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# **Standing Committee on Transport, Infrastructure and Communities**

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**EVIDENCE**

**Thursday, September 14, 2017**

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**Chair**

**The Honourable Judy A. Sgro**



## Standing Committee on Transport, Infrastructure and Communities

Thursday, September 14, 2017

• (0930)

[English]

**The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)):** I'm calling to order meeting number 70 of the Standing Committee on Transport, Infrastructure and Communities. Pursuant to the order of reference of Monday, June 19, 2017, we are considering Bill C-49, an act to amend the Canada Transportation Act and other acts respecting transportation and to make related and consequential amendments to other acts.

This is day four, I'd like to say to the minister, that parliamentarians have been here along with Hill staff to deal with Bill C-49. We're very pleased to see, Minister Garneau, that you and your staff have joined us. I'm going to turn the floor over to you for your opening remarks.

**Hon. Marc Garneau (Minister of Transport):** Thank you, Madam Chair. I'm delighted to be here. I've been looking forward to this for a long time.

[Translation]

Madam Chair and honourable members, I am pleased to meet with the committee today to talk about Bill C-49, the Transportation Modernization Act.

[English]

I would like to thank the committee for studying the bill before the House is scheduled to resume. That is very much appreciated. I know that you've had three very busy days.

A strong transportation system is fundamental to Canada's overall economic performance and competitiveness. This bill, once passed, would make amendments to the Canada Transportation Act and other related legislation that would position our country to capitalize on global opportunities and make improvements to better meet the needs and service expectations of Canadians.

The measures included in Bill C-49 reflect what Canadians told us they expect during the extensive consultations we undertook last year. We held more than 200 meetings and round tables across the country with transportation and trade stakeholders, indigenous groups, provinces and territories, and individual Canadians to hear their views on the future of transportation in Canada. Our work is aimed at creating and facilitating the conditions to achieve long-term success, and this is precisely what this bill proposes to do.

Bill C-49 is an important first step, and I emphasize "first step", towards delivering on early and concrete measures in support of transportation 2030, which is the strategic plan for the future of

transportation in Canada. This bill focuses on our immediate priorities in the air, rail, and marine sectors. It aims to implement a series of measures to promote an integrated transportation system that is safe, secure, green, and innovative, and that will contribute to our economic growth and a cleaner environment, not to mention the well-being of Canadians when they travel.

The concerns of Canadians have been highlighted in recent months with the much-publicized cases of unacceptable treatment of air travellers both in this country and elsewhere. Bill C-49 proposes to mandate the Canadian Transportation Agency to develop, in consultation with Transport Canada, new regulations to enhance Canada's air passenger rights. These new rules would ensure that air passenger rights are clear, consistent, and fair for both travellers and air carriers.

Some examples of issues the new regulations would address include denied boarding in cases of overbooking, delays, or cancellations; lost or damaged baggage; tarmac delays beyond a certain period of time; seating children next to a parent or guardian at no extra cost; and ensuring that carriers develop clear standards for transporting musical instruments. Clear information will be provided to travellers in plain language about carriers' obligations and how to seek compensation and file complaints.

Under this proposed legislation, Canadians and anyone travelling to, from, and within Canada would benefit from a uniform, predictable, and reasonable approach. My objective is to ensure that passengers would have a clear understanding of their rights as air travellers while ensuring that this new approach would not negatively impact access to air services or the cost of travel.

I've been clear that regulations would include provisions whose intent would be that any denied boarding due to overbooking is done voluntarily and that under no circumstances someone be involuntarily removed from an aircraft after they have boarded. As Canadians, we expect that air carriers serving our country treat their passengers with the respect they deserve and that they live up to their commitments.

● (0935)

[*Translation*]

This bill also proposes that regulations be made to require data from all air service providers to be able to monitor the air traveller experience, including compliance with the proposed air passenger rights.

The legislation also proposes to liberalize international ownership restrictions from 25% to 49% of voting interests for Canadian air carriers, with accompanying safeguards, while retaining the 25% limit for specialty air services.

These safeguards limit a single international investor to hold no more than 25% of the voting interests of a Canadian air carrier, and no combination of foreign air carriers could own more than 25% of a Canadian carrier.

The direct impact of higher levels of international investment would be that Canadian air carriers or companies wishing to create new air services would have access to a wider pool of risk capital. Consequently, that pool of capital, from both international and domestic sources, would allow the Canadian air sector to become more competitive, and would lead to more choices and to lower prices for Canadians.

Another improvement in the bill is that it proposes a new, streamlined and predictable process for the authorization of joint ventures between air carriers, taking into account competition and wider public interest considerations.

In Canada, air carrier joint ventures are currently examined from the perspective of possible harm to competition by the Competition Bureau, under the Competition Act. Unlike in many other countries, notably the United States, Canada's current approach does not allow for the consideration of the wider public interest benefits with respect to specific routes. Furthermore, the bureau's review is not subject to specific timelines.

This raises concerns that the current approach to assessing joint ventures may make Canadian carriers less attractive to global counterparts as joint venture partners and may be limiting the ability of Canadian carriers to engage in this industry trend.

The bill proposes measures that would allow the Minister of Transport to consider and approve air carrier joint ventures, where it is in the public interest, taking into account competition considerations. The minister would work in close consultation with the Commissioner of Competition to ensure that he or she be properly informed regarding any concerns with regard to competition. Air carriers that would choose to have their proposed joint ventures assessed through the new process would be given clear timelines for an expected decision.

Globally, airports are making unprecedented investments in passenger screening to facilitate travel and gain global economic advantages. Canada's largest airports have also expressed an interest in investing in this area, and smaller airports have shown interest in obtaining access to screening services to promote local economic development.

The bill would create a more flexible framework for the Canadian Air Transport Security Authority to provide screening services on a cost-recovery basis, supporting efforts to maintain an aviation system that is both secure and cost-effective.

● (0940)

[*English*]

Bill C-49 also proposes significant enhancements to increase the safety of the rail sector in order to build a safer, more secure rail transportation system that Canadians trust. As you all know, rail safety, as I've said many times, is my number one priority.

The proposed modifications to the Railway Safety Act would mandate the installation of voice and video recorders to strengthen rail safety by providing objective data about crew actions leading up to and during a rail accident or incident. Beyond that, the requirement would also increase opportunities to analyze identified safety concerns to prevent accidents from occurring.

This would not only require companies to install the recorders, but it would also limit how the recorded data could be used, within strict criteria. For instance, the Transportation Safety Board would have access to the recorded data for post-accident investigations. Transport Canada and railway companies would also have access to the data for proactive safety management and for following up on incidents and accidents not investigated by the Transportation Safety Board, but under specific conditions. The specific limits on the use of the data are designed to maximize the safety value of this technology while limiting its potential to infringe on employees' privacy rights.

Canada's freight rail system is critical to our economy. Bill C-49 would strengthen that system by enhancing its transparency, balance, and long-term efficiency. Let me highlight key examples.

