Lukacs, dated September 3, 2013. <http://www.newswire.ca/news-releases/media-advisory—the-consumers-association-of-canada-to-present-the-order-of-merit-to-mr-gabor-lukacs-512867581.html>

²⁰ Carlos Martins: Aviation Practice Area Review (September 2013), WHO'SWHOLEGAL – Appeal Book (Federal Court of Appeal), Tab 5, pp. 35-37, http://docs.airpassengerrights.ca/Federal_Court_of_Appeal/A-135-15/2015-04-02–Appeal_Book–DIGITAL-R.pdf

²¹ Ministerial Order #MA 16-0392, dated June 7, 2016.

²² As Delta hinted at paragraph 6 of its submissions.

C. Procedural history

i. Before the Canadian Transportation Agency

17. According to an email sent by a customer care agent of Delta on or around August 20, 2014, Delta applies the following practice to force “large” passengers to buy multiple seats:²³

Sometimes, we ask the passenger to move to a location in the plane where there’s more space. If the flight is full, we may ask the passenger to take a later flight. We recommend that large passengers purchase additional seats, so they can avoid being asked to rebook and so we can guarantee comfort for all. (Emphasis added.)

18. On August 24, 2014, Dr. Lukács filed a written complaint with the Agency alleging that this practice of Delta is discriminatory, contrary to subsection 111(2) of the *ATR* and the findings of the Agency in its “One-Person-One-Fare” decision.²⁴

19. On September 5, 2014, the Agency invited the parties to make submissions with respect to the standing of Dr. Lukacs to bring the complaint.²⁵

20. On September 18, 2014, Dr. Lukács submitted to the Agency that: (a) the complaint did not seek any disability-related accommodation, but only sought to stop (overt) discrimination against passengers based on their physical characteristics (size); (b) any person may bring a complaint for the violation of s. 111 of the *ATR*; and (c) alternatively, Dr. Lukács should be granted public interest standing based on the well-established test set out in *Finlay*.

21. On September 26, 2014, Delta submitted to the Agency that Dr. Lukács did not have private interest standing, and should not be granted public interest standing because those who are directly affected by the discriminatory practices might complain about the same issue. Delta did not dispute that Dr. Lukács met the first two prongs of the test for public interest standing (serious issue and having a genuine interest in the matter).

22. On November 25, 2014, the Agency dismissed the complaint on the basis that Dr. Lukács was lacking both private and public interest standing to bring the complaint [Agency’s Decision].²⁶

²³ Exhibit to the complaint of Dr. Lukács – **Application, Tab 4A, p. 75.**

²⁴ Decision No. 6-AT-A-2008.

²⁵ Decision No. LET-C-A-63-2014 – **Application, Tab 2B, p. 18.**

²⁶ Decision No. 425-C-A-2014 – **Application, Tab 2A, p. 4.**

23. In its reasons, the Agency accepted Dr. Lukács’s submission that the complaint relates to a tariff issue, but rejected the position that any person may bring a complaint under s. 111 of the *ATR*. With respect to the latter, the Agency erroneously considered itself to be a court of law:²⁷

[51] It is important to start the analysis of the issue of standing by reminding that this case relates to a tariff issue, not an issue related to accessible transportation for persons with a disability.

[52] That being said, the Agency raised the issue of standing. Although Mr. Lukács is not required to be a member of the group “discriminated” against in order to have standing, he must have a sufficient interest in order to be granted standing. Hence, notwithstanding the use of the words “any person” in the *ATR*, the Agency, as any other court, will not determine rights in the absence of those with the most at stake. Determining otherwise would, as noted by the *Supreme Court in Canada v. Downtown Eastside Sex Workers*, “[...] be equated with a licence to grant standing to whoever decides to set themselves up as the representative of the poor or marginalized.” (Emphasis added.)

24. The Agency compounded its error by misquoting this Court on the legal test of public interest standing, and stating that:²⁸

Considering that the Supreme Court already established that the second part of the test for granting public interest standing does not expand beyond cases in which constitutionality of legislation or the non-constitutionality of administrative action is contested, this is a fatal flaw in Mr. Lukács’s submissions.

ii. Before the Federal Court of Appeal

25. Dr. Lukács appealed the Agency’s Decision, with leave, to the Federal Court of Appeal.²⁹ At the oral hearing of the appeal, Delta acknowledged that its practice has been to charge “large” passengers for multiple seats, and argued that this has been the norm in the United States.

26. The Federal Court of Appeal determined the appeal based on a narrow question of law specific to the Agency’s mandate to act in the public interest to eliminate unreasonable and unjustly discriminatory terms and conditions: did the Agency err in applying the general law of standing on a complaint for discriminatory terms and conditions under subsections 67.2(1) of the *CTA* and 111(2) of the *ATR*?

²⁷ Decision No. 425-C-A-2014, paras. 51-52 – **Application, Tab 2A, p. 13.**

²⁸ Decision No. 425-C-A-2014, para. 74 – **Application, Tab 2A, p. 17.**

²⁹ Order of the Federal Court of Appeal granting leave to appeal – **Application, Tab 2E, p. 38.**

27. The Federal Court of Appeal began its analysis by acknowledging the gatekeeper function of the Agency and its discretion to screen complaints to ensure “the best use of its limited resources.” The FCA then proceeded to analyze whether the principles governing standing before courts of law should be mechanistically transposed to administrative bodies³⁰ as the Agency did.

28. The Federal Court of Appeal considered the sole reason offered by the Agency for applying the law of standing, namely, that the Agency is like “any other court.”³¹ The FCA correctly held that administrative bodies such as the Agency are not courts, and that they are part of the executive branch, not the judiciary.³²

29. The Federal Court of Appeal then proceeded to search for reasons that could be offered in support of the Agency applying the law of standing. It distinguished between tribunals established to dispose disputes between a citizen and the government (or one of its delegated authorities) and administrative bodies with a mandate to act in the public interest, and noted that it may be appropriate to apply the law of standing in the context of the former but not necessarily the latter.³³

30. The Federal Court of Appeal reviewed the considered and consistent view of the Agency about its own function and home statute, which has been that complainants do not have to be personally affected by the policies they are challenging.³⁴ Based on the Agency’s own analysis and a review of the *CTA* and the *ATR*, the FCA held that applying the law of standing, developed by the courts, to complaints would defeat the purpose of the regulatory scheme created by the *CTA*.³⁵

If the objective is to ensure that air carriers provide their services free from unreasonable or unduly discriminatory practices, one should not have to wait until having been subjected to such practices before being allowed to file a complaint. This is not to say, once again, that each and every complaint filed with the Agency has to be dealt with and decided, but that complaints that appear to be serious on their face cannot be dismissed for the sole reason that the person complaining has not been directly and personally affected or does not comply with other requirements of public standing. When read in its contextual and grammatical context, there is no sound reason to limit standing under the *Act* to those with a direct, personal interest in the matter.

³⁰ FCA Reasons, ¶¶ 16-17 – **Application, Tab 2C, p. 27.**

³¹ Decision No. 425-C-A-2014, para. 52 – **Application, Tab 2A, p. 13.**

³² FCA Reasons, ¶ 20 – **Application, Tab 2C, p. 28.**

³³ FCA Reasons, ¶ 18 – **Application, Tab 2C, p. 28.**

³⁴ FCA Reasons, ¶¶ 28-29 – **Application, Tab 2C, p. 33.**

³⁵ FCA Reasons, ¶ 27 – **Application, Tab 2C, p. 32.**

31. Based on the foregoing analysis, the Federal Court of Appeal concluded that the Agency erred by superimposing the law of standing on a regulatory scheme put in place by Parliament, and that by doing so the Agency ignored the purpose and intent of the *CTA*.³⁶

32. Contrary to Delta's submission at paragraph 18, the Federal Court of Appeal did give respectful attention to the reasons of the Agency and the reasons that could be offered in support of its decision.³⁷ Delta conflates the non-linear pyramid structure of the FCA Reasons, of presenting some of the conclusions before the detailed analysis, with the substance of the analysis, which was based on the Agency's own consistent and considered view.

PART II – QUESTIONS IN ISSUE

33. The proposed appeal does not raise any question of national or public importance that would require determination by this Court.

- (a) The proposed appeal is premature and contrary to the intent of Parliament.
- (b) There are no conflicting decisions about the authority of the Agency to decline to hear complaints. The law is that the Agency may do so, but only based on relevant considerations. The Federal Court of Appeal committed no error and gave effect to common sense in holding that in the specific context of tariff-related complaints (which are, by their very nature, preventive public interest complaints), the identity of the complainant is not a relevant consideration.
- (c) The question of applicability of the law of standing in the administrative law context is ill-defined, and cannot be answered without reference to a concrete factual matrix and a specific administrative body and enabling statute. This question is not ripe for review by this Court either.

³⁶ FCA Reasons, ¶ 19 – **Application, Tab 2C, p. 28.**

³⁷ Delta improperly blames the Federal Court of Appeal for the strategic choices Delta made in the course of the appeal. Delta chose not to bring to the attention of the Federal Court of Appeal the unrelated decision that the Agency issued on April 22, 2016, even though it had more than four (4) months to do so before the FCA rendered its judgment on September 7, 2016.

