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# Standing Committee on Transport, Infrastructure and Communities

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Chair: Mr. Peter Schiefke





## Standing Committee on Transport, Infrastructure and Communities

Monday, November 21, 2022

• (1530)

[*Translation*]

**The Chair (Mr. Peter Schiefke (Vaudreuil—Soulanges, Lib.)):** I call this meeting to order.

Welcome to meeting number 40 of the Standing Committee on Transport, Infrastructure and Communities.

Pursuant to Standing Order 108(2) and the motion adopted by the committee on Thursday, February 3, 2022, the committee is meeting to study air passenger protection regulations.

Today's meeting is taking place in a hybrid format, pursuant to the House order of November 25, 2021. Members are attending in person in the room and remotely using the Zoom application.

[*English*]

Members of the committee, appearing before us today we have, as an individual, Mr. John Gradek, faculty lecturer and academic programs coordinator of the School of Continuing Studies at McGill University. He is appearing by video conference. From Air Passenger Rights, we have Mr. Gábor Lukács, president.

[*Translation*]

We also have with us Mr. Jacob Charbonneau, president and chief executive officer of Late Flight Claim Canada Inc., as well as Ms. Sylvie De Bellefeuille, lawyer, budget and legal advisor at Option consommateurs.

[*English*]

Finally, from the Public Interest Advocacy Centre, we have Mr. John Lawford, executive director and general counsel.

I'd like to take this opportunity to inform members that all of today's video conference witness participants have completed the necessary audiovisual checks. I'm going to look over to our interpreters right now to get a big thumbs-up and make sure everything's good. Perfect.

We will now begin the opening remarks with Mr. John Gradek for five minutes.

Sir, the floor is yours.

**Mr. John Gradek (Faculty Lecturer and Academic Programs Coordinator, School of Continuing Studies, McGill University, As an Individual):** Thank you very much.

I'd just like to thank the members of the House committee for having invited me to speak to you today on the air passenger protection regulations.

Today I would like to address the issue of compensation, primarily to air travellers as a result of an airline's decision to disrupt a passenger's itinerary, and to provide you with my recommendations to address what I see as current shortcomings within those regulations. First, let me quickly walk through the history of that regime to make sure that we have the right context. I will then talk about my recommendations.

In May 2019, we had the introduction of the air passenger protection regulations, which stipulated certain minimum airline requirements for air travel, including things like standard treatment and, in some situations, compensation for passengers. These regulations were the result of extensive consultation with stakeholders in the commercial air travel industry, including airlines and consumer groups. These new regulations set out obligations to passengers for communication, delayed or cancelled flights, denied boarding, tarmac delays and transportation of musical instruments, among others.

These regulations were instituted by the Canadian Transportation Agency under the Canada Transportation Act, as amended by the Transportation Modernization Act. They were to be administered by the Canadian Transportation Agency and came into effect progressively through December 15, 2019. These regulations apply to all flights to, from and within Canada, including connection flights.

Some of the more contentious provisions in these regulations have been those concerning delayed or cancelled flights. My comments and observations today will focus on what I see as a definition of airline control and the interpretations that various stakeholders have taken of the airline control statement.

When you talk about the way in which the APPR has basically delineated scenarios, one provision in there seems to be causing the most grief. It is the things that are in an airline's control but are "required for safety purposes". Based on that provision and those scenarios, passengers are exempt from compensation. It appears that disruptions with this characteristic have raised the ire of many travellers and consumer groups, which claim that airlines have been misusing this characterization to escape the compensation requirements of disruptions within an airline's control.

When we talk about some of those situations where airlines are claiming safety, we're talking about situations regarding maintenance and staffing. When we have those situations, the airlines are only obligated to provide a standard level of treatment, a completion of the passenger's itinerary and no compensation. The compensation, of course, varies depending on the type and length of delay, ranging anywhere from \$400 for a three-hour delay to up to \$1,000 for a delay of over nine hours.

I made some simplifying assumptions in how these conditions and regulations came into place. I'm pretty sure that a significant amount of consultation was going on with the airlines specifically and with consumer groups. I'm pretty sure there was agreement among all of these stakeholders that the regulations were, in fact, fair and could be applied readily. However, it has become very apparent that there are, overwhelmingly, situations now where airlines are looking at what's within airline control and required for safety as being a primary cause for not paying compensation.

Typically, in terms of the airlines designing their flight schedules, the resources required to fly that schedule—be they physical, human or financial—are deployed from established inventory and reflect the need to have the required resources at the moment the flight is scheduled to operate. Airline staffers recognize that absences and shortages are a matter of course. Things like vacations, leaves of absence, retirements and sicknesses are all part of the way staff are deployed. Planners already take into account the fact that these absences will be there by looking at creating reserves. Reserves are typically there for flight attendants and pilots. These reserves are deployed at the instant staffing shortages are apparent, even within a day of flight.

The number of airline employees that the airline says are reserve staff is very much at the airline's discretion. If the reserves are low and absences are high, flights are delayed and flights are cancelled. Welcome to 2022. Absences can be forecasted based on historical absences, and reserve levels did not reflect the realities of the 2022 absences.

• (1535)

While the CTA expressed the opinion that staffing levels are not grounds for delays that fall outside of the airlines' control, airlines continue to make such claims and have, in fact, gone to federal court. Both Air Canada and WestJet have gone to Federal Court looking for further exemptions from these regulations based on scenarios that they say are part of the Montreal Convention. These regulations are flying in the face of the ICAO Montreal Convention.

This leads me to submit that we need to overhaul these exemptions and that the rules by which airlines can deny compensation need to be addressed quickly. We have some models. We don't have to reinvent things from scratch.

My belief is that the European Union's regulations on compensation are probably in better condition than the Canadian ones. The outline of the rules in the European Union—

• (1540)

**The Chair:** Thank you very much, Mr. Gradek. Unfortunately, I'll have to cut you off there. I tried to give you a bit of leeway, but you will be submitting that, so we will have it on the record.

Next, from Air Passenger Rights, we have Mr. Lukács.

The floor is yours. You have five minutes.

**Dr. Gábor Lukács (President, Air Passenger Rights):** Mr. Chair and honourable members, Air Passenger Rights is Canada's independent, non-profit organization of volunteers devoted to empowering travellers. We take no government or business funding, and we have no business interests in the travel industry. We speak for passengers, whom we help daily in their struggle to enforce their rights.

Back in 2017, we cautioned that the government's proposal would not adequately protect Canadian passengers and fell short of the rights provided by the European Union's regime. We thank you for the privilege of testifying before you again and assisting you in taking stock of the air passenger protection regulations, known as APPR, and their many shortcomings.

Mr. Darrel Pink, a small claims court adjudicator, held, "When consumer protection is the intended outcome of a regulatory regime, it should be assumed the regime will be in plain language, easy to understand and supports a simple claims process. The APPR which was intended to accomplish enhanced passenger rights, accomplishes none of these." Mr. Pink was correct. Let's look at some examples.

Mia and Joel paid good money for their tickets on an Air Canada flight to Vancouver, yet when they presented themselves for check-in, they were denied boarding. The airline's agent mistakenly believed that Mia and Joel did not meet some travel requirements. As a matter of fact, they were both eligible to travel.

Common sense dictates that they should have received denied-boarding compensation. Indeed, in the European Union or with an EU carrier, Mia and Joel would have received denied-boarding compensation. In Canada, however, they got nothing, because the APPR provides for compensation only to passengers denied boarding due to overbooking and not for any other reasons.

Mia and Joel's experience highlights that the APPR's terminology does not reflect common sense. We recommend that Canada adopt the EU's common-sense definitions for "denied boarding" and "cancellation".

Alex booked a round-trip ticket for a weekend getaway, leaving from Canada to go to Boston on Friday afternoon and returning from Boston on Sunday afternoon. On Friday, Alex's flight to Boston was cancelled due to a snowstorm, which was clearly outside the carrier's control. The airline offered to re-book Alex on a flight departing Canada on Sunday morning, rendering his travel devoid of any purpose. By the time Alex would arrive in Boston, they would have to check in for their return flight.

Alex works five days a week, as many Canadians do, and could not defer the return flight until Tuesday. Had Alex's cancelled flight been departing from Boston or Paris, Alex would have had no difficulty obtaining a full refund under the U.S. or EU rules. However, Canada's APPR, as amended this past September, offers Alex no protection. Why? It's because the airline offered a flight departing within 48 hours of Alex's original departure time.

We recommend that Canada harmonize its flight refund rules with those of the United States and the European Union.

Now let's look at Lisa and Owen, who were booked on Air Canada and WestJet respectively. They had the all-too-common experience of their flights being cancelled due to crew shortage. The airlines sold them, and many others, tickets without first ascertaining the availability of crew for operating the flights. When the airlines refused to compensate them under the APPR, the CTA ordered the airlines to pay. The airlines then took Lisa and Owen to the Federal Court of Appeal.

The airlines say before the courts that, first, it is not the airline but the passenger who has to prove facts relating to the flight cancellation's circumstances, and second, that cancelling flights for crew shortage is for "safety purposes", and no compensation is owed to the passengers under the APPR. In the European Union, passengers do not have to defend against such absurdities. The EU regime is clear that it is the airline that has to prove extraordinary circumstances to avoid liability and that "safety purposes" is not a universal excuse. We recommend that Canada adopt the EU's clear language on burden of proof and remove the frequently abused "safety purposes" excuse for not compensating passengers.

We implore you, the lawmakers, to grant Canadians the same rights and protections that European passengers have been enjoying for more than 15 years.

Thank you.

• (1545)

**The Chair:** Thank you very much, Mr. Lukács.

[*Translation*]

Mr. Charbonneau, you have the floor for five minutes.

**Mr. Jacob Charbonneau (President and Chief Executive Officer, Late Flight Claim Canada Inc.):** Good afternoon.

I thank the committee for inviting me to appear.

I am the co-founder and CEO of Late Flight Claim Canada Inc., a law firm dedicated to helping consumers obtain compensation following a problem with their airline.