Under this bill, shippers could seek reciprocal financial penalties for breaches of their service agreements by the railways. They would have fair access to more timely processes for settling service and rate disputes. More shippers would be eligible for the streamlined final arbitration process in particular. Further, new measures would ensure that the agency offers shippers informal dispute resolution options as well as guidance.

The bill would also introduce a new measure, long-haul inter-switching, to give captive shippers across regions and sectors access to an alternative railway. Rates would be set based on comparable traffic, with the agency having discretion in determining comparability. The bill would modernize key grain measures, such as the maximum reserve revenue entitlement, to promote railway investments—and that's a key feature—and ensure that inter-switching rates are updated regularly and compensate railways adequately.

Further, Bill C-49 would enhance sector transparency by requiring large railways to report some performance, service, and rate data about their Canadian operations. Transport Canada would have the authority to publicly report rate trends.

With these and other measures of this bill, we are taking important steps to ensure that Canadians have the freight rail system they need now and in the years ahead.

These aren't the only ways that we propose to improve trade to global markets. Bill C-49 would also amend the Coasting Trade Act and the Canada Marine Act to enhance marine transportation and to allow access for marine-related infrastructure funding. Specifically, amendments to the Coasting Trade Act would allow all vessel owners to reposition their owned or leased empty containers between locations in Canada using vessels of any registry. This would support greater logistical flexibility for industry. In addition, modifications to the Canada Marine Act would permit Canada port authorities to access the Canada infrastructure bank for loans and loan guarantees to support investments in key enabling infrastructure.

● (0945)

In conclusion, I believe that this proposed legislation advances important actions that will help to bring Canada's transportation system into the 21st century. Ultimately, we do need a system to meet the demands of today's economy so that we can keep Canada's travellers and cargo moving efficiently and safely. Passage of this bill as soon as possible this fall would represent a critical milestone in achieving tangible improvements to our national transportation system that will benefit Canadians for decades to come.

Thank you for your attention. I now look forward to answering your questions.

**The Chair:** Thank you very much, Minister Garneau. We appreciate your being here and giving us such an overview.

We'll move to our questions now, with Ms. Raitt.

**Hon. Lisa Raitt (Milton, CPC):** Thank you very much, Minister. I appreciate it. Congratulations to you and to the department for bringing forth this legislation. I think it's a good start, as you said at the beginning.

I have a couple of questions that have to do more or less with some of the stuff that may not have been pursued as far as I think we could have pursued it, and I'd like to get your comments. For this round of questions specifically, the first has to do with the bill of rights and the second one has to do with short-line rail.

On the bill of rights, the CTA gave testimony that they will be looking to industry, consumer rights associations, Canadians, and the travelling public for consultation in developing their regs. I guess I'm concerned, Minister, that it doesn't say they'll be consult-

ing with CBSA, CATSA, or Nav Canada, or indeed the other authorities, which could conceivably add to a kind of delay that may cause the airline to be subject to many complaints. Could I get brief comments on that?

Then I have a question about the ability for CTA to bundle complaints together.

● (0950)

**Hon. Marc Garneau:** I'm sorry. What was the last part?

**Hon. Lisa Raitt:** The Air Transat inquiry, of course, caught a lot of people's attention, and the only reason the CTA could do this inquiry is that for international flights, they're allowed to self-initiate. They don't possess that ability for domestic flights. I'm wondering what the thought process was in not extending that kind of ability to the CTA in order to self-initiate inquiries that are dealing with domestic flights.

**Hon. Marc Garneau:** Thank you for your two questions.

There is no question that when the CTA begins its consultation process with the aim of coming up with a charter of rights for passengers.... As I've said many times before, if you buy a ticket for a particular flight, you are entitled to be able to take that flight unless it is beyond the control of that airline. That will be very explicitly stated in the bill of rights. There are certain circumstances when.... We all recognize that sometimes weather can cause delays. We all recognize that there could be situations where air traffic control, for example, is having difficulties in terms of controlling all of the traffic and that may result in delays. We all realize that there could be a security alert at an airport that immobilizes the normal operations of an airport.

These all will be clearly stated so that we are focusing on situations where a right of a passenger has been infringed when it is within the control of the airline. That will be very clearly pointed out. There are many instances where that occurs. I've highlighted some of those. I can assure you that when the consultations do take place, and they will take place broadly with all of the groups that are involved, we will very clearly identify what it means to be "within the control" and "not within the control".

On the question of the CTA and the situation that we looked at with respect to “own motion”, if you like, for the CTA, we decided that the current parameters that regulate how the CTA operates are good parameters; that we will reserve the right to decide—the minister of transport can make that decision—whether we want them to engage in additional inquiries; that this mechanism is perfectly satisfactory at this point; and, that we will not change the role of the CTA in terms of its present mandate in order to ensure that we preserve its quasi-judicial role in terms of consumer protection. We feel that the way it's organized at the moment is perfectly acceptable.

**Hon. Lisa Raitt:** Thank you.

As well, there's one of the small, niggling issues that was always a problem with the CTA. Given that specifically because of your awareness campaign from your government, there are a lot more complaints to the CTA.... I don't know if people understand this, but the CTA has to deal with each of these on the basis of one complaint at a time. It is incredibly time-consuming. Every investigator has to pick up the phone and call about that specific complaint, but a lot of times these complaints are actually very similar.

You didn't allow the CTA to bundle them together in a one-complaint process in order to gather up all the different complaints originating from one incident. I'm wondering if you could tell me why.

**Hon. Marc Garneau:** You've very clearly explained the way the situation exists at the moment.

Yes, at the moment there is a mechanism for a passenger to make a complaint, but they have to know about that mechanism, and many passengers did not know about it or, when they did know about it, felt it was too onerous. I thank the head of the CTA for highlighting this last fall. Yes, it led to more complaints, because people became aware of the fact that there was a mechanism in place, a mechanism that sometimes took a long time and discouraged people from taking action.

That's the whole purpose of the charter of rights; that there will be a clear set of regulations in place to identify the situations where a passenger's rights have been violated. Those will apply to all passengers.

I am certainly hoping for far fewer cases where passengers need to have recourse to the CTA, because the processes will be in place, clearly explained, and in the English and French languages. They will be able to immediately deal with the airlines in a case like that and, as a result, there will be fewer requirements for the CTA to get involved. Where the CTA does have to get involved, yes, there will be the recognition that these can apply to more than the person who is specifically having to deal with the complaint through the CTA.

• (0955)

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

Mr. Fraser.

[*Translation*]

**Mr. Sean Fraser (Central Nova, Lib.):** Thank you, Madam Chair.

Minister, thank you for joining us this morning.

[*English*]

I have three questions and only six minutes, so I'll dig right in.

At home, I do hear about the air passenger bill of rights. We've all experienced the irritants that you've outlined during your remarks. How can the air passenger bill of rights ensure that passengers who experience these ordinary frustrations, and they are frustrating, have recourse to some kind of positive outcome when their rights are infringed?