PART III – STATEMENT OF ARGUMENT

A. The proposed appeal is premature and contrary to the intent of Parliament

34. The proposed appeal concerns a preliminary objection, and not a final determination.³⁸ Neither the Agency nor the Federal Court of Appeal ordered Delta to do something or to refrain from doing something, and no determination affecting the substantive rights of Delta has been made. The sole effect of the FCA Judgment is that the Agency is required to determine, on a basis other than standing, whether it will inquire into, hear and decide the complaint of Dr. Lukács.³⁹

35. As a general rule, rulings made in the course of a proceeding of an administrative body should not be challenged until the proceedings have been completed. The rationale is that the appeal may ultimately be unnecessary, because the party may be successful in the end result, and permitting such appeals would result in unnecessary delays and expenses that can bring the administration of justice into disrepute.⁴⁰

36. In light of the direction of Parliament that proceedings before the Agency be determined within 120 days,⁴¹ the concern over unnecessary delays is particularly relevant, and the case at bar demonstrates the wisdom of the aforementioned principle. At this point in time, no one knows what the Agency will decide. It is entirely possible that the Agency will decline to hear the complaint of Dr. Lukács on a basis other than standing. Even if the Agency agrees to hear the complaint, the Agency may still dismiss the complaint on its merits, rendering the proposed appeal both unnecessary and dilatory.

37. Therefore, the proposed appeal is premature, unnecessary, dilatory, and would allow Delta to continue its discriminatory practices without scrutiny. The Agency should be allowed to carry out its mandate and make its decision on whether it will inquire into, hear and decide the complaint of Dr. Lukács, as directed by the Federal Court of Appeal. In the event that the Agency agrees to hear the complaint and makes a determination that does affect Delta's rights, Delta has a remedy: it may appeal to the Federal Court of Appeal, and if it is unsatisfied with the judgment of that court on the substantive issue, it may seek leave to appeal to this Court.

³⁸ Dismissal of a complaint is a final decision, but not dismissing a complaint based on a preliminary objection is not.

³⁹ FCA Judgment – **Application, Tab 2D, p. 37.**

⁴⁰ *Zündel v. Canada (Canadian Human Rights Commission)*, [2000] F.C.J. No. 678, ¶¶ 10-12.

⁴¹ *Canada Transportation Act*, S.C. 1996, c. 10, s. 29(1).

B. The judgment of the Federal Court of Appeal does not give rise to a question of public importance and is correct

38. Delta argues that the reasons of the Federal Court of Appeal give rise to an issue of public importance, because they create a binding jurisprudence with respect to the interpretation of the *CTA*, and the *FCA*'s interpretation is "wrong on its face."⁴² The difficulty with this position is that the same could be said about every alleged error of law of an appellate court: they are binding on lower courts and tribunals. If this were sufficient to establish a question of public importance warranting the intervention by this Court, then all judgments of Canadian appellate courts would have to be reviewed by this Court, which is obviously not the the function of this Court.

39. Thus, contrary to Delta's position, the question of the correctness of the judgment and reasons of the Federal Court of Appeal does not give rise to a question of national or public importance. Delta did not cite any authority that would be conflicting with the reasons of the *FCA*, nor did it allege any error of law that would transcend the specifics of the complaint of Dr. Lukács and the mandate of the Agency. Therefore, Delta failed to raise a question of national or public importance warranting the intervention of this Court.

i. Straw men in Delta's submissions

40. Delta's arguments about the wealth of errors of law allegedly committed by the Federal Court of Appeal are mostly a heroic battle against straw men: they are based on mischaracterizing the reasons of the *FCA* and attributing to the *FCA* propositions that are nowhere to be found in the *FCA* Reasons; in some cases, the *FCA* actually stated the direct opposite of what Delta alleges.

41. Delta forcefully argues against the position that the Agency (and more generally, tribunals) must hear all complaints that they receive, and submits that the Agency has discretion to decide whether to hear and and decide a complaint. Alas, the Federal Court of Appeal did not hold that the Agency or any other tribunal must hear every complaint. The *FCA* emphasized throughout its reasons the gatekeeper function of the Agency, and stated the exact opposite of what Delta alleges:⁴³

This is not to say, once again, that each and every complaint filed with the Agency has to be dealt with and decided [...]

⁴² Delta's submissions, ¶ 58 – Application, Tab 3, pp. 49-50.

⁴³ *FCA* Reasons, ¶ 27 – Application, Tab 2C, p. 32.

42. Delta erroneously attributes to the Federal Court of Appeal the proposition that the Agency's Rules apply only to railway transportation applications and do not apply to air transportation complaints.⁴⁴ The reasons of the FCA contain no such statement in paragraphs 24-25, where the FCA was actually applying the presumption of consistent expression,⁴⁵ nor anywhere else. To the extent that Delta attacks the distinction made by the Federal Court of Appeal between an "application" and a "complaint," it is worth noting that this distinction is consistent with the Agency's jurisprudence holding that the law of standing is applicable to an "application" under s. 172(1) of the *CTA*, but is not applicable to a "complaint" under s. 67.2(1) of the *CTA* and s. 111 of the *ATR*:⁴⁶

The respondents submit that Mr. Krygier has no standing to bring complaints against Air Canada, Air Transat, Sunwing, Jazz and Porter. The respondents submit that Mr. Krygier has not established that he is sufficiently affected by the policies challenged and that he has the requisite "direct personal interest standing" or "interest for public interest standing."

The respondents refer to Decision No. 431-AT-MV-2008 to support their position. The Agency notes that the application at issue in that Decision concerned the Agency's mandate to inquire into matters concerning undue obstacles in the transportation network to the mobility of persons with disabilities. As such, the applicant referred to in Decision No. 431-AT-MV-2008 clearly lacked the personal interest required to trigger the Agency's jurisdiction pursuant to subsection 172(1) of the *CTA*; it was neither a person with a disability or a person having filed a request on behalf of a person with a disability. Therefore, the conclusions reached in that Decision have no bearing on the present case. (Emphasis added.)

43. Delta misstates the reasons of the Federal Court of Appeal at paragraphs 54 and 59 of its submissions. The FCA relied on the phrase "any person" appearing in s. 67.2(1) of the *CTA* as a contextual interpretation aid relating to the purpose and intent of the regulatory scheme, to be contrasted with "person adversely affected" appearing in s. 67.1(b) and subparagraph 86(1)(h)(iii), and not as prohibiting the Agency from refusing to hear a complaint:⁴⁷

The use of those different phrases in the same act must be given effect and is indicative of Parliament's intention to distinguish between those who can bring a complaint to obtain a personal remedy and those who can bring a complaint as a matter of principle and with a view to ensuring that the broad policy objectives of the *Act*, which includes the prevention of harm, are enforced in a timely manner, not just remedied after the fact.

⁴⁴ Delta's submissions, ¶ 70 – **Application, Tab 3, p. 54.**

⁴⁵ *Contino v. Leonelli-Contino*, 2005 SCC 63, ¶ 25.

⁴⁶ *Krygier v. WestJet et al.*, Decision No. LET-C-A-104-2013; see: FCA Reasons, ¶29 – **Application, Tab 2C, p. 33.**

⁴⁷ FCA Reasons, ¶ 25 – **Application, Tab 2C, p. 31.**

44. Contrary to Delta’s submissions, the conclusion of the Federal Court of Appeal was not that s. 67.2(1) requires that Agency to hear each and every complaint it receives, but rather that.⁴⁸

If the objective is to ensure that air carriers provide their services free from unreasonable or unduly discriminatory practices, one should not have to wait until having been subjected to such practices before being allowed to file a complaint.

The FCA reached this conclusion based on the consistent and considered view of the Agency about its own function and home statute, and ss. 111 and 113 of the *Air Transportation Regulations*.⁴⁹ Delta cited no authority to suggest that the aforementioned conclusion of the FCA was wrong.

ii. Delta’s attempt to introduce evidence in the guise of authorities

45. Delta seeks to improperly introduce evidence in the guise of authorities by referring to the website of the Agency for the truth of its content.⁵⁰ Facts are to be introduced by a witness, not as part of the submissions of counsel, and in the absence of witness evidence these references are not properly before the Court and should not be considered.⁵¹

46. The content of the Agency’s website was not part of the record before the Agency nor before the Federal Court of Appeal, and the accuracy of the statistics published on the Agency’s website is disputed. For example, for 2014-2015, the Agency reports to have resolved by adjudication 116 air complaints; however, an electronic search reveals that the number of consumer complaint decisions issued by the Agency in 2014 and 2015 combined is only 45.

47. If this Court nevertheless accepts the Agency’s website for the truth of its content, it is worth noting that it states that the Agency adjudicated less than 25 air complaints in each of the years 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-2014. The exceptionally low number of air complaints adjudicated by the Agency demonstrates that there is no factual basis for a “floodgate” type of argument.

⁴⁸ FCA Reasons, ¶ 27 – **Application, Tab 2C, p. 32.**

⁴⁹ FCA Reasons, ¶¶ 28-29 – **Application, Tab 2C, p. 33.**

⁵⁰ Delta’s submissions, ¶¶ 48-49 – **Application, Tab 3, p. 48.**

⁵¹ *Lukács v. Canadian Transportation Agency*, 2014 FCA 239, ¶¶ 9 and 12-13.

iii. The “floodgate” argument

48. The reasons of the Federal Court of Appeal do not open floodgates to unnecessary proceedings, because they explicitly recognize the gatekeeping function of the Agency:⁵²

There is no question, therefore, that the Agency retains a gatekeeping function and has been granted the discretion to screen the complaints that it receives to ensure, among other things, the best use of its limited resources. (Emphasis added.)

Thus, the effect of the judgment of the FCA is no more than maintaining the *status quo* with respect to who can bring complaints, as articulated in the Agency’s own jurisprudence.⁵³ One struggles to see how the *status quo* can lead to the opening of floodgates, as Delta suggests.

iv. The Federal Court of Appeal’s judgment is correct

49. As the Federal Court of Appeal correctly noted, administrative bodies and their mandates “come in all shapes and sizes.”⁵⁴ Consequently, the general law of standing is not a “one size fits all” that can be mechanistically superimposed on all regulatory schemes without regard to the policy objectives that the scheme was intended to accomplish.