I have been asked to speak today about improvements to the air passenger protection regulations. I will come back to that later.

I would like to start by saying that we need to look at the situation much more broadly: it is the whole system that is broken and flawed. This makes it almost impossible for travellers to access justice and compensation, and let me tell you why.

Firstly, far too much room is left for interpretation of the causes giving rise to claims. Compliance with the regulation is left to the goodwill of the carriers. You can have the best regulation; if it is not followed, it is useless. Unfortunately, the actions of carriers since the regulations were put in place have shown us that the system does not work.

The system in place makes it financially more advantageous for carriers not to facilitate access to compensation and to refuse applications on all sorts of grounds. It is important to note that this behaviour is not limited to Canada, but is widespread throughout the industry. For example, the U.S. Department of Transportation recently fined airlines more than \$7.25 million for delays in refunding nearly \$600 million to passengers.

The processes in place in Canada encourage this bad behaviour and are inadequate. The regulations and their three categories of causes of flight delay or cancellation leave far too much room for interpretation. These categories are causes attributable to the carrier, causes attributable to the carrier but necessary for safety, and causes not attributable to the carrier.

All too often, carriers put anything and everything into these categories, without giving details. For example, pilots had miscalculated the fuel requirement, resulting in a demand for additional fuel, causing a delay. This was put in the category of causes attributable to the carrier, but necessary for safety reasons. We all agree that the delay was necessary, but it was still an operational decision.

There are also the problems relating to crew shortages, which have affected a huge number of passengers this summer. Yet these types of problems are clearly described in the Canadian Transportation Agency's interpretation policy as being a situation attributable to the carrier. Yet these situations have been put in the category of carrier-caused, but necessary for safety reasons.

In addition, in their tariff, carriers require passengers not to submit their claims through specialized firms and not to be represented by legal counsel in their initial claim. As an example, Air Canada tariff rule 105, paragraph F(2) states that the “carrier will not process claims submitted by a third party if the passenger concerned has not submitted the claim directly to the carrier [...]”.

This misinformation, coupled with the carriers' practices, has the effect of prejudicing passengers' rights and treating passengers unequally. Indeed, an article appeared on the CP24 website on the weekend about a couple of WestJet passengers, one of whom received compensation while the other did not, despite both being on the same flight.

Carriers know very well that in general, passengers are not sufficiently aware of their rights and the carrier's obligations. They are unable to stand up to multinationals that have access to specialized lawyers. Most passengers will not go any further after an initial refusal by the carrier. Passengers' rights are therefore undermined. When a passenger decides to appeal a carrier's decision, the Canadian Transportation Agency will often take more than a year, or even two years, to process their application.

This agency is not efficient. It offers three services or avenues: facilitation, mediation and formal proceedings.

Passengers are automatically directed to facilitation, at which there is little or no validation of facts and the carrier's comments are simply repeated. Compensation is left to the discretion of the carrier, and there is no obligation to provide evidence. The mediation process does not require evidence either.

Finally, there is the formal procedure, which takes over a year. One has to invest more or less 10 hours in it, in addition to the time spent on analyzing the responses. Moreover, the judgment will only apply to the passenger concerned. The carrier will therefore not be obliged to contact all passengers in the same situation, for example in the case of a delay due to lack of crew.

Let us take an example of good practice instead. In Denmark, applications are simplified. Supporting documents are requested, the facts are validated and the decision is enforceable within six months. The first instance that deals with the applications has much more power.

• (1550)

In summary, in Canada, passengers are told just about anything and are forced to represent themselves. The challenge rate is low and it takes one to two years to be told pretty much the same thing by the Canadian Transportation Agency without any obligation to validate the facts. All this has the effect of encouraging bad practices by carriers to the detriment of the travelling public.

We therefore ask the government to review the procedures in place, the role of the agency and the powers granted to first responders. Secondly, we are asking it to look at the time taken by the agency to deal with travellers' complaints. We also want the government to require carriers to remove any provision in their tariffs that requires passengers to represent themselves in the event of a dispute. What's more, we want it to harmonize the different categories of cases with European regulations: either the situation enti-

ties passengers to compensation, or it is an extraordinary circumstance that the carrier must prove.

On the other hand, we ask that technical and mechanical failures be included in the situations attributable to carriers. In addition, carriers must be required to provide physical evidence in the event of denial and require reasons beyond overbooking for denied boarding, such as an error in the person's name or a problem with the carrier's registration. Finally, compensation to passengers following an initial denial should be enhanced to include punitive damages.

Thank you.

**The Chair:** Thank you very much, Mr. Charbonneau.

Ms. De Bellefeuille, you have the floor for five minutes.

**Ms. Sylvie De Bellefeuille (Lawyer, Budget and Legal Advisor, Option consommateurs):** Thank you, Mr. Chair.

Good afternoon, members of the committee. Thank you for receiving me and allowing me to present my comments.

I have been a lawyer with Option consommateurs for 12 years. Our organization was created in 1983, and its mission is to help consumers defend their rights. As such, we receive thousands of requests for information each year from people who have problems with merchants, including the travel industry.

Since the start of the pandemic, the problems experienced by air passengers have highlighted the flaws in the regulations designed to protect them. Indeed, it is for this reason that the Air Passenger Protection Regulations have recently been amended to clarify passengers' rights to reimbursement, even if the cancellation or disruption of a flight is beyond the control of the carrier.

However, the chaos at Canadian airports, particularly in Montreal—which has made Canada the laughing stock of other countries—has proven two things to us. First, customer satisfaction is not a priority for airlines. Second, current regulations do not provide adequate protection for consumers.

In our view, the high number of complaints received by the Canadian Transportation Agency is only the tip of the iceberg and demonstrates that the current regulations present enforcement difficulties. We would therefore like to share with you some proposals to improve the regulations.

In the event of a flight delay or cancellation, the level of liability a carrier must assume depends on its level of control over the situation. While this makes sense in theory, it is problematic in practice. This is because the onus is still on the passengers to seek justice by seeking compensation from the carrier.

Yet, in order to do so, passengers are entirely dependent on the information provided to them by the carrier. The problem is that the carrier has a conflict of interest. When the reason for the disruption is within its control, it has an obligation to compensate passengers. Since it is expensive, it has an interest in not recognizing this. This was also the case during the air traffic disruptions that occurred this summer. Indeed, several carriers claimed that the pandemic was the cause of the problems in order to avoid paying compensation. In short, the pandemic had a very broad back, again.

Before the Canadian Transportation Agency, the passenger has the burden of proving that the regulations were not properly applied by the air carrier. This is nonsense and, in our view, the burden should be on the carrier. We also believe that compensation should be automatic, as is currently the case for overbooking cases.

In cases where a flight is cancelled for a reason outside the carrier's control, its primary obligation is to reroute the passenger and it has 48 hours to do so. Only if the carrier fails to do so can the passenger request a refund. However, this time limit is too long. In some situations, this delay negates the purpose of the trip, as in the case of a person who has to go on a cruise and whose flight cancellation means that he or she literally misses the boat. In such situations, passengers should be allowed to be refunded.

The final issue we would like to bring to the attention of the committee is overbooking. In our view, overbooking is certainly a breach of contract law. Normally, when one buys a good or a service, the supplier has the obligation to provide that good or service according to the agreed terms. In this case, the carrier has an obligation to take the person from one place to another.

The problem with overbooking is that it allows a carrier to withhold the agreed service from some passengers on the pretext of offering better terms to other passengers who have paid more for their tickets, thereby allowing it to increase its profits. In our view, the right to make a profit should not have the effect of relegating consumer rights to second place. For all these reasons, we believe that overbooking should simply be banned.

• (1555)

**The Chair:** Thank you very much, Ms. De Bellefeuille.

[English]

Finally, for opening remarks, we have Mr. Lawford.

Mr. Lawford, the floor is yours. You have five minutes.

**Mr. John Lawford (Executive Director and General Counsel, Public Interest Advocacy Centre):** Thank you very much, Mr. Chair and honourable members.

My name is John Lawford. I'm the executive director and general counsel at the Public Interest Advocacy Centre. PIAC is a national non-profit and registered charity, and we provide legal and research services on behalf of consumer interests, in particular vulnerable consumer interests, concerning the provision of important public services. PIAC has been active in the field of air passenger protection and policy for over 20 years.

The air passenger protection regulations are just fine. Removing them or amending them would not ease airport delays or reduce

traveller frustration. They are not unfair and they are not overreach vis-à-vis the airlines. The APPRs are hard-won redress and fairness for the flying public. Modern air transportation regulatory schemes throughout the world have such rules, including, as we've heard, the EU and the U.K. The APPRs are Canada's answer.

There is currently a problem with the backlog of consumer APPR complaints at the Canadian Transportation Agency. We estimate there are somewhere between 16,000 and 20,000 that are at least a year old. This backlog is due in part to bad timing. The APPRs were proclaimed, as you heard, in force just ahead of COVID-19.

However, it has always been PIAC's position that the APPRs were going to generate a backlog. The CTA's facilitation, mediation and adjudication streams within a quasi-judicial formal framework are a ridiculous approach to dealing with high-volume, low-value consumer redress for such routine, and unfortunately now chronic, issues as flight delays and cancellations.

A better model is a dedicated administrative complaints agency with a regulatory overseer for systemic issues. This administrative model is currently in place for telecommunications and broadcasting, through the CCTS, and for banking and investments, through the OBSI. The government should not abandon the APPRs but should remove them from the formalistic tariff-based adjudication process and transition to a CCTS-like model.

We also note that consumer baggage complaints cannot be solved by changing or improving the APPRs, because they effectively say nothing about baggage. That's due to the Carriage by Air Act and the Montreal Convention, which stipulate that compensation for lost baggage or delayed baggage must be contained in the airlines' own domestic tariffs on baggage. This means that consumer frustration with baggage can only be solved with a directive for the airlines to meet a minimum standard in their tariffs from the minister or the CTA.