**Hon. Marc Garneau:** Well, that's the whole purpose. The whole purpose is to make them aware of their rights in clear language. When they are aware of those rights, they will be able to immediately invoke their rights when they have been infringed, whether it's on overbooking or other situations that are covered by passenger rights.

The whole purpose at the moment is to make sure that it's clear and in simple language. There are clearly identified compensations in the case where rights have been infringed. I think this is something that has been long awaited, and we're going to make it happen. Our hope is that it will be in place in 2018 and that all passengers will be able to use this if their rights are infringed.

**Mr. Sean Fraser:** Another issue that I'm particularly interested in is the international ownership changes to 49%. I come from a part of the world, and my colleague Ms. Raitt comes from the same part of the world, where a lot of people would love to travel and take a vacation but can't afford it, quite frankly. Do you think this measure is going to bring down the cost of air travel in Canada? Do you think it's going to extend services to parts of Canada that do not have effective service today?

**Hon. Marc Garneau:** For that, my hope is that the change in the rules of ownership from 25% to 49%—and to a lesser extent, joint ventures—will actually end up allowing the airlines to serve more communities at a lower cost. It's not a just a question of trying to create the environment where new airlines are created, but that those airlines, for competitive reasons, actually will offer flight routes that are not presently served because there's a market for them to do it.

It's not just a question of bringing down the cost, but it's also the hope that they are going to serve destinations that at the moment the bigger airlines perhaps are not currently serving.

**Mr. Sean Fraser:** With the exemptions given to two airlines previously under more or less the same rules that are being implemented through Bill C-49, are you seeing action in that direction already?

**Hon. Marc Garneau:** Well, certainly we provided an exemption right away to Jetlines and Enerjet to set themselves up. They have been very active in trying to seek out particular markets they could serve, in some cases from airports that are not presently served. I would encourage you to speak to them individually.

Some of them will be launching in the months or years to come. When this bill becomes law, I'm hoping that in the future there will be others that will find they can get the capital necessary to start their own operations. That's the whole purpose here.

**Mr. Sean Fraser:** Finally, we have about two minutes to go, and I'm curious as to your thoughts more generally speaking. This bill has a number of measures that impact the efficiency in our national transportation system. We're dealing in an era of international trade. I find that back home in Nova Scotia it's a difficult conversation to have and to say that "these trade deals, these investments in a national transportation corridor are going to make government and the economy work for you". That's what people care about.

Could you perhaps elaborate on how some of the measures in Bill C-49 are going to create jobs for the fishermen in getting their product to market in my riding and for the manufacturers and the farmers not just in my community, but in communities like mine? How is this going to make a difference in the lives of the people we represent?

• (1000)

**Hon. Marc Garneau:** As the Minister of Transport, I've found that one of the things that is important to communicate, because it's not well known, is how effectively your transportation system works. That applies to all of the country and to all modes of transportation. It has an incredibly important effect on the economy of the country. How well we move and how efficiently we move from all parts of the country that have products that need to be moved has an incredibly important effect on the economy.

I always talk about transport being an economic portfolio, and some of my predecessors felt exactly the same way. It is sometimes a challenge to explain that if you improve the transportation system, which we believe is certainly in part addressed in this bill, you're actually going to improve the economy, and that ultimately will benefit all Canadians.

**Mr. Sean Fraser:** As an example, I'm looking at some of the measures in marine transportation, both the investments in ports and the ability to more effectively get empty containers to those ports. One of the big things we're looking for has to do with the recent trade agreement with Europe and the tariffs coming off seafood. I have two coasts in my riding. Is this going to help fishermen get their product to market and get a bigger return and boost the economy in rural Nova Scotia?

**Hon. Marc Garneau:** You give a good example. From the marine point of view, repositioning containers is an incredibly important part of the whole business of transporting products. We all understand this. We've seen the big container ships. They bring things loaded up with product and then have to go to another place to load up with others, but the containers aren't there.

The repositioning of those containers will definitely benefit the marine industry on the east coast and our agreement with CETA, and I think ultimately the fishermen in Nova Scotia as well.

**The Chair:** Thank you very much, Minister Garneau.

We will now go on to Monsieur Aubin.

[*Translation*]

**Mr. Robert Aubin (Trois-Rivières, NDP):** Thank you, Madam Chair.

Good morning, Minister. I have an omnibus list of questions to match Bill C-49, so let's try to be efficient. I will ask you short questions that you could answer briefly.

Let's begin with the charter. For at least a year and a half, I have been hearing you speak in some detail about rights that should be guaranteed under that charter. So why is Bill C-49 full of philosophical intentions with regard to a future consultation, instead of a true charter we could vote on?

**Hon. Marc Garneau:** Thank you for the question, Mr. Aubin.

First, I want to clarify that this is not an omnibus bill. In fact, 90% of the content of Bill C-49 has to do with the same piece of legislation, the Canada Transportation Act.

Second, as I very clearly explained, when it comes to the future charter of passenger rights, we decided that a regulatory process would be much more effective. So instead of including the charter's contents in the bill, we have mandated the Canadian Transportation Agency to prepare the charter, which will ultimately be submitted for my approval and will then be published as a regulation.

**Mr. Robert Aubin:** If I may....

**Hon. Marc Garneau:** Allow me to finish.

It will be a regulation. That way, if we decide in three years to make amendments to that charter, the process will be much simpler. It is actually much less complicated to amend regulations than to come back to the House to amend a bill.

**Mr. Robert Aubin:** I understand that.

**Hon. Marc Garneau:** That is extremely important to understand. We never intended to include the charter's contents in Bill C-49. The goal was to mandate the Canadian Transportation Agency to make regulations, so that we would have the flexibility to make adjustments much more quickly in the coming years.

**Mr. Robert Aubin:** Thank you. I understand that process.

When I say that this is an omnibus bill, it's because I think that different types of transportation could have been split up, and we could have started working on the charter much sooner, with the process you are proposing. As things stand, it will not be done before 2018, if everything goes well.

However, we are not reinventing the wheel. Similar charters exist elsewhere. The European charter, among others, is a very effective model. It was used as the basis for an NDP bill, which you endorsed.

Does that mean we won't be able to make any amendments to Bill C-49 that would provide specific guidelines and could at least inform the thinking of the consultation that will begin after the royal assent?

• (1005)

**Hon. Marc Garneau:** First, how promptly this bill gets passed is in your hands. I encourage you to pass it quickly, as I think that it meets significant needs for Canada. The comments I am hearing support that position.

Second, this committee has the authority to make decisions on the possibility of amendments. I respect that situation, which our government very clearly explained when it took power.

That said, it is important for me to point out that, when we created this bill, we tried to strike a balance on very complex issues. We had to find a balance between passengers and airlines, between producers and railway companies, between railway safety and Canadians' privacy rights. After a tremendous amount of consultation, I believe we have managed to find that balance.

It is certainly possible to bring up a point for any one of these issues and to say that we could have done things differently. You are a member of this committee and, as such, I am asking you to take into consideration the fact that these are complex issues and that we have tried to find a balance.