50. Some administrative bodies serve the sole purpose of determining individual rights, and the law of standing may reasonably be applied to their proceedings without defeating the purpose for which they were created.⁵⁵ On the other hand, there are administrative bodies whose mandate is to act in the public interest and protect the public at large, such as the Canadian Food Inspection Agency. Their role is to intervene and prevent harm to the public before the harm actually happens. Common sense dictates that applying the law of standing to administrative bodies of this second, “public interest,” type would defeat the purpose for which they were created.

51. Administrative bodies with a preventive role are mandated to consider the public interest, rather than the private interest of the complainant, in the subject matter of the complaint. For example, anyone can complain about meat infected with *E. coli*, and it would be absurd to dismiss such a complaint on the sole basis that the complainant is vegetarian (and thus lacks sufficient personal interest in the complaint).

⁵² FCA Reasons, ¶ 16 – Application, Tab 2C, p. 27.

⁵³ FCA Reasons, ¶¶ 28-29 – Application, Tab 2C, p. 33.

⁵⁴ FCA Reasons, ¶ 20 – Application, Tab 2C, p. 28.

⁵⁵ FCA Reasons, ¶ 18 – Application, Tab 2C, p. 27.

52. Thus, from a legal perspective, the Federal Court of Appeal implicitly applied the “well established principle of statutory interpretation that the legislature does not intend to produce absurd consequences.”⁵⁶ From a practical point of view, the judgment of the FCA gives effect to the aforementioned common sense: the role of the Agency with respect to unreasonable and unjustly discriminatory terms and conditions is akin to the the role of the Canadian Food Inspection Agency with respect to unsafe food products—to protect the entire public, and to intervene before anyone is harmed. Bearing in mind this public interest mandate, it is entirely irrelevant whether the complainant is Dr. Lukács or someone else who may have a direct personal interest.⁵⁷

53. The Agency, like any other statutory body, must exercise its functions in a manner that is consistent with the purpose and intent of Parliament in establishing it. This principle also applies to its gatekeeping function. Consequently, the Agency must exercise its discretion in deciding whether or not to hear a complaint based on relevant considerations, and cannot reasonably refuse to deal with a complaint based on irrelevant ones.

54. The Federal Court of Appeal was correct in concluding that the Agency unreasonably dismissed the complaint of Dr. Lukács based on an irrelevant consideration, namely, on the sole basis of standing, and that doing so was inconsistent with the purpose and intent of the regulatory scheme established by Parliament.⁵⁸ Therefore, the FCA was correct in setting aside the Agency’s Decision, and directing the Agency to determine whether to inquire into, hear and decide the complaint based on relevant considerations (that is, considerations other than standing).

C. The question of applicability of the law of standing in administrative law is ill-defined

55. There is a mismatch between the second issue of alleged national and public importance formulated at paragraph 20 of Delta’s submissions (“Is the law of standing, including public interest standing, applicable in the administrative law content?”) and the issue identified at paragraphs 87-91 of its submissions (“do administrative tribunals have the common law power to grant public interest standing in their proceedings?”).

⁵⁶ *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998]1 SCR 27, ¶ 27.

⁵⁷ FCA Reasons, ¶ 27 – **Application, Tab 2C, p. 32.**

⁵⁸ FCA Reasons, ¶ 19 – **Application, Tab 2C, p. 28.**

56. The former issue is ill-defined, because as the FCA noted, the answer depends on the nature of the proceeding and the specific enabling statute and mandate of the administrative body.

57. The latter issue, relating to the powers of administrative bodies to grant public interest standing, was neither before the Agency nor before the Federal Court of Appeal, and therefore should not be entertained by this Court.⁵⁹

58. In any event, there is no genuine conflict in the authorities that would need to be resolved by this Court. The judicial authorities cited at paragraph 90 of Delta’s submissions all agree that the answer to who can be a party before the administrative body is to be found in the enabling statute of the administrative body in question: if the enabling statute explicitly states that a party must be a person “directly affected” or “aggrieved,” then statutory bodies cannot override the explicit direction of the legislature, because they do not have inherent jurisdiction. Since the enabling legislation of the Agency, the *CTA*, contains no such restriction with respect to tariff-related complaints, these authorities are of no assistance in the case at bar.

PART IV – SUBMISSIONS CONCERNING COSTS

59. Responding to an application for leave to appeal to this Court is a fairly complex and time-consuming task, and Dr. Lukács has expended considerable time and resources to do so.

60. Canadian courts have increasingly recognized the monetary value of the time and effort that self-represented parties devote to legal proceedings. On a number of occasions, the Federal Court of Appeal has awarded a “moderate allowance” to compensate self-represented parties for their time and effort,⁶⁰ and the Ontario Superior Court of Justice has awarded costs on a substantial indemnity scale to a self-represented party.⁶¹

⁵⁹ The Agency’s conclusion was, essentially, that public interest standing was not available in a proceeding against a private party, such as Delta. The Agency made no findings with respect to its own jurisdiction to grant public interest standing.

⁶⁰ *Sherman v. Canada (Minister of National Revenue - M.N.R.)*, 2004 FCA 29, ¶¶ 14-16; *Lukács v. Canada (Canadian Transportation Agency)*, 2015 FCA 140, ¶ 82; FCA Reasons, ¶ 32 – **Application, Tab 2C, pp. 34-35.**

⁶¹ *Bergen v. Sharpe*, 2013 CanLII 74188.

61. Dr. Lukács is asking this Court to follow the aforementioned authorities and award him costs or a “moderate allowance” in the amount of \$750 for his time spend on preparing these submissions, plus \$100 for disbursements.

PART V – ORDER SOUGHT

62. Dr. Lukács submits that leave to appeal should be denied, with costs fixed in the amount of \$850 (including disbursements) payable by Delta.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 5th day of December, 2016.

DR. GÁBOR LUKÁCS
Respondent

PART VI – TABLE OF AUTHORITIES

Cases	Para. No.
<i>Bergen v. Sharpe</i> , 2013 CanLII 74188 http://canlii.ca/t/g1zhh	60
<i>Contino v. Leonelli-Contino</i> , 2005 SCC 63 http://canlii.ca/t/1lxf	42
<i>Lachance v. Air Canada</i> , 2014 NSSM 14 http://canlii.ca/t/g6kwm	12
<i>Lukács v. Canadian Transportation Agency</i> , 2014 FCA 239 http://www.scribd.com/document/245282155/Reasons-for-Order-October-23-2014	45
<i>Lukács v. Canada (Canadian Transportation Agency)</i> , 2015 FCA 140 http://canlii.ca/t/gjfvv	11, 60
<i>Lukács v. Canada (Canadian Transportation Agency)</i> , 2015 FCA 269 http://canlii.ca/t/gmb0p	6, 8
<i>Lukács v. Canadian Transportation Agency</i> , 2016 FCA 174 http://canlii.ca/t/gs5q4	11
<i>Rizzo & Rizzo Shoes Ltd. (Re)</i> , [1998] 1 SCR 27 http://canlii.ca/t/1fqwt	52
<i>Sherman v. Canada (Minister of National Revenue - M.N.R.)</i> , 2004 FCA 29 http://canlii.ca/t/1gbtf	60
<i>Zündel v. Canada (Canadian Human Rights Commission)</i> , [2000] F.C.J. No. 678 http://canlii.ca/t/4l3w	35
Decisions of the Canadian Transportation Agency	Para. No.
<i>Estate of Eric Norman, Joanne Neubauer and the Council of Canadians with Disabilities v. Air Canada et al.</i> , Decision No. 6-AT-A-2008 [One-Person-One-Fare] http://www.otc-cta.gc.ca/eng/ruling/6-at-a-2008	18

Decisions of the Canadian Transportation Agency (continued)	Para. No.
<i>Krygier v. WestJet et al.</i> , Decision No. LET-C-A-104-2013 http://www.scribd.com/document/333459978/Krygier-v-WestJet-et-al-Decision-No-LET-C-A-104-2013	42
<i>Lukács v. Air Canada</i> , Decision No. 208-C-A-2009 http://www.otc-cta.gc.ca/eng/ruling/208-c-a-2009	11
<i>Lukács v. WestJet</i> , Decision No. 477-C-A-2010 http://www.otc-cta.gc.ca/eng/ruling/477-c-a-2010	11
<i>Lukács v. WestJet</i> , Decision No. 483-C-A-2010 http://www.otc-cta.gc.ca/eng/ruling/483-c-a-2010	11
<i>Lukács v. Air Canada</i> , Decision No. 250-C-A-2012 http://www.otc-cta.gc.ca/eng/ruling/250-c-a-2012	7, 11
<i>Lukács v. Air Canada</i> , Decision No. 251-C-A-2012 http://www.otc-cta.gc.ca/eng/ruling/251-c-a-2012	11
<i>Lukács v. Air Transat</i> , Decision No. 248-C-A-2012 http://www.otc-cta.gc.ca/eng/ruling/248-c-a-2012	11
<i>Lukács v. WestJet</i> , Decision No. 249-C-A-2012 http://www.otc-cta.gc.ca/eng/ruling/249-c-a-2012	11
<i>Lukács v. WestJet</i> , Decision No. 252-C-A-2012 http://www.otc-cta.gc.ca/eng/ruling/252-c-a-2012	11
<i>Lukács v. United Airlines</i> , Decision No. 467-C-A-2012 http://www.otc-cta.gc.ca/eng/ruling/467-c-a-2012	11
<i>Lukács v. Air Canada</i> , Decision No. 204-C-A-2013 http://www.otc-cta.gc.ca/eng/ruling/204-c-a-2013	11
<i>Lukács v. Air Canada</i> , Decision No. 342-C-A-2013 http://www.otc-cta.gc.ca/eng/ruling/342-c-a-2013	11
<i>Lukács v. Porter Airlines</i> , Decision No. 344-C-A-2013 http://www.otc-cta.gc.ca/eng/ruling/344-c-a-2013	11
<i>Lukács v. British Airways</i> , Decision No. 10-C-A-2014 http://www.otc-cta.gc.ca/eng/ruling/10-c-a-2014	11