PIAC also wishes to underline that the present APPRs are under attack by the airlines, first by WestJet arguing that all crew shortages are safety cases, and more recently by Air Canada questioning whether crew training is out of their control in appeals from the CTA to the Federal Court of Appeal. We note that in the EU, under their passenger protection regime, staffing shortages generally must be planned for and compensation must be paid except in very unusual circumstances, with the implicit message from the regulator to the airlines not to schedule flights for which they cannot manage their labour supply.

Second, major Canadian as well as U.S. and European carriers, along with IATA, are challenging the entire APPRs, for international flights and domestic ones as well—I was just rereading some of the pleadings—at the Federal Court of Appeal, saying they conflict with the Montreal and Chicago conventions. This committee can and should, by contrast, express its support for the APPRs despite growing pains and challenges. Consumers need the APPRs as a counterweight to airline power. This committee should recommend future amendments to the APPRs and any other law or treaty to fill any gaps that these airline court challenges reveal.

Lastly, we note that the major airlines fired or retired workers during COVID-19. They made their own labour shortage despite taking large CEWS amounts that were intended to keep staff on the payroll. Most airlines also took some or all of the money offered as bailouts—not WestJet of course, and Air Canada only for consumer refunds—but were not required to rehire or be ready to restart at the start of this summer. This money only supported their balance sheets while COVID requirements faded away.

Thank you. I look forward to your questions.

• (1600)

**The Chair:** Thank you very much, Mr. Lawford, for your opening remarks.

We will begin our first round of questioning with Mr. Strahl.

Mr. Strahl, the floor is yours. You have six minutes.

**Mr. Mark Strahl (Chilliwack—Hope, CPC):** Thank you very much to all of the panellists for their presentations. Certainly, I know members of Parliament are often very well versed in dealing with airports and airlines. We certainly hear from our constituents who have concerns when things go sideways.

For the first question I want to ask, perhaps I'll start with Mr. Lukács.

Numerous panellists mentioned the EU as a good model to follow. Another witness indicated that—I wrote down the language because it was excellent—chaos at the airports made us an international laughing stock. I think we saw a lot of issues with airplanes being held on tarmacs, for instance, because the customs halls were completely full. We heard a lot of those delays being attributed to the flawed \$54-million ArriveCAN app. We heard about problems with CATSA causing massive security lineups, which had an impact as well.

Does the EU model that was referenced numerous times take into account all of the agencies, all of the parts of the passenger experience and the things that can go wrong with baggage, security,

ground crews and airports? Does the EU model take those things into account, and is there any accountability for the agencies that provide services to passengers, in addition to the airlines? Obviously people pay the money to airlines and therefore expect to get rebates from them. Maybe you could comment on whether there are additional groups that are impacted by the EU legislation.

**Dr. Gábor Lukács:** The EU model deals with the relationship between passengers and the airlines. It is without prejudice to the airline's right, then, to recover costs from a third party for damages. What we need to bear in mind is that both under the EU law and under the Montreal Convention, which is an international treaty, the airline is the passenger's final address for issues.

For example, if the passenger's baggage, after it was checked in, is damaged by security, then the passenger claims the baggage damage through the airline. The airline can then talk to CATSA or any other security agency to recover those damages, but insofar as the passenger is concerned, it is a matter between the passenger and the airline.

We also understand that these are complex systems. The European Union's regime recognizes the notion of an extraordinary circumstance like a snowstorm or volcanic eruption, which relieves the airline from the obligation to pay compensation. However, most situations relating to ground crew, fuelling aircraft and ensuring they have sufficient crewing and that they planned their flights properly are within the airline's control.

Airlines, even in Canada, had all the information they needed to estimate the problems that would be happening in the summer. They had all the information they needed in order to know what would happen and to know that perhaps CATSA or the airport facilities were imperfect, but they were still not able to handle the volume of traffic reflected by the sales of tickets by airlines.



What happened this past summer was a situation in which airlines were overselling the airport facility's capacity and they knew it perfectly well. That would have been, in the European situation, within the airline's control. It would be a whole different situation if, for example, God forbid you had an air crash, you had to close one of the runways suddenly and it was not known in advance.

• (1605)

**Mr. Mark Strahl:** Thank you for that.

I had another question. With the EU, obviously there are examples of geographical issues. We can think of staffing issues as well. For instance, if you're at the airport that I fly out of often, Vancouver International Airport, you would expect that for the bigger airlines, there might be crew on site who could fill in if there was a delay that put the crew over their hours or if someone got sick.

Are there any provisions in the APPR—or do you think there should be—for when, for instance, your flight might be in the north or in a remote community? Should airlines be able to use as an excuse the fact that they're in a smaller airport in a small community, as opposed to flying out of some of the major centres where you might expect to have more crew available?

**Dr. Gábor Lukács:** Generally, when we are talking about crew shortages, we are talking about situations that the airlines could have known well in advance, like not having adequate training for crews probably months in advance.

I would support arrangements for special exemptions for airlines that operate north of a certain geographical point in very scarcely populated areas and territories. That, however, should not apply to an airline operating out of, say, Sydney, Nova Scotia, or Halifax, Nova Scotia, or similarly well-populated areas.

The assumption of any passenger protection regulation should be that the airline is responsible for the business decision that it makes, and that has to include adequate contingencies.

**The Chair:** Thank you very much.

Next we have Mr. Rogers.

The floor is yours. You have six minutes.

**Mr. Churence Rogers (Bonavista—Burin—Trinity, Lib.):** Thank you, Chair.

Welcome to all of our witnesses online and the people in the room today. All of your testimony provided many examples of individuals and groups that have been denied refunds, and I note the other issues you've raised.

I think a number of factors unfortunately converged to create the perfect storm and a problem for air passengers. Very soon after the government introduced its new passenger rights system in 2019, there were, notably, the pandemic and subsequent shutdowns of most air travel, labour shortages that persisted and so on. Even after the public health measures were relaxed, we still had major problems.

Given that, would you say that on balance, we are still better off with the legislative and regulatory framework, as opposed to the situation that existed before, when each individual airline set its own system, including compensation amounts?

I'll start with Mr. Lawford and then go to Mr. Charbonneau. Then we'll ask a couple of people online.

**Mr. John Lawford:** Absolutely, we're better off having the passenger protection regulations than not having them.

I would have started them—instead of 2019, as Professor Gradek said—more like in 2003, or whenever the Canadian Airlines-Air Canada merger was. That's when PIAC started working on airline issues and the problems of consumers being treated more like baggage than passengers. We've been trying to get an airline bill of rights since that time. We have worked on this for more than 20 years and we finally have regulations. We're very fond of them.

I was trying to make the point that there were a lot of factors going against them. They need a chance to breathe and, unfortunately, the administration turnover is too slow at CTA now to catch up on the backlog. It should be like a parking ticket that the airlines are getting, not a big investigation.

I very much support them.

• (1610)

[*Translation*]

**Mr. Jacob Charbonneau:** Thank you for the question.

It is better to have a framework than not to have one. On the other hand, it's a bit like setting speed limits on the motorway, but there's no one there to enforce it. That leaves it open for people to drive at whatever speed they want.

That's kind of what we're seeing in this case. Even with the best of regulations, if proactive work is not done to ensure that these rules are followed by carriers, if we just wait for a complaint to come in and work one complaint at a time, we're not solving the situation.

[*English*]

**Mr. Churence Rogers:** Thank you.

Go ahead, Mr. Gradek and Mr. Lukács.

**Mr. John Gradek:** I agree with Mr. Lawford. The Wild West we had prior to the APPRs was not acceptable in terms of the way we handle our passengers. The APPRs were an attempt to draw the line in the sand and say, "Here's a process that we think would work."

Unfortunately, in my opinion, there are some elements of the language in those APPRs that still leave a lot of discretion, as far as I'm concerned, to the airlines in having the ability to escape the compensation clauses that are supposedly contained in there. I think it's incumbent on the committee and on the regulators to close some of those issues.

**Mr. Churence Rogers:** Go ahead, Mr. Lukács.

**Dr. Gábor Lukács:** In my view, the APPR was written by the airlines for the airlines, and it's essentially a sham. It creates the appearance that there is passenger protection regulation in Canada. It serves as a way to provide answers to those legitimate calls to provide a European-style protection regime, but it was designed to fail.

We cautioned the government. We also cautioned the Canadian Transportation Agency in February of 2019 about all the flaws, and we predicted them. We predicted the refund controversy. We predicted the abuse of the “safety purposes” loophole. We predicted the concerns about denied boarding and so on.

We have 52 pages of this, which have been on our website for more than three years now. We knew it was coming. Everybody with minimal expertise in the area knew what would happen if those regulations were allowed to go forward in their present form.

What needs to happen now is for us to give Canada real air passenger protection regulations that provide meaningful protection to passengers.

**Mr. Churence Rogers:** Ms. De Bellefeuille, at the moment, it strikes me that one of the main problems is there is not enough disincentive for airlines to go to the CTA, dragging out the process and discouraging travellers from exercising their rights.

Would you agree with this assessment? If so, what should be done to change this incentive structure?

[Translation]

**Ms. Sylvie De Bellefeuille:** Thank you for your question.

The process is indeed very cumbersome. The consumer has to fight like David against Goliath. He is the one who has to assert his rights, when he does not have all the necessary tools at hand. They have to fight against an air carrier that knows the ropes and has the information. That is why we believe that the burden of proof should be reversed. It should be up to the air carrier to justify that it does not have to compensate the passenger. This is problematic.

There is also another problem: we suspect that very few people will go through with the process. For a carrier, it is almost advantageous not to give the right information and not to admit responsibility. Consider a far-fetched scenario in which 10% of the passengers on a plane contest a decision. This would mean that 90% of the passengers would not be compensated. This is a very far-fetched scenario indeed, because in reality there are usually only one or two passengers per flight who claim compensation, if any.

The balance of power is really not balanced. The regulations should be reviewed to restore this balance of power.

• (1615)

**The Chair:** Thank you very much, Ms. De Bellefeuille.

Mr. Barsalou-Duval, you have the floor for six minutes.