**Mr. Robert Aubin:** I understand.

I will now move on to something else.

When the Commissioner of Competition blocks a joint venture, as he did a few years ago, I feel protected as a consumer. I tell myself that the Commissioner of Competition had his reasons to say that the agreement was not good for the consumer. However, in Bill C-49, the commissioner's powers are relayed to advisory powers, and the minister can bypass them. That worries me.

Why is it necessary for the minister to be able to ignore the Commissioner of Competition's recommendations?

**Hon. Marc Garneau:** It's because we have to take public interest into account. However, I assure you that the consumer will be protected in terms of competition. The intent here is to do what other countries have done, including the United States, and open the door to the concept of joint venture. That is of tremendous interest to airlines, not only here, in Canada, but around the world. It is also good for the consumer, as it can help reduce prices and simplify the entire reservation process.

It is important to take care of competition, and we will continue to do that, as it is clearly indicated in the bill, but we will do two other things. First, we will take public interest into consideration—in other words, the interest of the consumer, as well as the interest of airlines, which have to compete with companies from other countries. Second, as things currently stand, if the Commissioner of Competition decides to investigate a joint venture, he can do so at any time and without notice, and this does not create an atmosphere conducive to trust....

[*English*]

**The Chair:** Thank you very much, Minister Garneau. I'm sorry to have to cut you off, but we have a lot of questions from a lot of other members.

Mr. Badawey.

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

Minister, thank you for being here this morning.

I am quite pleased and quite excited that the priority that we've established through your leadership is that of balance. We're balancing safety along with value return within the business communi-

ty, and we're really listening to those thoughts that have come from all sectors.

One of the pillars contained within the government's transportation strategic plan places a strong emphasis on trade corridors, a catalyst to better position Canada to capitalize on global opportunities and to highly perform globally. We get that. However, I want to dig a bit deeper, especially with respect to the question that Mr. Fraser asked. We want to ensure a disciplined asset management plan, both operating capital.... In turn, we want to develop stronger trade-related assets—rail, marine, road, air—that will coordinate and contribute to support Canada's international competitiveness and therefore trade and prosperity. We see Bill C-49 as a component of that; there's no question.

In your own words, how do you see Bill C-49 building itself into the overall strategic plan, transportation 2030, and then ultimately becoming more of a mechanism to be better able to implement that overall strategy?

• (1010)

**Hon. Marc Garneau:** Thank you, Mr. Badawey, for your question.

As I mentioned and as I think I emphasized in my opening remarks, Bill C-49 is a first step because, as you know, transportation 2030, which I outlined about a year ago, is much broader than simply the measures that are contained in Bill C-49. The Bill C-49 measures are an important first step to address a number of particularly important matters. The charter of rights for passengers is long awaited and has not been done in the past.

With regard to the modernization of freight rail, I can't emphasize how important that is. We need to improve safety on our railway systems because there are still too many derailments occurring.

As you know, there are five themes in transportation 2030. One of them is the air passenger experience. It also talks about green transportation and about innovative transportation. It talks about safety in all the forms of transportation, many of which are not addressed in Bill C-49. There is still much more work to do, and that is part of our ongoing work with respect to achieving the aims of transportation 2030, so there will be more projects that will be coming forth.

A simple example is that we have heard from air passengers that it takes too long to go through security at airports. That is still very much something that is on my mind, and it is part of the traveller experience.

We've heard that we need to make transportation greener in this country, and this is a commitment of our country.

There will be more on those as we go along as part of our mandate.



**Mr. Vance Badawey:** I want to touch on something that I think Ms. Raitt was trying to touch on, but she ran out of time: the impact of Bill C-49 on short-line railways. We heard a lot about—and I recognize this from my past experience in my former life—how it can be somewhat challenging, in both the operational side and the capital side of short-line railways, to really augment or be a part of the overall transportation system, especially working in tandem with the main lines. How will Bill C-49 and/or any regulations or recommendations that might come out of this process contribute to the overall health of our short-line railways?

**Hon. Marc Garneau:** Of the short-line railways in this country, there are about 20 that come under federal control, and there are about 30 that come under provincial control. They carry products in this country. I think the total of rail transportation by short-lines is 12%. We did consult the short-lines in the development of Bill C-49, and their input is reflected. They are not subject to long-haul interswitching orders or to the new data requirements, as they were considered too burdensome for them.

Many of the concerns raised by short-line associations relate to infrastructure investment and are beyond the scope of Bill C-49. What I'm saying is that the short-line railways here don't have the funding, the capital, the deep pockets, that class I railways have. They are mostly concerned about that, and that is not addressed in Bill C-49.

Short-lines are eligible, on the other hand, to apply for funding under the national trade corridors fund which was announced in July 2017. However, it's true to say that projects involving regional short-lines tend to be to rehabilitate them rather than to eliminate bottlenecks. It's a little bit of a challenge with them.

We are looking at short-lines, though. We realize that they're an important element of the railway system. They're just not covered specifically in Bill C-49.

**The Chair:** We go now to Mr. Hardie.

**Mr. Ken Hardie (Fleetwood—Port Kells, Lib.):** Good morning, Mr. Minister.

First, I hope you and your staff have been able to absorb what we've heard from the various witnesses, because invariably they're saying this is a major step. We're accomplishing things here that some people have been waiting a long, long time to see. Each one has said there are some things they'd like to improve, so I think a sweet spot has somehow been touched here.

In the fullness of time, you will hear a little bit more about the long-haul interswitching and the nearest transfer point versus the most competitive one. We'll hear about the exclusion of soy from the maximum revenue entitlement, the ownership of records for the LVVR systems, and the timeliness of data and how long it's going to take to get everybody up to speed to be able to provide that data and bring in the transparency. You'll hear all of that later on.

With respect to the air passenger bill of rights, I've spent time on airplanes going back and forth to my riding in Fleetwood—Port Kells in B.C., and if I'm sitting on the tarmac or I'm sitting on top of a rocket, I don't care if it takes a little longer, because I want it to be safe. Obviously, there's a balance there that we have to consider, but notwithstanding the fact that a lot of the focus has been on the

airlines, they've also been delayed because ground crews aren't available at an airport. That's not a safety issue; it's an operational glitch.

I'm just wondering about something. If we look at the all-of-experience scenario for passengers and whether or not the focus solely on the airlines is fair and balanced, given that some of the other players can also contribute operationally—not necessarily safety or weather or act of God but just simply not working very well—to the delays and problems that air passengers face, is there a sense that we can include that in the mix?

• (1015)

**Hon. Marc Garneau:** My aim certainly with the charter of rights for passengers is to address the situations that are within the airline's control. You brought up an example, and I brought up a few more before, in answering Ms. Raitt's question, about weather, air traffic control problems, security alerts and those kinds of things, and go-slows, for example, with respect to baggage handling or getting the stuff on the plane so the plane can leave on time. Those are all factors that will be brought out in the discussions that will occur with the CTA as it consults in determining the charter of rights. But it is, again, a question of balance, if I can use that word. The objective of this is to come up with something that clearly addresses passenger rights but that is also fair to the airlines. We're not here to pick on the airlines. We're here to make sure that passenger rights are respected. When you buy a ticket for a flight, and there is a decision that is within the control of the airline that prevents you from taking that flight, there needs to be compensation.