Decisions of the Canadian Transportation Agency (continued)**Para. No.**

Lukács v. Porter Airlines, Decision No. 31-C-A-2014
<http://www.otc-cta.gc.ca/eng/ruling/31-c-a-2014>

11

Lukács v. Porter Airlines, Decision No. 249-C-A-2014
<http://www.otc-cta.gc.ca/eng/ruling/249-c-a-2014>

11

PART VII – STATUTES, REGULATIONS, AND MINISTERIAL ORDERS

<i>Air Transportation Regulations, S.O.R./88-58</i>	21
— section 107.....	22
— section 110.....	25
— section 111.....	26
— section 113.....	27
— section 113.1	28
— section 122.....	29
 <i>Canada Transportation Act, S.C. 1996, c. 10</i>	 31
— section 29	32
— section 57	33
— sections 67 and 67.1.....	34
— section 67.2.....	35
— section 86	36
 Ministerial Order #MA 16-0392, dated June 7, 2016	 38



CANADA

CONSOLIDATION

CODIFICATION

Air Transportation Regulations

Règlement sur les transports aériens

SOR/88-58

DORS/88-58

Current to April 29, 2013

À jour au 29 avril 2013

Last amended on December 14, 2012

Dernière modification le 14 décembre 2012

DIVISION I

DOMESTIC

Application

105. A tariff referred to in section 67 of the Act shall include the information required by this Division.

SOR/96-335, s. 53.

Exception

106. The holder of a domestic licence in respect of a domestic service that serves the transportation needs of the bona fide guests, employees and workers of a lodge operation, including the transportation of luggage, materials and supplies of those guests, employees or workers, is excluded, in respect of the service of those needs, from the requirements of section 67 of the Act.

SOR/96-335, s. 53.

Contents of Tariffs

107. (1) Every tariff shall contain

- (a) the name of the issuing air carrier and the name, title and full address of the officer or agent issuing the tariff;
- (b) the tariff number, and the title that describes the tariff contents;
- (c) the dates of publication, coming into effect and expiration of the tariff, if it is to expire on a specific date;
- (d) a description of the points or areas from and to which or between which the tariff applies;
- (e) in the case of a joint tariff, a list of all participating air carriers;
- (f) a table of contents showing the exact location where information under general headings is to be found;
- (g) where applicable, an index of all goods for which commodity tolls are specified, with reference to each

SECTION I

SERVICE INTÉRIEUR

Application

105. Les tarifs visés à l'article 67 de la Loi doivent contenir les renseignements exigés par la présente section.

DORS/96-335, art. 53.

Exception

106. Le titulaire d'une licence intérieure pour l'exploitation d'un service intérieur servant à répondre aux besoins de transport des véritables clients, employés et travailleurs d'un hôtel pavillonnaire, y compris le transport de leurs bagages, matériel et fournitures, est exempté des exigences de l'article 67 de la Loi à l'égard de ce service.

DORS/96-335, art. 53.

Contenu des tarifs

107. (1) Tout tarif doit contenir :

- a) le nom du transporteur aérien émetteur ainsi que le nom, le titre et l'adresse complète du dirigeant ou de l'agent responsable d'établir le tarif;
- b) le numéro du tarif et son titre descriptif;
- c) les dates de publication et d'entrée en vigueur ainsi que la date d'expiration s'il s'applique à une période donnée;
- d) la description des points ou des régions en provenance et à destination desquels ou entre lesquels il s'applique;
- e) s'il s'agit d'un tarif pluritransporteur, la liste des transporteurs aériens participants;
- f) une table des matières donnant un renvoi précis aux rubriques générales;
- g) s'il y a lieu, un index de toutes les marchandises pour lesquelles des taxes spécifiques sont prévues, avec renvoi aux pages ou aux articles pertinents du tarif;

item or page of the tariff in which any of the goods are shown;

(h) an index of points from, to or between which tolls apply, showing the province or territory in which the points are located;

(i) a list of the airports, aerodromes or other facilities used with respect to each point shown in the tariff;

(j) where applicable, information respecting prepayment requirements and restrictions and information respecting non-acceptance and non-delivery of goods, unless reference is given to another tariff number in which that information is contained;

(k) a full explanation of all abbreviations, notes, reference marks, symbols and technical terms used in the tariff and, where a reference mark or symbol is used on a page, an explanation of it on that page or a reference thereon to the page on which the explanation is given;

(l) 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;

(m) any special terms and conditions that apply to a particular toll and, where the toll appears on a page, a reference on that page to the page on which those terms and conditions appear;

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

- (i) the carriage of persons with disabilities,
- (ii) acceptance of children,
- (iii) compensation for denial of boarding as a result of overbooking,
- (iv) passenger re-routing,
- (v) failure to operate the service or failure to operate on schedule,
- (vi) refunds for services purchased but not used, whether in whole or in part, either as a result of the

h) un index des points en provenance et à destination desquels ou entre lesquels s'appliquent les taxes, avec mention de la province ou du territoire où ils sont situés;

i) la liste des aérodromes, aéroports ou autres installations utilisés pour chaque point mentionné dans le tarif;

j) s'il y a lieu, les renseignements concernant les exigences et les restrictions de paiement à l'avance ainsi que le refus et la non-livraison des marchandises; toutefois, ces renseignements ne sont pas nécessaires si un renvoi est fait au numéro d'un autre tarif qui contient ces renseignements;

k) l'explication complète des abréviations, notes, appels de notes, symboles et termes techniques employés dans le tarif et, lorsque des appels de notes ou des symboles figurent sur une page, leur explication sur la page même ou un renvoi à la page qui en donne l'explication;

l) les conditions générales régissant le tarif, énoncées en des termes qui expliquent clairement leur application aux taxes énumérées;

m) les conditions particulières qui s'appliquent à une taxe donnée et, sur la page où figure la taxe, un renvoi à la page où se trouvent les conditions;

n) les conditions de transport, dans lesquelles est énoncée clairement la politique du transporteur aérien concernant au moins les éléments suivants :

- (i) le transport des personnes ayant une déficience,
- (ii) l'admission des enfants,
- (iii) les indemnités pour refus d'embarquement à cause de sur réservation,
- (iv) le réacheminement des passagers,
- (v) l'inexécution du service et le non-respect de l'horaire,
- (vi) le remboursement des services achetés mais non utilisés, intégralement ou partiellement, par suite de la décision du client de ne pas poursuivre

client's unwillingness or inability to continue or the air carrier's inability to provide the service for any reason,

(vii) ticket reservation, cancellation, confirmation, validity and loss,

(viii) refusal to transport passengers or goods,

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

(x) limits of liability respecting passengers and goods,

(xi) exclusions from liability respecting passengers and goods, and

(xii) procedures to be followed, and time limitations, respecting claims;

(o) the tolls, shown in Canadian currency, together with the names of the points from, to or between which the tolls apply, arranged in a simple and systematic manner with, in the case of commodity tolls, goods clearly identified;

(p) the routings related to the tolls unless reference is made in the tariff to another tariff in which the routings appear; and

(q) the official descriptive title of each type of passenger fare, together with any name or abbreviation thereof.

(2) Every original tariff page shall be designated "Original Page", and changes in, or additions to, the material contained on the page shall be made by revising the page and renumbering it accordingly.

(3) Where an additional page is required within a series of pages in a tariff, that page shall be given the same number as the page it follows but a letter shall be added to the number.

(4) and (5) [Repealed, SOR/96-335, s. 54]

SOR/93-253, s. 2; SOR/93-449, s. 1; SOR/96-335, s. 54.

son trajet ou de son incapacité à le faire, ou encore de l'inaptitude du transporteur aérien à fournir le service pour une raison quelconque,

(vii) la réservation, l'annulation, la confirmation, la validité et la perte des billets,

(viii) le refus de transporter des passagers ou des marchandises,

(ix) la méthode de calcul des frais non précisés dans le tarif,

(x) les limites de responsabilité à l'égard des passagers et des marchandises,

(xi) les exclusions de responsabilité à l'égard des passagers et des marchandises,

(xii) la marche à suivre ainsi que les délais fixés pour les réclamations;

o) les taxes, exprimées en monnaie canadienne, et les noms des points en provenance et à destination desquels ou entre lesquels elles s'appliquent, le tout étant disposé d'une manière simple et méthodique et les marchandises étant indiquées clairement dans le cas des taxes spécifiques;

p) les itinéraires visés par les taxes; toutefois, ces itinéraires n'ont pas à être indiqués si un renvoi est fait à un autre tarif qui les contient;

q) le titre descriptif officiel de chaque type de prix passagers, ainsi que tout nom ou abréviation servant à désigner ce prix.

(2) Les pages originales du tarif doivent porter la mention «page originale» et, lorsque des changements ou des ajouts sont apportés, la page visée doit être révisée et numérotée en conséquence.

(3) S'il faut intercaler une page supplémentaire dans une série de pages d'un tarif, cette page doit porter le même numéro que la page qui la précède, auquel une lettre est ajoutée.

(4) et (5) [Abrogés, DORS/96-335, art. 54]

DORS/93-253, art. 2; DORS/93-449, art. 1; DORS/96-335, art. 54.

Interest

107.1 Where the Agency, by order, directs an air carrier to refund specified amounts to persons that have been overcharged by the air carrier for fares or rates in respect of its air service pursuant to paragraph 66(1)(c) of the Act, the amount of the refunds shall bear interest from the date of payment of the fares or rates by those persons to the air carrier to the date of the Agency's order at the rate of interest charged by the Bank of Canada on short-term loans to financial institutions plus one and one-half percent.