**Mr. Xavier Barsalou-Duval (Pierre-Boucher—Les Patriotes—Verchères, BQ):** Thank you very much, Mr. Chair.

In light of what we are hearing from the various witnesses appearing today, there seems to be a consensus that the current complaints process is not working. According to the witnesses, the sys-

tem is downright broken. As a result, consumers end up discouraged, and airlines feel emboldened to not treat them well and not respect their rights.

However, with regard to the proposed solutions, there would seem to be nuances, differences, about which I would like the witnesses' comments.

According to Ms. De Bellefeuille, an approach that would reverse the burden of proof should be preferred. It would then be up to the airlines to show that they did not have to compensate the air passengers. As I understand her perspective, whenever a flight was cancelled, passengers would be reimbursed by default and it would be up to the airline to take steps to ensure otherwise.

Could such an approach hold water?

Mr. Charbonneau, let's start with you.

**Mr. Jacob Charbonneau:** Certainly the burden of proof must rest with the air carriers.

On the other hand, they can come out with all sorts of evidence, as I have already said. Now, the consumer is not an expert and does not know the rights and obligations of the carriers, so he or she will not know what to do with them if left to their own devices. So someone has to be able to decide and say whether the evidence provided is reliable, whether the facts are true and whether the arguments are valid.

This is the role of the Canadian Transportation Agency or any other agency, which must be able to decide at the first stage, very easily and very quickly, in order to avoid overly long processing times and too much complexity. Above all, travellers must not be left to their own devices when they take the steps, which is what the carriers are demanding at present. Travellers are not equipped to do this. As Ms. De Bellefeuille said, they find themselves fighting like David against Goliath. They don't have the means to deal with multinationals that have almost unlimited resources.

**Mr. Xavier Barsalou-Duval:** Do you have anything to add, Mr. Lukács?

[English]

**Dr. Gábor Lukács:** We need to fix more than just the burden of proof. We should start with clear definitions that mirror the European Union's definitions of “denied boarding” and “cancellation”. Then we need to move on to a presumption of liability for denied boarding, delay and cancellation on the carrier's part, as in the Montreal Convention. This is where the carrier has to rebut and show the extraordinary circumstances and why it should not be paying compensation.

We also recommend the removal of the “safety reasons” loophole, which does not exist in the European Union's regime and creates a lot of room for abuse. We agree with each one of the solutions, but we believe that we need all of them together to fix the system. Ultimately, one should not be requiring 1,000 pages of documents to decide the fate of a \$400 compensation claim.

[Translation]

**Mr. Xavier Barsalou-Duval:** Mr. Lawford, do you have any comments on this?

**Mr. John Lawford:** I would just like to point out that the Commission for Complaints for Telecom-Television Services is experiencing the same problems with companies having powers and means to act to the detriment of consumers.

At this commission, experts are looking into these issues and asking companies to respond in a month or less to consumer complaints. The experts offer a form of mediation, which helps a lot. Normally, 80% to 90% of complaints are resolved within a month, if not within six weeks. So it's much more effective.

• (1620)

**Mr. Xavier Barsalou-Duval:** Thank you.

Ms. De Bellefeuille, in your statement and in response to questions you were asked, you pointed out that it is usually only a minority of consumers who take action, file complaints and go all the way to get compensation. In the end, the bad practices of the airlines allow them to get away with it.

Shouldn't a rule be established to require that if a passenger gets compensation or a case is proven, that information is automatically provided to all other passengers on the same flight so that they too can get justice?

**Ms. Sylvie De Bellefeuille:** This would certainly be a very interesting potential solution. Indeed, the Canadian Transportation Agency can only deal with the file of the person who submitted the complaint, even though it is likely that all other passengers on the same flight suffered the same inconvenience.

Finding a way to make an individual's battle collective would be a good thing. The case of some travellers needs to be dealt with separately, of course, but what you are putting forward is certainly an interesting possible solution.

**Mr. Xavier Barsalou-Duval:** Mr. Charbonneau, I'll pass the floor to you again.

**Mr. Jacob Charbonneau:** It can also happen that the same situation applies to several flights. I'm thinking here of a lack of crew or a crew working too many hours, both of which have caused delays or cancellations that carriers have categorized as necessary for safety reasons.

Two judgments were issued, the first against Air Canada, the second against WestJet. Such judgments should automatically also apply to all people who were given bad information by carriers at the outset. Indeed, tens of thousands of passengers have been turned away.

These judgments overturn the position of the carriers, but they are not communicated to all the people who suffered misinformation and therefore feel a little aggrieved in this situation.

**The Chair:** Thank you very much, Mr. Barsalou-Duval and Mr. Charbonneau.

[English]

Next we have Mr. Bachrach.

Mr. Bachrach, the floor is yours. You have six minutes.

**Mr. Taylor Bachrach (Skeena—Bulkley Valley, NDP):** Thank you, Mr. Chair.

Thank you to all of our witnesses for being here today.

What we've heard so far at this meeting is a pretty stunning indictment of the air passenger protection regulations and how they've been enforced during a time when air passengers across the country have gone through some pretty extreme circumstances and have been put in some extremely inconvenient situations. Of course, the study that our committee has undertaken is coming at a time when there are over 20,000 complaints before the CTA, and it is right before the Christmas travel season, when we risk seeing that number jump even higher.

I have a whole bunch of questions, but I want to start with Mr. Lukács.

Welcome back to the committee, Mr. Lukács. I want to start by asking you if you can elaborate on the specific regulatory and legislative changes that you believe this committee should recommend as a way of strengthening Canada's air passenger rights system.

**Dr. Gábor Lukács:** The first change is incorporating in the Canada Transportation Act a clear definition of “denial of boarding” and “cancellation” that mirrors the European Union's definition. We often hear, for example, that a flight was not cancelled; it was just a schedule change. The airline refuses to pay compensation on that basis.

The next change is the removal of the “safety reasons” loophole. It would involve removing subparagraph 86.11(1)(b)(ii) and adding language to clarify that the delay, cancellation or denial of boarding for safety purposes is deemed to be within the carrier's control.

The third change that should be in the Canada Transportation Act is a clear presumption of liability for denied boarding, delay and cancellation that is presumed to have been in the carrier's control, as in the Montreal Convention. The burden of proof would be on the carrier to rebut, with evidence, that presumption.

**Mr. Taylor Bachrach:** Mr. Lukács, we heard earlier from Mr. Charbonneau that the DOT in the United States has already issued seven million dollars' worth of fines to air carriers who slow-walked—I believe that was the translation—the refunds they were supposed to provide to passengers. The APPR in Canada also has a provision that allows the CTA to levy fines against the carriers for contravention of the regulations. Has the CTA used this tool, and if so, how effectively?

• (1625)

**Dr. Gábor Lukács:** The Canada Transportation Act allows the CTA to issue fines of up to \$25,000 per passenger per incident for violations of the APPR.

With respect to the main provisions of the APPR relating to compensation of passengers, I'm aware of only one fine very recently issued against WestJet for \$11,000 for 55 violations. That was \$200 per violation. Those were violations or provisions where the amount at stake—the compensation owed to passengers—was between \$400 and \$1,000, so it was actually cheaper for the airline to pay the fine than to compensate the passengers.

With respect to those issues, our recommendation would be to have mandatory minimum penalties for airlines that break the regulations and mandatory enforcement provisions, as well as to increase the limitation period from 12 months to 36 months or longer for the CTA to issue a notice to airlines.

**Mr. Taylor Bachrach:** If I may, I will turn to Mr. Charbonneau.

The APPR requires that airlines communicate to passengers about the existence of the APPR so they can pursue claims. Like many people in this room, I fly a lot and had a lot of flights cancelled and delayed over the past year. I think I can count on one finger the number of times I was handed any information about air passenger protection rights. At one point, much to the embarrassment of my teenage daughters, I asked a boarding room full of people whose flight had been cancelled if anyone was aware of these regulations in Canada. Not a single person put up their hand.

You mentioned that only 2% of passengers actually pursue claims. I'm wondering if that is because the process is not well publicized or because the process is so complex that most average air passengers aren't going to find their receipts and go through a 30-day process of appealing to the carrier and then appealing to the CTA. Which of those two, or how much of each, is the problem here?

[*Translation*]

**Mr. Jacob Charbonneau:** Actually, it's a combination of both situations. For the most part, people don't go further because of their lack of knowledge of their rights and the carrier's obligations. Also, from the outset, either a lot of misinformation occurs or no information is provided.

I am telling you about an experience I had a few weeks ago. I had gone to Halifax for the weekend. On the morning of my return, I arrived at the airport to catch my flight, but the flight was not displayed on the screen. When I got to the counter to follow up, I saw a small sign that said the counter would open at 3:30. Yet my flight was at 8:30, all the passengers were there, but no one knew if the flight was delayed or cancelled and if there would be another flight.

I was the one who talked to the 90 people to tell them what they were entitled to and what the carrier's obligations were. All these people were left to their own devices.

In fact, often when releases are issued, it is to say that these are exceptional circumstances and there is no right to compensation. In this case, I dug around to find out why this was the case. I was told that it was a safety reason, but I was never able to find out the details.

**The Chair:** Thank you very much, Mr. Charbonneau.

[*English*]

Thank you very much, Mr. Bachrach.

Mr. Muys, the floor is now yours. You have five minutes.

**Mr. Dan Muys (Flamborough—Glanbrook, CPC):** Thank you, Mr. Chair.

Thank you, witnesses. I know that some of you are repeat witnesses at the transport committee, so thank you for your investment of time here.

Mr. Lawford, you painted a picture of “chronic issues”, as you said, and flight delays. You also talked about maybe looking back a lot further in the time continuum, from 2003 to now. Maybe you can elaborate a bit on this. In your view, what factors are causing the spikes in delays we're seeing and these frustrations consumers are facing that are remedied by the APPR? What factors are outside of that? Where is the division, and how has that progressed over time?

**Mr. John Lawford:** I don't think the APPRs themselves have any large effect on cancellations or delays. I think when we went into this, after Mr. Emerson did his report, and we were setting up the regulations, we thought that if airlines had a lot of fines to pay for these cancellations and delays, they would change their habits.