**Mr. Ken Hardie:** Got it.

We've heard various testimony. It's amazing how quickly this week has gone. We've had 10 hours a day of witnesses, and it's flown by because we've heard a lot of really interesting stuff.

We understand that being able to ship something is critical to the economy, so our shippers are really a huge catalyst for the wealth and well-being of Canada. At the same time, the transportation system is the enabler. It makes a lot of these things happen. Everybody seems to acknowledge that each side—the shippers and the transport system—needs to be healthy. They acknowledge that, but you see the tension when everybody seems to be operating under enlightened self-interest, and it falls continuously to government to be the referee to try to achieve that balance. Is there any thought in the grand scheme of things, as we look forward to 2030 and all the rest of it, to somehow try to create a new sense of collaboration between the parties, rather than just having everybody pulling for their own side?

**Hon. Marc Garneau:** It's a very interesting point.

I should point out that some shippers and railways work under contractual arrangements that they're both very happy with. We're trying to make the system as efficient as possible. Some people will say historically we haven't gotten this right for 150 years. There is a huge amount of history here. This is the attempt by this government, after a great deal of consultation, to get it right.

You may hear from the shippers that they're happy with this but that it would be even better if we did that. You'll hear from the railways likewise. This is a bill that I think achieves a balance, which is going to be to the advantage of both shippers and the railways overall. I can't emphasize how much thought we gave to it before coming out with the specific recommendations.

It would be great if we didn't have to invoke measures such as final offer arbitration, if service level agreements were not needed, if reciprocal penalties were not needed. These are measures that are in place, which hopefully will not be used, but they're there to ensure we have a fair system for both sides.

• (1020)

**The Chair:** Thank you very much, Minister Garneau.

Sorry, Mr. Hardie, your time is up.

Mr. Chong.

**Hon. Michael Chong (Wellington—Halton Hills, CPC):** Thank you, Madam Chair.

Thank you, Minister, for appearing in front of committee.

Minister, I think we would all agree that the privatization of Air Canada in the 1980s and the subsequent privatization of Canadian National Railway in the 1990s, along with the deregulation of parts of the transport system in allowing commercial forces to play a greater role in that system, have been successful. It's better for consumers and customers and better for companies.

What I don't understand is why the government didn't move in Bill C-49 in that direction for the movement of grain. We've had an ongoing crisis in the grain handling industry. This is not new. We had one in 2013-14 under the previous Conservative government. There was one in 2001 under a previous Liberal government. The crisis is only going to get worse. In fact, projections are that the amount of grains and oilseeds produced in Canada is going to continue to increase as a result of advances in crop science and techniques.

Both the June 2001 report, which was commissioned by a Liberal government, and the February 2016 report, commissioned by a Conservative government, recommended that we move toward a commercial grain handling system, and that we lift, over a period of time, the maximum revenue entitlements.

Maybe you could tell this committee why the government didn't move on those recommendations in this bill, particularly in light of the fact that two reports have now recommended that the government move on it, that we've had a number of crises in the grain handling industry over the last two decades, and that it's only going to get worse going forward as production continues to increase.

**Hon. Marc Garneau:** I certainly hope that production does increase in the years to come. The simple answer to your question is

that it's because it's a very complex matter. I would remind you that we have among the lowest rates in the world with respect to the movement of grain. That's a tribute to the efficiency with which our railways are moving.

I can cite to you many sources that will say we shouldn't have touched the MRE at all in this bill. We have done so because we were conscious that we needed to provide investment incentives for the railways. The railways need to upgrade and replace their rolling stock on a continuous basis to be able to continue to deliver goods to ports across this country, so we did make changes to the MRE. Some shippers said they would like to leave the MRE exactly the way it is, and, as you point out, others would like to do away with it completely. It is a complex matter, and we have tried to achieve the proper balance.

As a final comment, I would agree with you that privatizing Air Canada and CN as we did was a very good idea and a very positive step. We're almost 100% there. There are still a few vestiges of government control left, but we've generally gone in a very positive direction with those decisions.

**Hon. Michael Chong:** Thank you, Minister, for that answer, but with respect, I think the best investment incentive you could provide to the industry to ensure that the capacity is there particularly during peak times to move grain to tidewater is to move to a system where commercial forces can play a much greater role. I think that's the one big flaw in this bill that has not been addressed. I think we will be revisiting, in a crisis situation, the fact that western Canadian grain farmers cannot get their grain to tidewater when they need to. I think that's the major flaw in this bill.

I applaud you for the other initiatives that you've taken in this bill, but this is clearly an issue. It's not an issue that's new. It's an issue that's been around for the better part of two decades. We have two reports now, one commissioned by a Conservative government and one commissioned by a Liberal government, that have both concluded that the government should lift the maximum revenue entitlements and move the system slowly and gradually to a commercial basis to address this fundamental problem.

You know, in the 2001 report, it says, and I quote, the "failure to move quickly enough to a system where commercial forces are allowed to work" resulted in a crisis in the grain industry in terms of moving grain. The same conclusions were made in the report that David Emerson was involved with in February of last year. We know what the root problem is, and Bill C-49 does not address it.

Thank you, Madam Chair.

• (1025)

**Hon. Marc Garneau:** Thank you for your question.

I should remind everybody here, for those who don't know, that not all grain movement is subject to the MRE.

I do thank the previous government, and particularly the previous minister of transport, who is here, for commissioning the Emerson report. We think it provided an enormous amount of very useful input for the government's consideration.

Once again, on the issue of the MRE, the MRE was put in place specifically for grain. If you look at how grain has moved in the past three years since the very disastrous situation that existed in 2013 and 2014, I think you'll find that it has moved efficiently. I was very proud of the way in which CN and CP moved grain last year, which was not a record year but very close to a record year. We think the provisions that have been put in place, taken as a whole, will continue to allow grain to move efficiently to our ports for export. We're satisfied that we've achieved the right balance, including with the MRE.

**The Chair:** That's time.

Just for the information of the committee, we've just been notified—thank you, Ms. Raitt—that Arnold Chan, our member of Parliament from Scarborough, has died. He was a member whom we all very much respected and appreciated. It is with great sadness that I have to make that announcement.

Take a deep breath, and I'm sure all of us will send our sympathies out to his wife and family.

All right, as parliamentarians, we're back to work.

Mr. Sikand.

**Mr. Gagan Sikand (Mississauga—Streetsville, Lib.):** Thank you, Madam Chair.

Thank you, Minister, for being here and taking our questions.

You've repeatedly mentioned how rail safety is your number one concern and priority. I'd like to express a concern of mine to you before starting my line of questioning. In 1979 Mississauga saw one of North America's worst rail disasters. In fact, I believe it was the largest peacetime evacuation up until 2005 in New Orleans. Now, Mississauga's a very different place. We have freight going through there every single day. In fact, it carries on into my colleague Lisa Raitt's riding. I'm concerned that if there's a disaster now, with the number of people who are in Mississauga, it would be quite a devastating disaster.