SOR/2001-71, s. 3.

Intérêts

107.1 Dans le cas où, en vertu de l'alinéa 66(1)c) de la Loi, l'Office enjoint, par ordonnance, à un transporteur aérien de rembourser des sommes à des personnes ayant versé des sommes en trop pour un service, le remboursement porte intérêt à compter de la date du paiement fait par ces personnes au transporteur jusqu'à la date de délivrance de l'ordonnance par l'Office, au taux demandé par la Banque du Canada aux institutions financières pour les prêts à court terme, majoré d'un et demi pour cent.

DORS/2001-71, art. 3.

DIVISION II

INTERNATIONAL

Application

108. Subject to paragraph 135.3(1)(d), this Division applies in respect of every air carrier that operates an international service, except an air carrier that operates TPCs, TPNCs or TGCs.

SOR/96-335, s. 55.

Exception

109. An air carrier that operates an international service that serves the transportation requirements of the bona fide guests, employees and workers of a lodge operation, including the transportation of luggage, materials and supplies of those guests, employees and workers is excluded, in respect of the service of those requirements, from the requirements of subsection 110(1).

Filing of Tariffs

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.

SECTION II

SERVICE INTERNATIONAL

Application

108. Sous réserve de l'alinéa 135.3(1)d), la présente section s'applique aux transporteurs aériens qui exploitent un service international, sauf ceux qui effectuent des VAP, des VAPNOR ou des VAM.

DORS/96-335, art. 55.

Exception

109. Le transporteur aérien est exempté de l'application du paragraphe 110(1) en ce qui concerne l'exploitation d'un service international servant à répondre aux besoins de transport des véritables clients, des véritables employés et des véritables travailleurs d'un hôtel pavillonnaire, y compris le transport des bagages, du matériel et des fournitures de ces personnes.

Dépôt des tarifs

110. (1) Sauf disposition contraire des ententes, conventions ou accords internationaux en matière d'aviation civile, avant d'entreprendre l'exploitation d'un service international, le transporteur aérien ou son agent doit déposer auprès de l'Office son tarif pour ce service, conforme aux exigences de forme et de contenu énoncées dans la présente section, dans lequel sont comprises les conditions du transport à titre gratuit ou à taux réduit.

(2) Acceptance by the Agency of a tariff or an amendment to a tariff does not constitute approval of any of its provisions, unless the tariff has been filed pursuant to an order of the Agency.

(3) No air carrier shall advertise, offer or charge any toll where

(a) the toll is in a tariff that has been rejected by the Agency; or

(b) the toll has been disallowed or suspended by the Agency.

(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.

(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.

SOR/96-335, s. 56; SOR/98-197, s. 6(E).

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) No air carrier shall, in respect of tolls or the terms and conditions of carriage,

(a) make any unjust discrimination against any person or other air carrier;

(2) L'acceptation par l'Office, pour dépôt, d'un tarif ou d'une modification apportée à celui-ci ne constitue pas l'approbation de son contenu, à moins que le tarif n'ait été déposé conformément à un arrêté de l'Office.

(3) Il est interdit au transporteur aérien d'annoncer, d'offrir ou d'exiger une taxe qui, selon le cas :

a) figure dans un tarif qui a été rejeté par l'Office;

b) a été refusée ou suspendue par l'Office.

(4) Lorsqu'un tarif déposé porte une date de publication et une date d'entrée en vigueur et qu'il est conforme au présent règlement et aux arrêtés de l'Office, les taxes et les conditions de transport qu'il contient, sous réserve de leur rejet, de leur refus ou de leur suspension par l'Office, ou de leur remplacement par un nouveau tarif, prennent effet à la date indiquée dans le tarif, et le transporteur aérien doit les appliquer à compter de cette date.

(5) Il est interdit au transporteur aérien ou à ses agents d'offrir, d'accorder, de donner, de solliciter, d'accepter ou de recevoir un rabais, une concession ou un privilège permettant, par un moyen quelconque, le transport de personnes ou de marchandises à une taxe ou à des conditions qui diffèrent de celles que prévoit le tarif en vigueur.

DORS/96-335, art. 56; DORS/98-197, art. 6(A).

111. (1) Les taxes et les conditions de transport établies par le transporteur aérien, y compris le transport à titre gratuit ou à taux réduit, doivent être justes et raisonnables et doivent, dans des circonstances et des conditions sensiblement analogues, être imposées uniformément pour tout le trafic du même genre.

(2) En ce qui concerne les taxes et les conditions de transport, il est interdit au transporteur aérien :

a) d'établir une distinction injuste à l'endroit de toute personne ou de tout autre transporteur aérien;

(b) give any undue or unreasonable preference or advantage to or in favour of any person or other air carrier in any respect whatever; or

(c) 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.

SOR/93-253, s. 2; SOR/96-335, s. 57.

112. (1) All air carriers having joint tolls shall establish just and reasonable divisions thereof between participating air carriers.

(2) The Agency may

(a) determine and fix just and equitable divisions of joint tolls between air carriers or the portion of the joint tolls to be received by an air carrier;

(b) require an air carrier to inform the Agency of the portion of the tolls in any joint tariff filed that it or any other carrier is to receive or has received; and

(c) decide that any proposed through toll is just and reasonable notwithstanding that an amount less than the amount that an air carrier would otherwise be entitled to charge may be allotted to that air carrier out of that through toll.

113. The Agency may

(a) suspend any tariff or portion of a tariff that appears not to conform with subsections 110(3) to (5) or section 111 or 112, or disallow any tariff or portion of

b) d'accorder une préférence ou un avantage indu ou déraisonnable, de quelque nature que ce soit, à l'égard ou en faveur d'une personne ou d'un autre transporteur aérien;

c) de soumettre une personne, un autre transporteur aérien ou un genre de trafic à un désavantage ou à un préjudice indu ou déraisonnable de quelque nature que ce soit.

(3) L'Office peut décider si le trafic doit être, est ou a été acheminé dans des circonstances et à des conditions sensiblement analogues et s'il y a ou s'il y a eu une distinction injuste, une préférence ou un avantage indu ou déraisonnable, ou encore un préjudice ou un désavantage au sens du présent article, ou si le transporteur aérien s'est conformé au présent article ou à l'article 110.

DORS/93-253, art. 2; DORS/96-335, art. 57.

112. (1) Les transporteurs aériens qui appliquent des taxes pluritransporteurs doivent établir une répartition juste et raisonnable de ces taxes entre les transporteurs aériens participants.

(2) L'Office peut procéder de la façon suivante :

a) déterminer et fixer la répartition équitable des taxes pluritransporteurs entre les transporteurs aériens, ou la proportion de ces taxes que doit recevoir un transporteur aérien;

b) enjoindre à un transporteur aérien de lui faire connaître la proportion des taxes de tout tarif pluritransporteur déposé que lui-même ou tout autre transporteur aérien est censé recevoir ou qu'il a reçue;

c) décider qu'une taxe totale proposée est juste et raisonnable, même si un transporteur aérien s'en voit attribuer une portion inférieure à la taxe qu'il serait autrement en droit d'exiger.

113. L'Office peut :

a) suspendre tout ou partie d'un tarif qui paraît ne pas être conforme aux paragraphes 110(3) à (5) ou aux articles 111 ou 112, ou refuser tout tarif qui n'est pas conforme à l'une de ces dispositions;

a tariff that does not conform with any of those provisions; and

(b) establish and substitute another tariff or portion thereof for any tariff or portion thereof disallowed under paragraph (a).

SOR/93-253, s. 2; SOR/96-335, s. 58.

113.1 If an air carrier that offers an international service fails to apply the fares, rates, charges or terms and conditions of carriage set out in the tariff that applies to that service, the Agency may direct it to

(a) take the corrective measures that the Agency considers appropriate; and

(b) pay compensation for any expense incurred by a person adversely affected by its failure to apply the fares, rates, charges or terms and conditions set out in the tariff.

SOR/2001-71, s. 4; SOR/2009-28, s. 1.

114. (1) Every tariff or amendment to a tariff shall be filed with the Agency by the air carrier or by an agent appointed by power of attorney to act on the air carrier's behalf pursuant to section 134.

(2) Every joint tariff or amendment to a joint tariff shall be filed by one of the air carriers that is a party thereto or by an agent of the air carrier appointed by power of attorney to act on the air carrier's behalf pursuant to section 134.

(3) Where an air carrier files a joint tariff pursuant to subsection (2), that air carrier shall be known as the issuing carrier.

(4) No air carrier that issues a power of attorney to another air carrier or any other agent to publish and file tolls shall include in the carrier's own tariff tolls that duplicate or conflict with tolls published under such power of attorney.

(5) Every tariff or amendment to a tariff that is on paper shall be filed with the Agency together with a filing advice in duplicate.

b) établir et substituer tout ou partie d'un autre tarif en remplacement de tout ou partie du tarif refusé en application de l'alinéa a).

DORS/93-253, art. 2; DORS/96-335, art. 58.

113.1 Si un transporteur aérien n'applique pas les prix, taux, frais ou conditions de transport applicables au service international qu'il offre et figurant à son tarif, l'Office peut lui enjoindre :

a) de prendre les mesures correctives qu'il estime indiquées;

b) de verser des indemnités à quiconque pour toutes dépenses qu'il a supportées en raison de la non-application de ces prix, taux, frais ou conditions de transport.

DORS/2001-71, art. 4; DORS/2009-28, art. 1.

114. (1) Les tarifs et leurs modifications doivent être déposés auprès de l'Office par le transporteur aérien ou un agent habilité par procuration à agir pour le compte de celui-ci conformément à l'article 134.