Well, it doesn't work that way. It actually looks like when they get a number of claims, they continue to cancel flights because the economics are so much larger for choosing a different aircraft, changing the schedule or not having staff. Those costs really pale compared to the consumers' compensation.

Really the scheme, I've come to think, is more about compensating consumers for their inconvenience because the system isn't going to work. We have other problems, as I think you heard in previous committee meetings, around the way airports work, the way security works and all of these international flight and competition issues.

You can still fly. What really gets under my skin about this entire thing is that airlines can still fly. They can fly late. They can cancel flights. They just have to pay.

What we're missing here is the sort of automatic.... If a 100 people on a 200-passenger plane make a claim, well, too bad: Pay for 100 cancellations or 100 delays. That's the cost of stranding people if you're going to operate like this. That might give them an incentive to change in future, but at least those people will get something for having been crushed under the wheels, so to speak.

● (1630)

**Mr. Dan Muys:** Is that always the fault of the airline?

You referenced the number of issues we had this year in particular, and the headline we were all horrified by this past summer was that Toronto Pearson was the worst airport in the world. What are the other issues, and how are they being addressed?

**Mr. John Lawford:** I'm not downplaying the complexity or difficulty of running an airline, especially in the present circumstances. What I'm saying is that if you're going to be in the airline business, it's an essential service to get people from A to B, so if you strand them, you have to pay for it. That's what we've come up with because it's so important to people and so essential. It's going to have to be factored into costs, yet I see Air Canada, WestJet and IATA going to the mat in trying to take out these regulations. It's very disturbing.

**Mr. Dan Muys:** In my previous life, prior to politics, I did a lot of business travel in the United States, and I know the EU was referenced as a model that we could look to. I'm wondering if any of the witnesses would like to comment about the U.S. In all my time, I found very few delays and very few issues. In fact, often, if I booked too tight a connection, I was running between gates. Is there something we can learn or something instructive from the U.S. model, not just the EU's? Are they better off or worse off than Canada in this regard?

Maybe Mr. Gradek, given your years of experience in the industry, you could start off.

**Mr. John Gradek:** One of the things we see happening in the Canadian aviation marketplace is what I would say is a gradual reduction in the integrity of airline managers when looking towards making passengers enjoy their trip. What we see happening is that more and more decisions are being made by the airlines to look at minimizing the impact on profitability. That's where we have the traditional fight going on between customer service and dealing with profitability. The pendulum has swung, at this point in time, towards profitability because of the fact that the airlines have been short of profits over the last 24 months and are trying to catch up.

Will we come back to a pendulum point where customer service will in fact take precedence? Probably. I'm not sure how long it's going to take to get there, but it will happen. It will be a question of carriers all of a sudden deciding that customer service is worth more and trying to get some competitive advantage by providing a good level of service.

As to the EU model, I think they've had a lot of experience. They've had regulations in place for close to 20 years. It's interesting. They have kind of privatized the process of having people identify themselves as being subject to compensation. If you go on a U.K. or EU website—

**The Chair:** Thank you very much, Mr. Gradek. I'm sorry. I'm going to have to cut you off there. I tried to give you a bit of leeway, but unfortunately we're out of time.

Next we have Mr. Chahal.

Mr. Chahal, the floor is yours. You have five minutes.

**Mr. George Chahal (Calgary Skyview, Lib.):** Thank you, Chair, and thank you to all the witnesses for your testimony today.

We talked a lot about the impact on air travellers and their experiences. In particular, a lot of these challenges have come up because of the challenges we've seen during the pandemic.

I'll start with you, Mr. Lawford.

What was the experience of Canadian air travellers compared to that of travellers in other countries? If we look at the U.S., as mentioned by my colleague, or Europe, what was the experience, if you could compare?

• (1635)

**Mr. John Lawford:** Each airline market recovered at a different rate. I think in the Canadian experience, there was a rush to try to service people a little too quickly, especially this last summer season.

The U.S. market recovered in a more staged manner. I'm not sure whether they had better labour management. Europe, I have to say, I haven't studied in as much detail as maybe Mr. Gradek or Mr. Charbonneau has, so perhaps they could speak to that.

Canada did have kind of a “turn it right off, turn it right back on full blast” approach. Especially after the airlines took the bailouts, it was surprising that there was so much labour shortage in Canada, and that was the source of most of our problems. As we heard in the last study, there were problems with other aspects of the government.

**Mr. George Chahal:** Was consumer protection in Canada adequate compared to that of the U.S. or Europe, in your opinion?

**Mr. John Lawford:** My bottom line here today is that passenger protection regulations are fine. We worked on them, and they have the substantive stuff we need for resolving most Canadian complaints. The trouble is that the system they've been shoved into is an old-fashioned tariff system that isn't built to process a lot of these claims. With the perfect storm, as Mr. Rogers noted, the backlog has become too big, so it looks bad.

**Mr. George Chahal:** Mr. Gradek, could you comment on the same question?

**Mr. John Gradek:** Yes. I think what you saw happen in Canada was a situation where the airlines did not take the initiative to maintain staffing levels the way the European or American carriers had.

Air Canada dropped somewhere close to 20,000 employees and WestJet dropped 15,000 employees, and they were slow in bringing people back. Meanwhile, they decided to fly a fairly aggressive flight schedule. There really was a situation where the Canadian airlines took the initiative to fly and publish their flight schedules without having due regard to the resource levels required for them to support their flight schedules.

**Mr. George Chahal:** Do you believe the experience of air travellers was better in Europe or the U.S. compared to Canada? What are the strengths of consumer protection in comparison?

**Mr. John Gradek:** I think the European carriers and European airports had some level of disruption. If you look at the Schiphol airport, London Heathrow and the Frankfurt Airport, they all had situations, albeit not as bad as we had it in Canada.

There were some disruptions due to staff shortages, and I think there was a much more conscientious view from the carriers about the need to have resources to start up again. That was not the case in Canada.

**Mr. George Chahal:** You mentioned in your opening comments that the EU had a better system. If you could compare and contrast the strengths of their system against ours when it comes to protecting passengers or travellers, what recommendations would you bring forward for our study?

**Mr. John Gradek:** I think a number of people this afternoon.... Gábor made the point about looking at trying to absorb as many of the EU regulation changes as we can into Canada.

The Europeans have said that situations associated with delays are payable by compensation, and that the only time you have an exemption is under extraordinary circumstances. In those extraordinary circumstances, no compensation is due. For staffing shortages and maintenance requirements on the airplanes, the airlines are basically liable for the payment of compensation in Europe. When you have a volcanic eruption, a political disruption, runway incursions or major events for which the airline has not had a chance to look at reasonable planning, then you don't have compensation. Otherwise, all is fair.

**The Chair:** Thank you very much, Mr. Chahal and Mr. Gradek.

[Translation]

Mr. Duval, you have the floor for two and a half minutes.

**Mr. Xavier Barsalou-Duval:** Thank you very much, Mr. Chair.

I want to go back to the complexity of the Canadian Transportation Agency's complaints system and the complexity of the air passenger protection regulations.

Finally, people say that all sorts of possible situations lead to all sorts of possible resolutions. So you have to rack your brains to figure out whether it's the carrier's responsibility or the other and under what circumstances, and all of that clogs up an administrative tribunal. We're talking about compensation amounts of \$500, \$1,000, or \$2,000, and when you add in all the legal fees to go to court and the salaries of the officials to document and process the complaints, it ends up being very expensive.

During the pandemic, I had introduced Bill C-249, which sought to simplify things by requiring people to be reimbursed when their flight is cancelled. It is not complicated. It's kind of like when I order a pizza: if I don't get it, I'll get my money back. It doesn't matter if there's a snowstorm, if the deliveryman hasn't put on his winter tires or if there's a lot of traffic: he still has to deliver my pizza, and he has to do it the same day, not three weeks later. Otherwise, he has to pay me back.

Wouldn't it be simpler to do it this way, rather than go through the trouble of inventing thousands of rules and hiring lots of civil servants only to have a system that doesn't work? Why not go back to my original proposal, Bill C-249?

Ms. De Bellefeuille, what do you think?

• (1640)

**Ms. Sylvie De Bellefeuille:** Indeed, what you raise is the very basis of contracts. The principle of a contract is that you pay a company to receive a service. If it is unable to provide that service, the rule normally is that the consumer is entitled to a refund. So why should it be different for an airline just because it's an airline? There's something in there that goes against the principle.

In the same vein, if you ordered a pepperoni pizza and they delivered a pizza that doesn't have pepperoni, again, there's a problem, because that's not what you ordered. If you bought a plane ticket for Saturday and are told you're not leaving until the following Monday, but it's okay because this new flight is within the 48-hour time limit, that doesn't work either.

**Mr. Xavier Barsalou-Duval:** Mr. Lukács and Mr. Charbonneau, I'd like to hear your point of view. I know that I don't have much time left.

**The Chair:** You have less than 10 seconds left, Mr. Barsalou-Duval, So you're only going to be able to listen to Mr. Lukács.

Mr. Lukács, please go ahead.

[English]

**Dr. Gábor Lukács:** Providing a refund in any event, regardless of the cause of the cancellation, of course makes perfect sense. That's what the law is in the European Union and the U.S.

However, if the airline cancels the flight for reasons that are not extraordinary, they also have to compensate passengers for their time and their inconvenience, because, after all, that is also a cost to the economy. When 200 people don't reach their destination on time, that has a productivity value that has to be paid for by the airline.

**The Chair:** Thank you very much, Mr. Lukács.

[Translation]

Thank you very much, Mr. Barsalou-Duval.

[English]

Next we have Mr. Bachrach.

Mr. Bachrach, the floor is yours. You have two and a half minutes.

**Mr. Taylor Bachrach:** Thank you, Mr. Chair.

We heard in previous testimony about the challenge that's presented when a whole flight of people is inconvenienced by a delay or cancellation, yet only a small percentage of those passengers have the tenacity to go through a very bureaucratic and lengthy process to pursue compensation. Every single passenger on that flight had the same experience, yet only a tiny percentage are going to possibly get compensation. This seems like a situation that heavily favours the airline, because even if they have to pay out, it's only to a fraction of the passengers affected.