I'd like to know what Transport Canada has done to address fatigue in regard to rail.

**Hon. Marc Garneau:** Thank you, Mr. Sikand.

The issue of fatigue is one that applies not only to railways but also to airlines and the marine industry. We are currently studying the issue of fatigue as it applies to railway engineers and conductors. We are seized with this issue because we think it is a contributing factor that we need to take into account to improve safety in general. We are currently in the midst of evaluating that.

We recently came out with crew duty days and fatigue regulations in *Canada Gazette* part I for pilots. We will be doing the same thing for the rail industry.

That being said, we are taking other measures and we are reviewing the Railway Safety Act. We have brought in a number of measures since Lac-Mégantic, which of course was an absolutely catastrophic accident that needed a lot of remedies to address it. Fatigue is being studied at the moment with respect to the railway industry.

● (1030)

**Mr. Gagan Sikand:** We've heard a lot of testimony with regard to LVVRs. How do you think that will help move, as I refer to it, the safety yardstick a bit further?

**Hon. Marc Garneau:** I believe very firmly that having the presence of a video and voice recorder on board locomotives will definitely contribute to improved safety. As you know, the Transportation Safety Board has been arguing with Transport Canada and the Government of Canada for a number of years on the absolute necessity of putting such recorders in so that at the very least they have available critical information when they decide that they are going to investigate an incident or an accident.

The Transportation Safety Board doesn't always investigate every accident or incident, so it is important for us at Transport Canada to have information as well when we decide to do it. But we're also arguing proactively for the use, under very controlled, random conditions, of data from these video recorders to improve safety in general. If we have concerns about practices that could jeopardize safety, we want to stay on top of those.

I can't tell you to what point I consider railway safety to be important. When we're talking, in some cases, about trains that can approach two miles in length, with thousands of tonnes moving on our railway lines, the potential for something dangerous or catastrophic to happen is there, so we need to take every single measure possible to do it, but we will do it whilst ensuring that privacy rights are respected.

**Mr. Gagan Sikand:** Just to follow up on that last point, do you think privacy concerns were adequately considered?

**Hon. Marc Garneau:** Yes. In the bill, we point out how we need to address those, but as you know, the bill will trigger a process to make the regulations concerning LVVRs and will specify the specific privacy considerations that need to be taken into account. For example, only certain people will have access to the data and there will be a recorded log of all access to the data. Measures of that nature will ensure that privacy is respected.

**Mr. Gagan Sikand:** Thank you.

**The Chair:** Mr. Godin.

[*Translation*]

**Mr. Joël Godin (Portneuf—Jacques-Cartier, CPC):** Thank you, Madam Chair.

Minister, thank you for being here this morning and for participating in this exercise.

We all have the will to create laws that will improve the lives of Canadians. I think that is your intent with Bill C-49.

I will repeat the expression used earlier by my NDP colleague and say that, as far as I understand, the bill has a philosophical intention. I would like us to go further and implement more concrete measures.

You want to bring into force legislation whereby the Canadian Transportation Agency would draft the charter of passenger rights. I find that, by doing so, you are just delaying. The situation could already be described in the legislation. I think that the bill is very broad. I'm under the impression that the government is stalling.

If the House of Commons passes this bill, I would like Canadians to feel that their quality of life has finally been improved. But that is not how I see this bill.

• (1035)

**Hon. Marc Garneau:** I will not belabour the fact that your government did nothing about this for 10 years.

Perhaps you did not understand that we chose this approach to give us the flexibility we will need in the future to amend the charter as needed. If this charter comes into force through regulations, we will avoid having to come back to the House to amend a piece of legislation, since that process is much more expensive, as you know. So the goal is to give us that flexibility.

I would also like to add that Canadian Transportation Agency employees are used to dealing with passenger complaints. That is the agency's mandate. Those people know that environment. The agency is in the best position to establish the charter of passenger rights.

**Mr. Joël Godin:** Minister, if you feel that the Canadian Transportation Agency is in the best position to take on that responsibility, why should we keep you as minister?

I know that the current Minister of Transportation—in this case the Honourable Marc Garneau—has good intentions. However, in the bill, you grant the Minister of Transportation a discretionary power that will enable him to avoid returning before the House of Commons to validate potential amendments.

How should Canadians interpret that?

**Hon. Marc Garneau:** They should interpret it as their Minister of Transportation assuming his responsibilities.

**Mr. Joël Godin:** You are doing that now. However, Minister, you will understand that laws are above individuals. This is a general framework whose guidelines help apply rules on a daily basis so that there would be no privileges, so that the process would be very impartial and so that the intent of the legislation in force would always be honoured. What can reassure me in that respect?

I told you earlier that I trusted the current minister, but as you know, ministers change.

**Hon. Marc Garneau:** I can't say this with complete certainty, but I think that Transport Canada is the department with the most responsibility when it comes to implementing regulations. Our department is very technical. Transportation regulations are complex. At Transport Canada, we are used to those processes.

I think that Bill C-49 expresses what we want to do, while mandating the Canadian Transportation Agency to do what I mentioned. Next year, when we present this charter of passenger rights, I believe that most Canadians will agree that it reflects the intent of Bill C-49. I am confident about that and will make sure to do what is necessary, since our department will have the last word in terms of what will be proposed.

**Mr. Joël Godin:** Minister, from what I understand, Bill C-49 does not have enough teeth and is just so much window dressing. I will quickly go over three elements I would remove from this bill.

First, the Canadian Transportation Agency will establish rules about the charter of passenger rights. A bill is drafted and action is urgently needed, but the agency will be given the responsibility to write the regulations.

Second, guidelines are included for joint ventures by increasing foreign ownership to 49%, but the minister will have the power to oversee and authorize that. So what will be the point of the legislation once it has been adopted?

Third, railway companies will have to provide on the Internet information on those of their lines that are operational and those they no longer use. What is the benefit of that for Canadians?

With all due respect, Minister, I feel that this bill is empty; it is just window dressing.

What do you have to say to that?

• (1040)

**Hon. Marc Garneau:** This bill will do many things that should have been done a long time ago.

As for the very broad question of whether everything should be set out in the bill and whether there should never be any ministerial discretion for certain decisions, I say that many ministers have such discretion in some cases. There is a reason for this and it's something that has been established for a very long time. Canadians accept the fact that it is necessary to have acts and regulations, but that ministerial discretion is acceptable in some cases. That applies to some of the measures we have included in the bill.

**Mr. Joël Godin:** Minister, you said that not much has been done in this area in 10 years. That said, the current government's discretion makes me a bit reluctant and nervous.

Could you quickly tell me what this bill contains, in a concrete sense?

[English]

**The Chair:** Mr. Godin, for this question you have only 15 seconds left, and there will be no opportunity for a response.