(2) Les tarifs pluritransporteurs et leurs modifications doivent être déposés par l'un des transporteurs aériens participants ou par un agent habilité par procuration à agir pour le compte de celui-ci conformément à l'article 134.

(3) Le transporteur aérien qui dépose un tarif pluritransporteur conformément au paragraphe (2) doit être désigné comme le transporteur aérien émetteur.

(4) Il est interdit à un transporteur aérien qui habilite par procuration un agent ou un autre transporteur aérien à publier et à déposer des taxes, de publier dans ses propres tarifs des taxes qui font double emploi ou sont incompatibles avec celles-ci.

(5) Les tarifs sur papier et leurs modifications doivent être déposés auprès de l'Office en deux exemplaires et être accompagnés d'un avis de dépôt fourni en double.

Contents of Tariffs

122. 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;

(b) the tolls, together with the names of the points from and to which or between which the tolls apply, arranged in a simple and systematic manner with, in the case of commodity tolls, goods clearly identified; and

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

- (i) the carriage of persons with disabilities,
- (ii) acceptance of children for travel,
- (iii) compensation for denial of boarding as a result of overbooking,
- (iv) passenger re-routing,
- (v) failure to operate the service or failure to operate on schedule,
- (vi) refunds for services purchased but not used, whether in whole or in part, either as a result of the client's unwillingness or inability to continue or the air carrier's inability to provide the service for any reason,
- (vii) ticket reservation, cancellation, confirmation, validity and loss,
- (viii) refusal to transport passengers or goods,
- (ix) method of calculation of charges not specifically set out in the tariff,
- (x) limits of liability respecting passengers and goods,
- (xi) exclusions from liability respecting passengers and goods, and

Contenu des tarifs

122. Les tarifs doivent contenir :

a) les conditions générales régissant le tarif, énoncées en des termes qui expliquent clairement leur application aux taxes énumérées;

b) les taxes ainsi que les noms des points en provenance et à destination desquels ou entre lesquels elles s'appliquent, le tout étant disposé d'une manière simple et méthodique et les marchandises étant indiquées clairement dans le cas des taxes spécifiques;

c) les conditions de transport, dans lesquelles est énoncée clairement la politique du transporteur aérien concernant au moins les éléments suivants :

- (i) le transport des personnes ayant une déficience,
- (ii) l'admission des enfants,
- (iii) les indemnités pour refus d'embarquement à cause de sur réservation,
- (iv) le réacheminement des passagers,
- (v) l'inexécution du service et le non-respect de l'horaire,
- (vi) le remboursement des services achetés mais non utilisés, intégralement ou partiellement, par suite de la décision du client de ne pas poursuivre son trajet ou de son incapacité à le faire, ou encore de l'inaptitude du transporteur aérien à fournir le service pour une raison quelconque,
- (vii) la réservation, l'annulation, la confirmation, la validité et la perte des billets,
- (viii) le refus de transporter des passagers ou des marchandises,
- (ix) la méthode de calcul des frais non précisés dans le tarif,
- (x) les limites de responsabilité à l'égard des passagers et des marchandises,
- (xi) les exclusions de responsabilité à l'égard des passagers et des marchandises,

(xii) procedures to be followed, and time limitations, respecting claims.

SOR/93-253, s. 2; SOR/96-335, s. 65.

123. [Repealed, SOR/96-335, s. 65]

Supplements

124. (1) A supplement to a tariff on paper shall be in book or pamphlet form and shall be published only for the purpose of amending or cancelling that tariff.

(2) Every supplement shall be prepared in accordance with a standard form provided by the Agency.

(3) Supplements are governed by the same provisions of these Regulations as are applicable to the tariff that the supplements amend or cancel.

SOR/93-253, s. 2(F); SOR/96-335, s. 66.

Symbols

125. All abbreviations, notes, reference marks, symbols and technical terms shall be fully defined at the beginning of the tariff.

SOR/96-335, s. 66.

Reference to Orders

126. Every tariff or portion thereof published pursuant to an order of the Agency shall make reference therein to the number and date of the order.

Disallowance

127. (1) [Repealed, SOR/96-335, s. 67]

(2) Where a tariff or any portion thereof is disallowed, the CTA(A) number, supplement number or revised page number shall not be used again.

(3) A tariff or any portion thereof issued in substitution for a disallowed tariff or portion thereof shall make reference to the disallowed tariff or portion.

(4) Where any tariff or portion thereof of an air carrier operating a scheduled international service or operating a non-scheduled international service that is operated at a toll per unit of traffic, that contains through tolls applicable to the transportation of traffic between a point in

(xii) la marche à suivre ainsi que les délais fixés pour les réclamations.

DORS/93-253, art. 2; DORS/96-335, art. 65.

123. [Abrogé, DORS/96-335, art. 65]

Suppléments

124. (1) Les suppléments à un tarif sur papier doivent être publiés sous forme de livres ou de brochures et ne doivent servir qu'à modifier ou annuler le tarif.

(2) Les suppléments doivent être conformes au modèle fourni par l'Office.

(3) Les suppléments sont régis par les dispositions du présent règlement qui s'appliquent aux tarifs qu'ils modifient ou annulent.

DORS/93-253, art. 2(F); DORS/96-335, art. 66.

Symboles

125. Les abréviations, notes, appels de notes, symboles et termes techniques doivent être définis au début du tarif.

DORS/96-335, art. 66.

Renvoi à un arrêté

126. Tout tarif ou partie de tarif publié en exécution d'un arrêté de l'Office doit mentionner le numéro et la date de cet arrêté.

Refus

127. (1) [Abrogé, DORS/96-335, art. 67]

(2) Lorsque tout ou partie d'un tarif est refusé, ni le numéro OTC(A) ni le numéro de supplément ou de page révisée ne peuvent être réutilisés.

(3) Tout ou partie d'un tarif qui est publié en remplacement de tout ou partie d'un tarif refusé doit mentionner le tarif ou la partie du tarif refusé.

(4) Lorsque le transporteur aérien exploitant un service international régulier ou exploitant un service international à la demande moyennant une taxe unitaire applicable au trafic se voit refuser, par les autorités compétentes d'un pays étranger, tout ou partie de son ta-



CANADA

CONSOLIDATION

CODIFICATION

Canada Transportation Act

Loi sur les transports au Canada

S.C. 1996, c. 10

L.C. 1996, ch. 10

Current to December 8, 2014

À jour au 8 décembre 2014

Last amended on May 29, 2014

Dernière modification le 29 mai 2014

	terms that the Agency may impose on an interested party,	subordonner celle-ci à la survenance d'un événement.	
	and the Agency may direct that the whole or any portion of the order shall have force for a limited time or until the happening of a specified event.		
Interim orders	(2) The Agency may, instead of making an order final in the first instance, make an interim order and reserve further directions either for an adjourned hearing of the matter or for further application.	(2) L'Office peut prendre un arrêté provisoire et se réserver le droit de compléter sa décision lors d'une audience ultérieure ou d'une nouvelle demande.	Arrêtés provisoires
Time for making decisions	29. (1) The Agency shall make its decision in any proceedings before it as expeditiously as possible, but no later than one hundred and twenty days after the originating documents are received, unless the parties agree to an extension or this Act or a regulation made under subsection (2) provides otherwise.	29. (1) Sauf indication contraire de la présente loi ou d'un règlement pris en vertu du paragraphe (2) ou accord entre les parties sur une prolongation du délai, l'Office rend sa décision sur toute affaire dont il est saisi avec toute la diligence possible dans les cent vingt jours suivant la réception de l'acte introductif d'instance.	Délai
Period for specified classes	(2) The Governor in Council may, by regulation, prescribe periods of less than one hundred and twenty days within which the Agency shall make its decision in respect of such classes of proceedings as are specified in the regulation.	(2) Le gouverneur en conseil peut, par règlement, imposer à l'Office un délai inférieur à cent vingt jours pour rendre une décision à l'égard des catégories d'affaires qu'il indique.	Délai plus court
Pending proceedings	30. The fact that a suit, prosecution or proceeding involving a question of fact is pending in any court does not deprive the Agency of jurisdiction to hear and determine the same question of fact.	30. L'Office a compétence pour statuer sur une question de fait, peu importe que celle-ci fasse l'objet d'une poursuite ou autre instance en cours devant un tribunal.	Affaire en instance
Fact finding is conclusive	31. The finding or determination of the Agency on a question of fact within its jurisdiction is binding and conclusive.	31. La décision de l'Office sur une question de fait relevant de sa compétence est définitive.	Décision définitive
Review of decisions and orders	32. The Agency may review, rescind or vary any decision or order made by it or may re-hear any application before deciding it if, in the opinion of the Agency, since the decision or order or the hearing of the application, there has been a change in the facts or circumstances pertaining to the decision, order or hearing.	32. L'Office peut réviser, annuler ou modifier ses décisions ou arrêtés, ou entendre de nouveau une demande avant d'en décider, en raison de faits nouveaux ou en cas d'évolution, selon son appréciation, des circonstances de l'affaire visée par ces décisions, arrêtés ou audiences.	Révision, annulation ou modification de décisions
Enforcement of decision or order	33. (1) A decision or order of the Agency may be made an order of the Federal Court or of any superior court and is enforceable in the same manner as such an order.	33. (1) Les décisions ou arrêtés de l'Office peuvent être homologués par la Cour fédérale ou une cour supérieure; le cas échéant, leur exécution s'effectue selon les mêmes modalités que les ordonnances de la cour saisie.	Homologation
Procedure	(2) To make a decision or order an order of a court, either the usual practice and procedure of the court in such matters may be followed or the Secretary of the Agency may file with the	(2) L'homologation peut se faire soit selon les règles de pratique et de procédure de la cour saisie applicables en l'occurrence, soit au moyen du dépôt, auprès du greffier de la cour	Procédure

56.3 [Repealed, 2007, c. 19, s. 15]

56.4 [Repealed, 2007, c. 19, s. 15]

56.5 [Repealed, 2007, c. 19, s. 15]

56.6 [Repealed, 2007, c. 19, s. 15]

56.7 [Repealed, 2007, c. 19, s. 15]

56.3 [Abrogé, 2007, ch. 19, art. 15]

56.4 [Abrogé, 2007, ch. 19, art. 15]

56.5 [Abrogé, 2007, ch. 19, art. 15]

56.6 [Abrogé, 2007, ch. 19, art. 15]

56.7 [Abrogé, 2007, ch. 19, art. 15]

PROHIBITIONS

Prohibition re
operation

57. No person shall operate an air service unless, in respect of that service, the person

- (a) holds a licence issued under this Part;
- (b) holds a Canadian aviation document; and
- (c) has the prescribed liability insurance coverage.