I understand that the legislation provides the CTA with the power to make determinations on a flight-by-flight basis, as opposed to a passenger-by-passenger basis.

Mr. Lukács, I wonder if you could talk about this power the CTA has and whether it uses it effectively.

**Dr. Gábor Lukács:** Under section 67.4 of the Canada Transportation Act and subsection 113.1(3) of the air transportation regulations, the Canadian Transportation Agency can make determinations that are applicable to all passengers or some passengers on the same flight if they complain before the agency. I have not seen any decision where this actually has been done.

**Mr. Taylor Bachrach:** I'll also ask Mr. Charbonneau if he's heard about this provision being utilized by the CTA.

[*Translation*]

**Mr. Jacob Charbonneau:** I don't recall ever having seen the agency use this provision.

On the other hand, there are three stages at the agency. The first two are facilitation and mediation. Most people are directed to the first stage. Neither of these first two stages leads to an official, executive, decision that could be applied to all the passengers.

This provision only applies to those who reach the third stage, the official one. Only a very small percentage of those who make a claim with the agency reach this stage.

That whole process doesn't work either.

• (1645)

[*English*]

**Mr. Taylor Bachrach:** Do I have a couple of seconds left, Mr. Chair?

**The Chair:** You have 30 seconds left, Mr. Bachrach.

**Mr. Taylor Bachrach:** I'm a little confused, because the EU had regulations first. The EU's regulations protect passengers better by almost any metric or indicator you would go with. Why is Canada so poor at protecting consumers compared to other jurisdictions like the EU and the U.S.? Why didn't we simply copy the legislation that was proven to be effective?

Mr. Charbonneau, do you have thoughts on why this is the case?

[*Translation*]

**Mr. Jacob Charbonneau:** Yes. Much of that is attributable to the role played in parallel with the organizations. I spoke earlier

about a company that was fined \$7 million by the United States Transportation Department for simply having taken too long to pay compensation. The department played a proactive role in that case.

During the pandemic, the U.S. equivalent of the Canadian Transportation Agency was quick to require automatic refunds in the form of travel credits. Europe did the same thing. In Canada, it took months before travel credits were allowed and then dealt with individually with the carriers. The Canadian Transportation Agency therefore doesn't play a proactive role and doesn't assess many penalties on carriers, which are not monitored.

**The Chair:** Thank you very much, Mr. Charbonneau.

[*English*]

Thank you very much, Mr. Bachrach.

Next, we have Dr. Lewis.

Dr. Lewis, the floor is yours. You have five minutes.

**Ms. Leslyn Lewis (Haldimand—Norfolk, CPC):** Thank you, Mr. Chair.

I would like to thank the witnesses for their testimony today. It's been very informative. It sheds some light on the information we already have about the unprecedented disruptions to flights, and the delays and cancellations, over the past two years.

My first question is for Mr. Lawford.

I would like to know whether the numbers you stated for the labour shortages, between 16,000 and 20,000.... Actually, you said there were 16,000 to 20,000 backlogged responses. You said that was within the last year. Does that number also include the ones that are two years old, or do you have another number? Is that just for one year?

**Mr. John Lawford:** I used the Canadian Transportation Agency annual reports and other reports to come up with that number, so 16,000 to 20,000 were at least a year old. As pointed out by one of the other members, they were in the more adjudicative stream at the Canadian Transportation Agency, meaning they were looking at them in detail. That's the number I was referring to.

**Ms. Leslyn Lewis:** There could be more than 20,000 backlogged, then.

**Mr. John Lawford:** Yes, there are some newer ones too. There are always more.

**Ms. Leslyn Lewis:** Are you aware of the numbers attributed to labour shortages? They wouldn't state that was the cause of a delay, so you wouldn't know what those numbers are.

**Mr. John Lawford:** No, I wouldn't be able to give you a firm figure on that.

**Ms. Leslyn Lewis:** My next question is for Madame de Bellefeuille.

You spoke in great detail about the conflict inherent in airlines providing responses about why a delay occurred. It sounds to me as if you're advocating somewhat for a new system where there would be minimum standards.

Within that system, could you foresee something like a scale of compensation where there would be minimum compensation and the airline would have to stipulate whether it was due to insufficient staffing or a safety issue? Those issues would not absolve the airline of its responsibility to compensate.

[*Translation*]

**Ms. Sylvie De Bellefeuille:** We feel that the problem stems from how the regulations are worded. They leaves a lot of room for interpretation by air carriers. When something happens, they are the ones who decide what category they fall into, on whether it's up to them to take action or not, and whether the incident raises safety issues in their opinion. That's where the whole problem lies.

It's neither the compensation nor the amounts to be refunded that are the problem, because these are provided for in the regulations. On the other hand, we have seen that the air carriers tend to interpret the already rather vague provisions in the regulations in a matter that is beneficial to them, in order not to have to compensate people. It's really an internal conflict of interest.

• (1650)

[*English*]

**Ms. Leslyn Lewis:** If there was no ability to interpret it broadly and it was just a fixed scale saying the incident occurred and therefore it should lead to compensation, which is somewhat of a reverse onus, that would take the power out of the hands of the airline and put it more into the hands of the consumer. Would you not support a system of that nature?

[*Translation*]

**Ms. Sylvie De Bellefeuille:** In fact, the problem is not the amount of compensation, but the reason for the delay or cancellation and the interpretation of it by the air carrier. The airlines tend to interpret the regulations in a manner that is most favourable to them.

We spoke earlier about how to apply the existing rules. The idea is not necessarily to review all the rules, but how they are applied.

Right now, the consumer or passenger has to submit a refund claim. It's also up to them to prove or demonstrate that the airline had not interpreted the regulations properly, but then the consumer or passenger doesn't have access to all of the relevant data to do that.

So the problem is really the lack of relevant information and the fact that the airlines would very much like to be able to say that the delay or cancellation was beyond their control.

**The Chair:** Thank you very much, Ms. De Bellefeuille.

[*English*]

Thank you very much, Dr. Lewis.

Next we have Mr. Badawey.

Mr Badawey, the floor is yours. You have five minutes.

**Mr. Vance Badawey (Niagara Centre, Lib.):** Thank you, Mr. Chairman.

I think we recognize in this conversation, over and above the lack of consideration by the airlines for customers, the need to look at the mandate of the CTA. We all recognize as well that in these committee meetings, witness testimony is going to inform the basis of the report that goes to the minister and therefore the response from the minister on that report and future recommendations.

What I'm really interested in are the recommendations to fix or update the problems at the CTA. Frankly, I want to focus on the business of good government and not, as we may assume in today's meeting, the business of good politics. This issue simply does not have the time or patience to allow politics to rear its ugly head.

With that, policy and legislation are established by Parliament. The administration and implementation of that policy and legislation are the responsibility of the CTA. What we're hearing today is a narrative about fixing the problems that are happening within the CTA.

I have my opinions. I have my problems with the CTA in my own riding, so I get it. I understand exactly what you're all talking about.

I'll start off with Mr. Lawford, and Mr. Charbonneau is going to follow. I'm going to open up the floor to recommendations on updating legislation with respect to the CTA mandate, which would be the responsibility of Parliament. Let's ensure that the process is user friendly and other things.

My second question with respect to that is whether you feel the Minister of Transport should have a role in ensuring that the CTA mandate is adhered to, over and above only establishing or updating legislation, versus forcing individuals to have to pursue accountability through the courts.

Mr. Lawford, we'll start with you.

**Mr. John Lawford:** The first question is easier to answer.

One thing I would suggest, which doesn't involve a lot of back-and-forth and changing the act that creates the CTA, is to do what the CRTC did. There was a directive from the government asking if they could make a consumer complaints agency, and we were waiting. They gave them one year to do a report and set up that system.

What came out was the Commission for Complaints for Telecom-television Services that now does this at semi-arm's length but is overseen, especially for systemic issues, by the CRTC. They didn't have to change the legislation for the CRTC; they just asked them to set this up. It's paid for mostly by the industry, yet it's administered by the CRTC through this new body of the CCTS. That would be one way to get around this quickly without having to amend a lot of legislation.

I guess I didn't quite understand your second question, so I apologize. Maybe you'll want to circle back to me to not waste time.



• (1655)

**Mr. Jacob Charbonneau:** On the first question, I think it needs to be more than friendly. It has to be fast, and it needs to have teeth. The first level should be able to ask for proof. They should be able to understand the proof and make a decision that will be executory.

[Translation]

What's more, I believe that the Canadian Transportation Agency should be more proactive and not wait until there are complaints to intervene. It needs to monitor the airlines to some degree to proactively ensure that the rules are followed.

[English]

**Mr. Vance Badawey:** I'm going to move now to Ms. De Bellefeuille for the same question.

[Translation]

**The Chair:** Ms. De Bellefeuille, the question was for you as well.

**Ms. Sylvie De Bellefeuille:** I'm sorry. I misunderstood.

I do in fact, to some degree, share the opinion mentioned earlier. It's important for the Canadian Transportation Agency to have the powers required to be able to take action.

I believe that the report proposed extending some of the agency's powers, including enabling it to be more proactive in circumstances where there has been a major disruption. That could be useful.

As for how to avoid the delays inherent to the legislative process, I think there are several ways of handling that. At the very least, the idea would be to sort out the regulations to make them easier to apply. One could then determine whether the act needed to be reviewed.

[English]

**The Chair:** Thank you very much, Mr. Badawey.

[Translation]

Thank you, Ms. De Bellefeuille.

[English]

Next we have Mr. Lewis.

Mr. Lewis, the floor is yours. You have five minutes.

**Mr. Chris Lewis (Essex, CPC):** Thank you, Mr. Chair, and thank you to all the witnesses.

This is where I get to vent a bit, finally. Two weeks ago I jumped on a plane in Ottawa. I flew to Pearson Airport. I got off said plane and my flight was cancelled, so I was given a Crowne Plaza certificate to stay in a hotel and two \$10 vouchers, which are great because they last a long time in the airport, for sure.