[Translation]

**Mr. Joël Godin:** Minister, thank you for participating in this exercise. You should know that this process is constructive and that it is always in the interest of Canadians. We have to rise above partisan politics. Thank you very much.

**Hon. Marc Garneau:** Thank you very much.

[English]

**The Chair:** Ms. Moore.

[Translation]

**Ms. Christine Moore (Abitibi—Témiscamingue, NDP):** Thank you, Madam Chair.

Mr. Garneau, you visited Rouyn-Noranda recently and made an announcement about the airport. The airport expansion should sort things out, but right now Air Canada is the only carrier with flights to Montreal, meaning that there is no competition and the fares are very high. It could easily cost me \$1,200 to fly from Ottawa to Rouyn-Noranda return, even though the distance between the two cities is less than 500 km as the crow flies. This shows that the lack of competition has a huge impact on prices.

In Bill C-49, however, you are giving yourself the power to approve joint ventures between air carriers even if the Commissioner of Competition is of the opinion that the agreement will weaken competition and increase costs for passengers.

Once again, Air Canada's profits seem to take precedence over consumers' rights. After introducing a bill that cost 2,600 workers in Quebec their jobs, you are at it again with a bill that removes powers from the Commissioner of Competition.

Moreover, the register of the Office of the Commissioner of Lobbying of Canada shows that Air Canada has been in contact with your government numerous times to discuss the legislative framework for international air carrier joint ventures.

In short, it looks like Air Canada is pressuring your government to weaken the powers of the Commissioner of Competition and passenger rights. Air Canada's lobbyists must be proud to have your support.

I would like to know how diminishing the powers of the Commissioner of Competition will serve air passengers.

**Hon. Marc Garneau:** Thank you for your question.

You talked about competition on the route between Montreal and Rouyn-Noranda. Our decision to increase foreign ownership from 25% to 49% will, I hope, actually benefit competition and lead to the establishment of new airlines that will offer flights in areas that are not as well served. That benefits competition.

As to your question about joint ventures, your comments suggested that this is limited to Air Canada. You also gave the impression that we are disregarding the Office of the Commissioner of Competition, which is certainly not the case. It is clearly stated that

we will consider the public interest, what is good for consumers, by the way. That is the main reason we are doing this.

Furthermore, the Minister of Transport will in the future always work closely with the Commissioner of Competition to ensure there is no significant impact on competition. This is clearly laid out in the bill and that is what we intend to do. We would like Canadian airlines to be prosperous and competitive with those of other countries. This mechanism actually exists in a number of countries. So we are simply catching up in this regard, because it will benefit Canada. That said, competition will not be neglected.

• (1045)

[English]

**The Chair:** Thank you very much, Mr. Garneau. Sorry, Ms. Moore, it's only a three-minute round.

We'll go to Ms. Raitt.

**Hon. Lisa Raitt:** Thank you very much.

Minister, as I said, I want to talk a bit about short-line rail, and I'm glad that my colleague, Mr. Badawey, brought it up as well. What I want to do was quote something from David Emerson's testimony on Monday, which I think is important, since he chaired the commission that took a look at everything. He said, in response to a question from Mr. Brassard, that "it's a very serious problem", meaning short-line rail funding, "and if we don't deal with it, it's either going to force everybody onto the roads in trucks or we're going to have to fix the problem, probably when it's very late in the day and it's maybe ineffective.

Mr. Murad Al-Katib, who also sat on the committee, weighed in on it as well. What he said, with respect to short-line rail, is that it's "a very essential element of interconnectivity. The rail lines, with consolidation, will go to the main lines, and the densification of short-lines is essential for rural economic development in this country."

The question was whether there will be something forthcoming on short-line rail. I note that you said at the beginning that C-49 is a first step. I'm wondering if you can give us some comfort about whether we're going to see a package of reforms from you that focus on the undercapitalization of short-line rail or on a national rail plan in the coming years.

**Hon. Marc Garneau:** Thank you for the question. I won't repeat what I said. I was specifically asked about short-line rail, and I gave my explanation with respect to that. Yes indeed, we're looking at the situation, and there the challenge is with respect to infrastructure. They do not have the deep pockets that the class I railways have, yet they are an important part of the railway system, 12% by my calculations, and some of them are federally regulated.

I have an enormous amount of respect for David Emerson. I can tell you that I used to work for David Emerson in life before politics. I have a huge amount of respect. He spent a great deal of time with four other members coming up with a first-rate document, which is the review of the Canada Transportation Act. Again, thank you for making that happen.

Having said that, that document carries with it 60 recommendations that cover the vast field of the Canada Transportation Act. It is there as a document to advise us and for our consideration. It is not policy in itself. We, as the government, have to make the decisions with respect to what we implement as policy. I can tell you that it's been very important input, and yes, I'm aware of what David said with respect to short-lines. We are looking at that issue at the moment. We'll see what comes out of that.

**Hon. Lisa Raitt:** Another topic that Mr. Emerson talked about was governance at airports and ports. I found that to be an interesting part of his report as well.

In response to a question that Mr. Fraser had put to another witness, he weighed in on whether ports and airports should have access to this infrastructure bank. What he said I thought was important. He said, "there is inadequate governance when it comes to port or airport authorities entering into business in competition with their own tenants, and so frankly I wouldn't give them any more access to money until you clean that up".

Do you have any plans on cleaning up the governance at airports and ports, and do we have a problem?

**Hon. Marc Garneau:** I would not characterize it as "cleaning up". I would say that as part of our transportation 2030 policy strategy, we are looking at all aspects related to transportation.

I do not rule out the concept of examining certain parts of the governance of our airports and ports. Having said that, by and large our ports and airports work very well in this country. There's always the possibility to make improvements, and we're open to considering other ways of improving that.

• (1050)

**Hon. Lisa Raitt:** I have one last question.

On the topic of the cameras in cabs, I have a quick story. On my first day on the job that you now hold, which I was honoured to hold for a while, I was told I needed to have an emergency meeting with the major rail line in the country, which I did. Minister, the very first topic they brought up was the notion of having these cameras in the cab. It was something that took a lot of my time and energy over the last two years. However, I was always troubled by one particular issue, and I don't have clarity on it from your Bill C-49. It has to do with the utilization of this information for purposes other than safety management.

Your speech is clear. Your speech says very clearly that this is about safety management, that proactive safety management is what the tapes are going to be for. This week in testimony, rail companies and transport officials indicated that the tapes could also be used for discipline, which is where I have concerns.

Can you help me understand whether or not we are going to be allowing CN and CP, and any other rail company that puts cameras

in the cabs, to utilize them for non-safety related disciplinary purposes?

**Hon. Marc Garneau:** The purpose of the LVVR legislation is not to conduct discipline with respect to employees, it is related to safety. I think I'm very clear on that. It is a tool that is important to increasing safety.

The TSB would like to have it. In some cases where the TSB doesn't investigate incidents or accidents, Transport Canada would like to have access to that data. In certain very prescribed situations dealing with safety management, where we're concerned about the possibility of unsafe practices, under controlled conditions with random selection and privacy rights taken into account, there will be access to this data. It will be under very controlled conditions.