Licence not
transferable

58. A licence issued under this Part for the operation of an air service is not transferable.

Prohibition re
sale

59. 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.

1996, c. 10, s. 59; 2007, c. 19, s. 16.

Provision of
aircraft with
flight crew

60. (1) No person shall provide all or part of an aircraft, with a flight crew, to a licensee for the purpose of providing an air service pursuant to the licensee's licence and no licensee shall provide an air service using all or part of an aircraft, with a flight crew, provided by another person except

(a) in accordance with regulations made by the Agency respecting disclosure of the identity of the operator of the aircraft and other related matters; and

(b) where prescribed, with the approval of the Agency.

Conditions and
Ministerial
directions

(2) Approval by the Agency under subsection (1) is subject to any directions to the Agency issued by the Minister and to any terms and conditions that the Agency may specify in the approval, including terms and conditions respecting routes to be followed, points or areas to be served, size and type of aircraft to be operated, schedules, places of call, tariffs, fares, rates and charges, insurance, carriage of passengers and, subject to the *Canada Post Corporation Act*, carriage of goods.

INTERDICTIONS

57. L'exploitation d'un service aérien est subordonnée à la détention, pour celui-ci, de la licence prévue par la présente partie, d'un document d'aviation canadien et de la police d'assurance responsabilité réglementaire.

Conditions
d'exploitation

58. Les licences d'exploitation de services aériens sont inaccessibles.

Inaccessibilité

59. La vente, directe ou indirecte, et l'offre publique de vente, au Canada, d'un service aérien sont subordonnées à la détention, pour celui-ci, d'une licence en règle délivrée sous le régime de la présente partie.

Opérations
visant le service

1996, ch. 10, art. 59; 2007, ch. 19, art. 16.

60. (1) La fourniture de tout ou partie d'aéronefs, avec équipage, à un licencié en vue de la prestation, conformément à sa licence, d'un service aérien et celle, par un licencié, d'un service aérien utilisant tout ou partie d'aéronefs, avec équipage, appartenant à un tiers sont assujetties :

Fourniture
d'aéronefs

a) au respect des règlements, notamment en matière de divulgation de l'identité des exploitants d'aéronefs;

b) si les règlements l'exigent, à l'autorisation de l'Office.

(2) L'autorisation est assujettie aux directives que le ministre peut lui donner et peut comporter, lors de la délivrance ou par la suite en tant que de besoin, les conditions qu'il estime indiqué d'imposer, notamment en ce qui concerne les routes aériennes à suivre, les points ou régions à desservir, la dimension et la catégorie des aéronefs à exploiter, les horaires, les escales, les tarifs, l'assurance, le transport des passagers et, sous réserve de la *Loi sur la Société canadienne des postes*, celui des marchandises.

Directives
ministérielles et
conditions

Tariffs to be made public

67. (1) The holder of a domestic licence shall

(a) display in a prominent place at the business offices of the licensee a sign indicating that the tariffs for the domestic service offered by the licensee, including the terms and conditions of carriage, are available for public inspection at the business offices of the licensee, and allow the public to make such inspections;

(a.1) publish the terms and conditions of carriage on any Internet site used by the licensee for selling the domestic service offered by the licensee;

(b) in its tariffs, specifically identify the basic fare between all points for which a domestic service is offered by the licensee; and

(c) retain a record of its tariffs for a period of not less than three years after the tariffs have ceased to have effect.

Prescribed tariff information to be included

(2) A tariff referred to in subsection (1) shall include such information as may be prescribed.

No fares, etc., unless set out in tariff

(3) The holder of a domestic licence shall not apply any fare, rate, charge or term or condition of carriage applicable to the domestic service it offers unless the fare, rate, charge, term or condition is set out in a tariff that has been published or displayed under subsection (1) and is in effect.

Copy of tariff on payment of fee

(4) The holder of a domestic licence shall provide a copy or excerpt of its tariffs to any person on request and on payment of a fee not exceeding the cost of making the copy or excerpt.

1996, c. 10, s. 67; 2000, c. 15, s. 5; 2007, c. 19, s. 20.

Fares or rates not set out in tariff

67.1 If, on complaint in writing to the Agency by any person, the Agency finds that, contrary to subsection 67(3), the holder of a domestic licence has applied a fare, rate, charge or term or condition of carriage applicable to the domestic service it offers that is not set out in its tariffs, the Agency may order the licensee to

(a) apply a fare, rate, charge or term or condition of carriage that is set out in its tariffs;

(b) compensate any person adversely affected for any expenses they incurred as a result of the licensee's failure to apply a fare, rate,

67. (1) Le licencié doit :

a) poser à ses bureaux, dans un endroit bien en vue, une affiche indiquant que les tarifs et notamment les conditions de transport pour le service intérieur qu'il offre sont à la disposition du public pour consultation à ses bureaux et permettre au public de les consulter;

a.1) publier les conditions de transport sur tout site Internet qu'il utilise pour vendre le service intérieur;

b) indiquer clairement dans ses tarifs le prix de base du service intérieur qu'il offre entre tous les points qu'il dessert;

c) conserver ses tarifs en archive pour une période minimale de trois ans après leur cessation d'effet.

Publication des tarifs

(2) Les tarifs comportent les renseignements exigés par règlement.

Renseignements tarifaires

(3) Le titulaire d'une licence intérieure ne peut appliquer à l'égard d'un service intérieur que le prix, le taux, les frais ou les conditions de transport applicables figurant dans le tarif en vigueur publié ou affiché conformément au paragraphe (1).

Interdiction

(4) Il fournit un exemplaire de tout ou partie de ses tarifs sur demande et paiement de frais non supérieurs au coût de reproduction de l'exemplaire.

Exemplaire du tarif

1996, ch. 10, art. 67; 2000, ch. 15, art. 5; 2007, ch. 19, art. 20.

67.1 S'il conclut, sur dépôt d'une plainte, que le titulaire d'une licence intérieure a, contrairement au paragraphe 67(3), appliqué à l'un de ses services intérieurs un prix, un taux, des frais ou d'autres conditions de transport ne figurant pas au tarif, l'Office peut, par ordonnance, lui enjoindre :

Prix, taux, frais ou conditions non inclus au tarif

a) d'appliquer un prix, un taux, des frais ou d'autres conditions de transport figurant au tarif;

b) d'indemniser toute personne lésée des dépenses qu'elle a supportées consécutivement à la non-application du prix, du taux, des

	charge or term or condition of carriage that was set out in its tariffs; and	frais ou des autres conditions qui figuraient au tarif;	
	(c) take any other appropriate corrective measures.	c) de prendre toute autre mesure corrective indiquée.	
	2000, c. 15, s. 6; 2007, c. 19, s. 21.	2000, ch. 15, art. 6; 2007, ch. 19, art. 21.	
When unreasonable or unduly discriminatory terms or conditions	67.2 (1) If, on complaint in writing to the Agency by any person, the Agency finds that the holder of a domestic licence has applied terms or conditions of carriage applicable to the domestic service it offers that are unreasonable or unduly discriminatory, the Agency may suspend or disallow those terms or conditions and substitute other terms or conditions in their place.	67.2 (1) S'il conclut, sur dépôt d'une plainte, que le titulaire d'une licence intérieure a appliqué pour un de ses services intérieurs des conditions de transport déraisonnables ou injustement discriminatoires, l'Office peut suspendre ou annuler ces conditions et leur en substituer de nouvelles.	Conditions déraisonnables
Prohibition on advertising	(2) The holder of a domestic licence shall not advertise or apply any term or condition of carriage that is suspended or has been disallowed.	(2) Il est interdit au titulaire d'une licence intérieure d'annoncer ou d'appliquer une condition de transport suspendue ou annulée.	Interdiction d'annoncer
	2000, c. 15, s. 6; 2007, c. 19, s. 22(F).	2000, ch. 15, art. 6; 2007, ch. 19, art. 22(F).	
Non-application of fares, etc.	68. (1) Sections 66 to 67.2 do not apply in respect of fares, rates or charges applicable to a domestic service provided for under a contract between a holder of a domestic licence and another person whereby the parties to the contract agree to keep its provisions confidential.	68. (1) Les articles 66 à 67.2 ne s'appliquent pas aux prix, taux ou frais applicables au service intérieur qui fait l'objet d'un contrat entre le titulaire d'une licence intérieure et une autre personne et par lequel les parties conviennent d'en garder les stipulations confidentielles.	Non-application de certaines dispositions
Non-application of terms and conditions	(1.1) Sections 66 to 67.2 do not apply in respect of terms and conditions of carriage applicable to a domestic service provided for under a contract referred to in subsection (1) to which an employer is a party and that relates to travel by its employees.	(1.1) Les articles 66 à 67.2 ne s'appliquent pas aux conditions de transport applicables au service intérieur qui fait l'objet d'un contrat visé au paragraphe (1) portant sur les voyages d'employés faits pour le compte d'un employeur qui est partie au contrat.	Non-application aux conditions de transport
Provisions regarding exclusive use of services	(2) The parties to the contract shall not include in it provisions with respect to the exclusive use by the other person of a domestic service operated by the holder of the domestic licence between two points in accordance with a published timetable or on a regular basis, unless the contract is for all or a significant portion of the capacity of a flight or a series of flights.	(2) Le contrat ne peut comporter aucune clause relative à l'usage exclusif par l'autre partie des services intérieurs offerts entre deux points par le titulaire de la licence intérieure, soit régulièrement, soit conformément à un horaire publié, sauf s'il porte sur la totalité ou une partie importante des places disponibles sur un vol ou une série de vols.	Stipulations interdites
Retention of contract required	(3) The holder of a domestic licence who is a party to the contract shall retain a copy of it for a period of not less than three years after it has ceased to have effect and, on request made within that period, shall provide a copy of it to the Agency.	(3) Le titulaire d'une licence intérieure est tenu de conserver, au moins trois ans après son expiration, un double du contrat et d'en fournir un exemplaire à l'Office pendant cette période s'il lui en fait la demande.	Double à conserver
	1996, c. 10, s. 68; 2000, c. 15, s. 7; 2007, c. 19, s. 23.	1996, ch. 10, art. 68; 2000, ch. 15, art. 7; 2007, ch. 19, art. 23.	