I had a 9:40 reservation for the next morning to get on a plane to get to Windsor, which was cancelled. Then I had a 4 p.m. flight to get to Windsor, which was cancelled. Then I had a 7 p.m. flight, which was cancelled. All of that said, at 9:40 a.m. on Sunday, one finally went to Windsor. What did I end up doing? Having some kind of a crystal ball, I decided to jump in an Uber on Friday night so I could get home to my meetings.

That's Chris's frustration, but what's more important than Chris's frustration is the frustration of the business owners—I used to sit on the international trade committee—who this spring flew into Windsor and sat on the tarmac for hours. They were there to finalize a major million-dollar deal for automotive, and they couldn't get a CATSA member or CBSA officer to clear them off the tarmac in Windsor because one of their apps didn't work, through no fault of their own. They then got back in said plane and flew back to the United States, and Canada forever lost their business.

Mr. Lawford, you said that labour shortages have played a major role. I heard you say that, and you went on to say, "there were problems with other aspects of the government". What other aspects of the government were you talking about, sir?

**Mr. John Lawford:** I was referring to some troubles with ArriveCAN and also to do with the staffing of border control, CBSA staffing, on the front end coming in with the scanning. The airports would be better at answering this than I am, but there were certainly not just airline staffing issues. It was unfortunate, but there were knock-on effects for a number of other systems.

**Mr. Chris Lewis:** Thank you, Mr. Lawford.

Mr. Gradek, do you have any comments on that?

**Mr. John Gradek:** I think it is something we've all talked about repeatedly over the last four or five months as we have looked at the messes at Pearson and Montréal-Trudeau to do with staffing levels, so it's nothing new. The question really is, what started this whole process and who is to be held accountable for all of these problems? The issue you talked about at Windsor is not within the airline's control. It's really up to the CBSA, with the border patrols, to basically look at staffing and to have the right equipment and the right processes in place.

While it's not as headline-grabbing as what happened at Pearson or Montréal-Trudeau, it was a problem, and there continues to be a problem with staffing levels at various airports across the country. We are still going through the process of trying to find people to staff those roles and to make sure they have the right equipment. It's not going to go away anytime soon, unfortunately. We're still going to be caught in a situation of being short of people.

• (1700)

**Mr. Chris Lewis:** Thank you very much.

My time is almost up, is it not?

**The Chair:** You have one minute.

**Mr. Chris Lewis:** That's excellent.

Obviously there's a labour shortage across our country in every sector. We're bleeding. We're hemorrhaging, quite frankly. There's nothing more important than labour. We could have the greatest widget in the world and we won't be able to sell it or build it if don't have the proper labour.

With that, I want to say thanks again to the witnesses. I appreciate them. I know this is not going to take a flick of a magic wand, but it's something we need to seriously get to the bottom of for Canadians not only in our own country but travelling abroad.

Thank you, Chair.

**The Chair:** Thank you very much, Mr. Lewis. When the holidays come around, I'll be sure to remember the fact that you left 40 seconds on the table.

[*Translation*]

Mr. Iacono, you have the floor for five minutes.

[*English*]

**Mr. Angelo Iacono (Alfred-Pellan, Lib.):** Thank you, Mr. Chair.

I would like to thank the witnesses for being present today.

My first question is for Mr. Lawford.

How much data do we have about passenger experiences? Do we know how many complaints are registered? How many are successfully resolved? How much compensation is paid out? Is this broken down by airline?

**Mr. John Lawford:** On the last question, I don't know if it's broken down by airline. I do know that the total compensation figure is given by the CTA.

For the total number of complaints, there's not a lot of granularity. I'll compare it to the CCTS—again back to telecommunications—where it is broken down by telecommunications carrier, the type of complaint, the period we're talking about and the resolution rate.

Those kinds of details are not, to my knowledge, in the CTA reports, which are a little more high-level. Some more granularity would assist everyone in this project.

**Mr. Angelo Iacono:** Do you think it would be possible to have access to that data, just to give us a better idea?

**Mr. John Lawford:** I believe so.

**Mr. Angelo Iacono:** Thanks.

In general, what would you recommend in terms of data collection and sharing?

**Mr. John Lawford:** Again, I'm back to the telecom regulator that is very open. It provides open access to the spreadsheets the frontline staff use. A few fields are blocked for sensitivity, but otherwise, it's almost exactly what the investigators and the management at the CCTS see.

That could be made available publicly because it's been done in another industry. That would help researchers, consumer advocates and even airlines see where the problems and pain points are.

[*Translation*]

**Mr. Angelo Iacono:** Thank you.

Ms. De Bellefeuille and Mr. Charbonneau, welcome to the committee.

Some witnesses have already suggested that one of the main problems with the Canadian Transportation Agency's process is that it is modelled on a tribunal, which creates bottlenecks because too many cases are being sent to only a few arbitrators.

Do you agree with this assessment? If so, how would you remedy the problem?

**Ms. Sylvie De Bellefeuille:** Thank you for your question.

The more burdensome the process becomes and the more it resembles a tribunal, the more difficult it is for consumers or passengers to assert their rights. Other witnesses have mentioned that if information were provided to transportation agency employees at the outset, they would be able to deal with the complaints and the system would be faster.

Then again, there would have to be enough staff at the agency to process all the complaints. I don't know whether there are enough employees at the agency. If there were, it would indeed facilitate things.

**Mr. Angelo Iacono:** Thank you, Ms. De Bellefeuille.

Would you like to add anything, Mr. Charbonneau?

**Mr. Jacob Charbonneau:** Whether or not it is an independent tribunal, people making the decisions need to have the power to make these executory. The procedure needs to be simplified. I mentioned that Denmark had introduced a simplified and much faster procedure.

Grouping similar cases together, whether in terms of circumstances or for a specific flight, would also speed up the processing of hundreds of cases at once. It needs to be simple and rapid. Having to wait two years before cases are dealt with discourages people. They can't see the point of pursuing efforts with the agency because they wouldn't be getting their money back for a year or two.

That's what happens with cases dealt with through facilitation or mediation, the first two stages, because all they do is tell people what the airline company is saying, without checking the facts.

• (1705)

**Mr. Angelo Iacono:** Thank you.

Who pays passenger compensation and fines? Since it isn't from the pockets of the CEOs, these types of compensation end up having an impact on all passengers because of higher ticket prices.

How can this unintended consequence be kept under control?

**Ms. Sylvie De Bellefeuille:** I think it's true to say that nothing is ever free. There's always a cost involved.

On the other hand, when you look at the situation in Europe, I don't believe plane tickets are much more expensive, while the compensation is much more straightforward. Everything depends on how things are managed. Are some executives too greedy? That, perhaps, is another story, and I won't comment on it.

It is certainly possible that it would have an impact on ticket prices. However, the current situation is having an impact on passenger rights, which I feel is unacceptable.

**Mr. Angelo Iacono:** What do you think of the financial support program that the federal government negotiated with the airlines during the pandemic, including the requirement to reimburse passengers?

**Ms. Sylvie De Bellefeuille:** Unfortunately, I think it's too little, too late. It took nearly a year to introduce this system. Not only that, but the time period within which people could file a claim for compensation was often very short, only a few weeks in some instances and, I believe, four months at best.

Many people weren't even aware that they had to make a new claim, even though they had been in dispute with their airline for a year. It made no sense to require people to make a new claim. Unfortunately, measures should have been in place much more quickly.

**Mr. Angelo Iacono:** Thank you.

**The Chair:** Thank you, Mr. Iacono and Ms. De Bellefeuille.

Mr. Barsalou-Duval, you have the floor for two and a half minutes.

**Mr. Xavier Barsalou-Duval:** Thank you, Mr. Chair.

Mr. Charbonneau, I'd like to come back the point I ended on earlier. As I proposed for Bill C-249, why couldn't things be simplified by automatically offering a refund in the event of a cancelled flight? I understand that it might not work for all cases, but it would certainly deal with many of them.

**Mr. Jacob Charbonneau:** I agree that a refund is required. However, when things become automatic, it's important to ensure that the measure is followed.

At the moment, the only automatic refund provided for under the regulations is for overbooking. The compensation has to be paid automatically within the following 48 hours. But even here, there are gaps. So we always need to make sure that the measure is complied with.

Even when a refund is offered, there are other factors to take into consideration. Passengers who learn upon arriving at the airport that they are out of luck because of overbooking should, even if given a refund, quickly take further steps. If portions of the trip had to be covered by land, they will be out of pocket. A new ticket also has to be purchased. I don't know if you've looked at the price of flights recently, but it's been increasing by almost \$100 a day. This means that someone who purchased a ticket at a specific price and had it cancelled, the new ticket might cost twice as much. That passenger is caught in a last minute situation at the airport, perhaps without even being able to find another flight.

That's why damages to passengers need to be taken into account. The refund is a good start, and I fully agree with it, but more than that is needed.

**Mr. Xavier Barsalou-Duval:** It's true that it's important to also look at the damages.

You mentioned overbooking. Earlier, Ms. De Bellefeuille said that the practice ought never to have been approved. What do you think about it?

**Mr. Jacob Charbonneau:** I'm not in the best position to comment on that.

From the consumer standpoint, I think everyone who buys a ticket expects to be able to get on the plane. However, there is also the commercial side, with 5% to 10% of registered passengers failing to show up at the airport. That's why overbooking exists and that's why it's allowed by the government. It's also practised in Europe and the United States. However, different scenarios have to be anticipated.

In the United States, ever since someone, a doctor, was forcefully removed from a United Airlines aircraft a few years ago, up to \$10,000 is being offered to people who volunteer to take another flight before attempting to force anyone to get off.

Might there not be a way to work like this, by increasing payments to find volunteers rather than forcing people?

• (1710)

**Mr. Xavier Barsalou-Duval:** I don't know whether, for...

**The Chair:** Unfortunately, Mr. Barsalou-Duval, you have no time left.

[English]

Next we have Mr. Bachrach.