deal with the complaint in accordance with the provisions of this Part under which the complaint has been made.

Further proceedings

(4) A member of the Agency or any person authorized to act on the Agency's behalf who has been involved in attempting to resolve or mediate the complaint under this section may not act in any further proceedings before the Agency in respect of the complaint.

Extension of time

(5) The period of 120 days referred to in subsection 29(1) shall be extended by the period taken by the Agency or any person authorized to act on the Agency's behalf to review and attempt to resolve or mediate the complaint under this section.

Part of annual report

(6) The Agency shall, as part of its annual report, indicate the number and nature of the complaints filed under this Part, the names of the carriers against whom the complaints were made, the manner complaints were dealt with and the systemic trends observed.

2000, c. 15, s. 7.1; 2007, c. 19, s. 25.

miner la plainte conformément aux dispositions de la présente partie en vertu desquelles elle a été déposée.

(4) Le membre de l'Office ou le délégué qui a tenté de régler l'affaire ou joué le rôle de médiateur en vertu du présent article ne peut agir dans le cadre de procédures ultérieures, le cas échéant, devant l'Office à l'égard de la plainte en question.

(5) La période de cent vingt jours prévue au paragraphe 29(1) est prolongée de la durée de la période durant laquelle l'Office ou son délégué agit en vertu du présent article.

(6) L'Office inclut dans son rapport annuel le nombre et la nature des plaintes déposées au titre de la présente partie, le nom des transporteurs visés par celles-ci, la manière dont elles ont été traitées et les tendances systémiques qui se sont manifestées.

2000, ch. 15, art. 7.1; 2007, ch. 19, art. 25.

Inhabilité

Prolongation

Inclusion dans le rapport annuel

REGULATIONS

Regulations

- 86.** (1) The Agency may make regulations
- (a) classifying air services;
 - (b) classifying aircraft;
 - (c) prescribing liability insurance coverage requirements for air services or aircraft;
 - (d) prescribing financial requirements for each class of air service or aircraft;
 - (e) respecting the issuance, amendment and cancellation of permits for the operation of international charters;
 - (f) respecting the duration and renewal of licences;
 - (g) respecting the amendment of licences;
 - (h) respecting traffic and tariffs, fares, rates, charges and terms and conditions of carriage for international service and
 - (i) providing for the disallowance or suspension by the Agency of any tariff, fare, rate or charge,
 - (ii) providing for the establishment and substitution by the Agency of any tariff, fare, rate or charge disallowed by the Agency,

RÈGLEMENTS

- 86.** (1) L'Office peut, par règlement :
- a) classifier les services aériens;
 - b) classifier les aéronefs;
 - c) prévoir les exigences relatives à la couverture d'assurance responsabilité pour les services aériens et les aéronefs;
 - d) prévoir les exigences financières pour chaque catégorie de service aérien ou d'aéronefs;
 - e) régir la délivrance, la modification et l'annulation des permis d'affrètements internationaux;
 - f) fixer la durée de validité et les modalités de renouvellement des licences;
 - g) régir la modification des licences;
 - h) prendre toute mesure concernant le trafic et les tarifs, prix, taux, frais et conditions de transport liés au service international, notamment prévoir qu'il peut :
 - (i) annuler ou suspendre des tarifs, prix, taux ou frais,
 - (ii) établir de nouveaux tarifs, prix, taux ou frais en remplacement de ceux annulés,

Pouvoirs de l'Office

(iii) authorizing the Agency to direct a licensee or carrier to take corrective measures that the Agency considers appropriate and to pay compensation for any expense incurred by a person adversely affected by the licensee's or carrier's failure to apply the fares, rates, charges or terms or conditions of carriage applicable to the service it offers that were set out in its tariffs, and

(iv) requiring a licensee or carrier to display the terms and conditions of carriage for its international service on its Internet site, if the site is used for selling the international service of the licensee or carrier;

(i) requiring licensees to file with the Agency any documents and information relating to activities under their licences that are necessary for the purposes of enabling the Agency to exercise its powers and perform its duties and functions under this Part and respecting the manner in which and the times at which the documents and information are to be filed;

(j) requiring licensees to include in contracts or arrangements with travel wholesalers, tour operators, charterers or other persons associated with the provision of air services to the public, or to make those contracts and arrangements subject to, terms and conditions specified or referred to in the regulations;

(k) defining words and expressions for the purposes of this Part;

(l) excluding a person from any of the requirements of this Part;

(m) prescribing any matter or thing that by this Part is to be prescribed; and

(n) generally for carrying out the purposes and provisions of this Part.

(2) No regulation shall be made under paragraph (1)(l) that has the effect of relieving a person from any provision of this Part that requires a person to be a Canadian and to have a Canadian aviation document and prescribed liability insurance coverage in respect of an air service.

(3) [Repealed, 2007, c. 19, s. 26]

1996, c. 10, s. 86; 2000, c. 15, s. 8; 2007, c. 19, s. 26.

(iii) enjoindre à tout licencié ou transporteur de prendre les mesures correctives qu'il estime indiquées et de verser des indemnités aux personnes lésées par la non-application par le licencié ou transporteur des prix, taux, frais ou conditions de transport applicables au service et qui figuraient au tarif,

(iv) obliger tout licencié ou transporteur à publier les conditions de transport du service international sur tout site Internet qu'il utilise pour vendre ce service;

i) demander aux licenciés de déposer auprès de lui les documents ainsi que les renseignements relatifs aux activités liées à leurs licences et nécessaires à l'exercice de ses attributions dans le cadre de la présente partie, et fixer les modalités de temps ou autres du dépôt;

j) demander aux licenciés d'inclure dans les contrats ou ententes conclus avec les grossistes en voyages, voyagistes, affréteurs ou autres personnes associées à la prestation de services aériens au public les conditions prévues dans les règlements ou d'assujettir ces contrats ou ententes à ces conditions;

k) définir les termes non définis de la présente partie;

l) exempter toute personne des obligations imposées par la présente partie;

m) prendre toute mesure d'ordre réglementaire prévue par la présente partie;

n) prendre toute autre mesure d'application de la présente partie.

(2) Les obligations imposées par la présente partie relativement à la qualité de Canadien, au document d'aviation canadien et à la police d'assurance responsabilité réglementaire en matière de service aérien ne peuvent faire l'objet de l'exemption prévue à l'alinéa (1)l).

(3) [Abrogé, 2007, ch. 19, art. 26]

1996, ch. 10, art. 86; 2000, ch. 15, art. 8; 2007, ch. 19, art. 26.

Exclusion not to provide certain relief

Exception



**Executive Council
Ministerial Appointment**

Nova Scotia

MA 16-0392

Pursuant to Section 11 of Chapter 27 of the Acts of 2000, the *Employment Support and Income Assistance Act* and Sections 4 and 5 of the *Assistance Appeal Regulations*, N.S. Reg. 90/2001, made by Governor in Council by Order in Council 2001-337 dated July 13, 2001, the undersigned has the honour to:

- a) reappoint Robert Beaton of Cape Breton Regional Municipality (Sydney) as a member of the Assistance Appeal Board, Cape Breton Region, and designate him as a Vice-chairperson for a term of two years commencing June 2, 2016;
- b) reappoint Beverley Patterson of Cape Breton Regional Municipality (Sydney River) as a member of the Assistance Appeal Board, Cape Breton Region, and designate her as a Vice-chairperson for a term of two years commencing June 2, 2016;
- c) reappoint Joyce Gray of Pugwash, Cumberland County, as a member of the Assistance Appeal Board, Cumberland/Colchester Region, and designate her as a Vice-chairperson for a term of two years commencing June 2, 2016;
- d) reappoint Gabor Lukacs of Halifax Regional Municipality (Halifax) as a member of the Assistance Appeal Board, Cumberland/Colchester Region, and designate him as a Vice-chairperson for a term of two years commencing June 2, 2016; and
- e) reappoint Frederick Graham of Canning, Kings County, as a member of the Assistance Appeal Board, Western Region, and designate him as a Vice-chairperson for a term of two years commencing June 2, 2016.

Signed at Halifax, Nova Scotia this 7th Day of June, 2016.

Honourable Joanne Bernard
Minister of Community Services