Mr. Bachrach, the floor is yours. You have two and a half minutes.

**Mr. Taylor Bachrach:** Thank you, Mr. Chair.

I'm intrigued by this idea of banning overbooking. That hasn't been part of the broader conversation about air passenger rates, which has focused on delays and cancellations.

Ms. De Bellefeuille, I wonder if you could share with the committee how you feel that could be achieved. Is it a legislative change? Is it a regulatory change? Where would that ban on overbooking be instituted?

[Translation]

**Ms. Sylvie De Bellefeuille:** As for implementation, it's rather difficult to say. I've never really looked into it, but it might be possible within the regulations or the act.

I understand that these kinds of events might lead to more expensive tickets. If there was more promotion of tickets without a reservation, consumers would know ahead of time that they might not be able to get on the plane, thus lowering the possibility of a nasty surprise. However, that's not what happens at the moment. People buy a ticket, and at the last minute, find themselves high and dry, which makes no sense at all.

[English]

**Mr. Taylor Bachrach:** You pointed to challenges with the underlying legislation that made the APPRs possible. To what extent were the APPRs built on a faulty foundation legislatively?

[Translation]

**Ms. Sylvie De Bellefeuille:** Our view is that it's not just the air passenger protection regulations that place obligations on air carriers. There are also provincial statutes.

Unfortunately, we saw during the pandemic that a restrictive interpretation of the federal act and regulations was applied, and from the very outset airlines were allowed not to give refunds to passengers.

Other acts can also apply, including Quebec's Consumer Protection Act.

[English]

**Mr. Taylor Bachrach:** I'm quite struck by the comparison with Europe and the way that other jurisdictions are protecting air passengers. Are there any ways that you can think of in which Canada outperforms the EU and the U.S. when it comes to consumer protections for air passengers?

[Translation]

**Ms. Sylvie De Bellefeuille:** I'm not very familiar with European regulations, but based on what I've heard, we are unfortunately lagging behind the Europeans in terms of best practices.

**The Chair:** Thank you once again, Ms. De Bellefeuille.

[English]

Thank you very much, Mr. Bachrach.

Next we have Mr. Strahl.

Mr. Strahl, the floor is yours. You have five minutes.

**Mr. Mark Strahl:** Thank you very much, Mr. Chair.

My question is for Mr. Lawford.

You mentioned earlier that compensation is not particularly designed to change the behaviour of airlines; it's designed to compensate travellers. I was interested in the minimum levels of compensation between large airlines and small airlines. Large airlines are airlines that have transported a worldwide total of two million passengers or more during each of the two preceding calendar years.

If this is about compensating passengers, why are there two different levels of compensation based on whether an airline is considered large or small?

**Mr. John Lawford:** That was a method the Department of Transportation used to try to balance out a lot of problems for the smaller airlines and a lot of complaints when this was being brought forward in negotiations over the regulations. For example, regarding what we heard before about crew and staffing shortages—and the airlines in the north do have fewer crew; it's true—the idea is that we still want them to follow these regulations, but we recognize that they might have some other challenges, and therefore they only have to pay half. They really only have to pay half. It's a very blunt instrument, but it's meant to cover a lot of categories and situations.

You could come up with a more fine-grained rule for various carriers and various areas of the country, but then it gets complicated. Or you could say that there's no difference. Fortunately, or maybe

unfortunately, we have this very practical rule, which is little airlines pay half. That's a good way to split the difference between them and, say, an Air Canada. However, this is now being attacked in the Federal Court of Appeal. Some are saying we're creating a difference between airlines and that gets rid of our jurisdiction to have these regulations because the Chicago Convention says you treat all airlines the same. It's a no-win situation. I don't know where to go with it.

• (1715)

**Mr. Mark Strahl:** There are other differences in penalties between large and small airlines, like a large airline has to book.... If a WestJet flight gets cancelled, at some point they might have to buy a passenger an Air Canada ticket.

**Mr. John Lawford:** Yes.

**Mr. Mark Strahl:** That does not apply to small airlines. Is that correct?

**Mr. John Lawford:** The regulations were just changed at the start of September. I wouldn't swear to that, but it used to be that way; you're correct.

**Mr. Mark Strahl:** Okay.

My next question is again for you, Mr. Lawford.

You're talking about reforming the system. Do you believe that with the current exemptions, if I can call them that, and the airline being able to say something is outside of their control...? If the system is reformed as you envision it and is put into something like OSFI, can those exemptions remain? Would you have to deal with the exemptions and the system, or would the system you're proposing eliminate the need to get into the exemption discussion?

**Mr. John Lawford:** I still think you have to fix the “in the control of” problem, because that's a factual ground you have to establish and the airlines will fight it on every case. Just take it away unless there are exceptional circumstances. It's all within your control.

For the other stuff, 80% of the claims are going to go through. What I'm really here today trying to get is the vast majority of delays and cancellations paid out quickly. Then we should be fixing the control problem. Safety is a little more touchy.

**Mr. Mark Strahl:** I'll go back to Mr. Lukács.

On the issue that Mr. Lawford has raised, I'd be interested in your perspective. Do you believe there needs to be systemic reform in the type of...? He agrees with you on the need to reform exemptions. Do you agree with him on the need to reform the way these complaints or this compensation is adjudicated? He said parking tickets versus a prolonged investigation. Do you agree with that? Can it be done that way?

**Dr. Gábor Lukács:** I would say that in order to achieve that type of system, we need to change how clearly the rules are written. Right now, to verify eligibility for a \$400 claim means a thousand pages of documents and possibly a legal argument.

In the European Union, typically a passenger's eligibility for compensation can realistically be verified in a couple of minutes, because it requires so little information. If the rules are changed accordingly and are enshrined in the act and not some regulations, as they should be and as they were in the European Union, then the system might be amenable to a more fast-tracked process.

Having said that, there also have to be provisions for hefty fines for airlines that break the laws and rules. It's not enough to provide compensation to passengers.

**The Chair:** Thank you very much, Mr. Lukács.

Finally, for our last line of questions today, we have Ms. Koutrakis.

Ms. Koutrakis, the floor is yours. You have five minutes.

**Ms. Annie Koutrakis (Vimy, Lib.):** Thank you, Mr. Chair.

Thank you to all our witnesses for your very important and interesting testimony this afternoon.

My first question is for Mr. Gradek.

I want to talk a bit more about reforms. In your opinion, who should be consulted with regard to a potential reform of the APPR rules? More importantly, how do we prevent airline lobbyists from having an inordinate influence and, at the same time, not create rules that have unintended effects?

**Mr. John Gradek:** That's a great question.

I think what you're looking at is a way to have a balanced view of the APPRs. In the session this afternoon and going on for months, we've all said that the airlines had much too great a say in what these regulations ought to look like. The question you have to ask yourself is this: Is it worthwhile to have some other groups in that negotiation to temper the way the airlines are looking at adjusting these rules?

I don't know what the right mechanism is and whether we have more consumer groups or more representation via the organizations you have around the table here today in those sessions. However, there has been an inordinate amount of influence by the airline industry in these APPRs, and that has to change the next time around.

• (1720)

**Ms. Annie Koutrakis:** My next question is for Mr. Lawford.

We talk a lot about the process being somewhat difficult, and a lot of passengers don't end up filing complaints. For all the complaints that do not go to the CTA and go to the airlines, what data do we have about those cases? Do we know if airlines collect it? Do they share it, and should they be required to do so?

**Mr. John Lawford:** My understanding is that we don't generally have what I'll call the internal complaint numbers. I'll note that in the banking industry, the regulations were just changed to require internal complaints to be logged and then provided to the Minister of Finance so that groups like ours and folks like you can keep an

eye on whether internal complaints are being handled. Companies always claim that they're doing a good job with their own customers, so let's see it.

You can also impose a standard internal complaints process so we don't have different processes. If you're at WestJet or Air Canada, you can expect two levels, and then you get referred automatically to CTA rather than having to ask.

**Ms. Annie Koutrakis:** My final question can go to any witness.

Everything is about dollars and cents at the end of the day, so I'm wondering if any of you have information on how well funded the CTA process is—compared to similar systems in the U.S. or the EU—to address passenger complaints. If anybody has some information on that, I'd greatly appreciate it.

**Dr. Gábor Lukács:** The Canadian Transportation Agency recently received an additional \$10 million in funding, if I recall the figure correctly. That would need to be verified. It is not a question of money, though. It is a question of how this money is being spent and whether the procedures and regulations are amenable to the efficient processing of complaints to begin with.

The other part is whether there are processes to ensure that for each complaint that is caught, there are 10 that are prevented by enforcement actions. That's an area where the Canadian Transportation Agency is sorely wanting.

We cannot have a police officer or an enforcement officer in each corner or at each airport. What we can do when violations are caught is have such severe financial consequences—like we have seen in the United States with a \$7-million fine—that the airlines will think twice before they break the law.

Ultimately, the problem with the CTA is its lack of independence. We can give it as much money as we want, but it will still not be able to do justice. We know that the CTA sometimes has encrypted emails exchanged with Transport Canada behind the scenes. They are not adjudicating matters and dealing with matters in a fair manner.

**The Chair:** Thank you very much, Ms. Koutrakis.

On behalf of all committee members, I would like to thank all of our witnesses for joining us either virtually or in person today for our study on air passenger protection regulations. For those joining online, I invite you now to log off at your leisure.

As we do that, I'll turn the floor to Mr. Strahl to present a motion.

**Mr. Mark Strahl:** Thank you, Mr. Chair. I appreciate that.

Colleagues, you should all have notice of this motion from Friday. I'll read the motion into the record. It says:

That, pursuant to Standing Order 81(5), the committee invite the appropriate ministers to appear with regard to the Supplementary Estimates (B), 2022-23.

I hope that my colleagues want to extend an invitation for both the Minister of Transport and the Minister of Infrastructure to appear.

**The Chair:** Are there any objections from colleagues?

(Motion agreed to)

**The Chair:** With that, this meeting is now adjourned.

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