**The Chair:** Thank you very much, Minister Garneau.

Our next speaker will be Mr. Graham. I have to acknowledge that you had a very close relationship with our colleague, Arnold Chan, in the House leadership. If you want to take a moment to acknowledge that, I believe the committee would welcome that.

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** Thank you, Chair.

I do want to take a moment to acknowledge the immense contribution to this place of my close friend and our colleague, Arnold Chan.

I know he would want us to focus on our work, to move forward with what we need to do. When I visited him a few days ago, his concern was not about himself, but rather how everyone else was doing. He knew where he was going and wanted to make sure that the rest of us were going to carry on. He wanted to know what was happening here, to discuss our work in procedure and House affairs, where we sat together, and to pick up on the most recent gossip from around the Hill.

He loved this place. He lived this place. Of course, being Arnold, he apologized profusely between laboured breaths that he would probably not be able to join us at caucus the following day or at the House this fall.

On behalf of all of us here, I want to send my best to Jean and their three sons. We are with them at this difficult time.

To Arnold, we will remember to follow our hearts and to use our heads. As we do, Arnold, you will always be with us.

**The Chair:** I am hopeful that the committee would indulge in our having a moment of silence.

*[A moment of silence observed]*

**The Chair:** Thank you very much, Mr. Graham, and thank you all very much.

[*Translation*]

**Mr. David de Burgh Graham:** Thank you, Minister Garneau, for taking this significant step in modernizing the framework that governs transportation. From what the witnesses have said, Bill C-49 is very positive on the whole, but I would like to clarify a few points with you.

The Mont Tremblant International Airport in La Macaza is located in the riding of Laurentides—Labelle, which you know well. Commercial service is seasonal and is not very reliable. There are already problems with CBSA services, which are offered under a cost-recovery agreement. This has effectively killed international flights, since the costs are more than \$1,000 per incoming international flight.

CATSA fees are currently the same as at other airports with a fixed cost per passenger. Can you reassure us that the cost recovery rates proposed by CATSA will not hurt small airports such as the one in La Macaza and small airports that are essential to survival in the North?

• (1055)

**Hon. Marc Garneau:** Thank you for your question, Mr. Graham.

When I was in opposition, I became aware of the issues with the Mont Tremblant International Airport. The issue at that time was the availability of CBSA services for incoming flights, usually charter flights with American passengers on board.

Bill C-49 addresses increasing refundable fees for airports that need this service in order to expand. There are a number of small airports all over Quebec and elsewhere that do not have that service and would like to, but they are not designated airports. In fact, this has been available for a while. What is new in a sense is that major airports, such as the Toronto airport, want to pay for additional CATSA resources in order to speed up security screening.

This bill seeks to increase CATSA services for airports that choose to do so. It will not remove services that already exist.

**Mr. David de Burgh Graham:** Thank you.

On another matter, I would like to talk about railway transportation, which interests me a great deal.

Some witnesses said they were concerned that the bill would in some cases allow for service on railway routes to be discontinued within 60 days. A few witnesses also suggested expanding operating rights upon request as a way of enhancing competition.

The Canadian Transportation Agency already has the power to grant operating rights to other companies upon request, but has not done so to date. Will an increase in operating rights be possible in the future?

**Hon. Marc Garneau:** There is no mention in Bill C-49 of discontinuing rail lines or of allowing a railway company to discontinue an existing line within 60 days. If a line was active, however, the service level could be raised by the Canadian Transportation Agency. In many cases, the lines that railway companies decide to shut down have not been used for a number of years. It costs them money to maintain those lines. The bill does not cover this issue, but if a

line is in active use, it is certainly in the interest of our category 1 rail companies to maintain it, as that gives them better access to transportation business.

**Mr. David de Burgh Graham:** Let us hope that access can be given to local railway companies.

**Hon. Marc Garneau:** Are you referring to right of way?

**Mr. David de Burgh Graham:** Yes.

**Hon. Marc Garneau:** That entails expropriation to some extent. If a secondary railway company has permission to use other main lines belonging to category 1 railway companies, it does so knowing that it does not own the line. This happens under certain circumstances. For example, VIA Rail uses a rail line of which it owns just 3%. This is based on an agreement with the railway company in question. This is something that can be negotiated but that is not automatically granted.

• (1100)

**Mr. David de Burgh Graham:** I have one more question.

[*English*]

I have a couple of points of clarification in the LHI exemptions. I notice that restricted dimensional loads—you might refer to your staff for these ones—are only exempt on flatcars. Intermodal is only exempt on flatcars. Intermodal usually runs on deep-well cars, and heavy dimensionals are often in Schnabel cars or other specialized equipment, so why is the restriction only for flatcars?

In the same vein, why are toxic insulation hazard substances exempt but not other special, dangerous, or highly dangerous hazmats?

**Hon. Marc Garneau:** I'm going to turn to my officials for the first part of your question. I have to compliment you on your detailed knowledge of this bill.

On the issue of dangerous goods, the decision was taken with respect to transporting materials that could involve toxic gases. The LHI exclusion is based on the fact that one wants to minimize the handling.

Now, your point is that there are other dangerous goods. The decision was taken that at this point we would restrict it to toxic inhalation materials. It's something that certainly could be looked at, but for the moment, that was our primary concern. We recognize that there are other dangerous materials as well.

On some of the lines that are very congested, where there's a lot of traffic and there are dangerous inhalation products, we want to minimize the chances of accidental releases, which do unfortunately happen in the present circumstances.

**The Chair:** Thank you, Minister.

**Hon. Marc Garneau:** On the issue of your other question, perhaps I could refer it—

**Mr. David de Burgh Graham:** My time has expired.

**The Chair:** A short comment on that, please, because I don't want to take away from the other questions.

**Ms. Helena Borges (Associate Deputy Minister, Department of Transport):** The answer is actually quite simple. The legislation only refers to dimensional loads. It doesn't specify what kind of car they would be carried on. Dimensional loads could apply in others. It's really to show where the challenge is.

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

Ms. Moore is up, but she's had to exit for a moment, so we're going to go to Mr. Fraser, and then we'll go back to Ms. Moore.

**Mr. Sean Fraser:** Thank you. I didn't think I'd be so lucky as to get a second round of questions. I always appreciate the opportunity.

Following up on the issue of the uptake of the infrastructure bank to ports, when we had Mr. Emerson here, he did express some concerns about the governance structure before money is made available to ports. In a conversation following the meeting, he acknowledged that the involvement of the private sector would likely lead to some improved accountability.

I'm curious. On the issue of engaging the private sector through the infrastructure bank and the port authority, is this either going to improve governance or allow us to.... My main concern here is to make the most of every federal dollar to expand our port infrastructure to get our goods to market.

**Hon. Marc Garneau:** Yes, as you know, the infrastructure bank has an important component that's related to transportation. We feel that at the moment it's not something that's accessible to our Canadian port authorities. Our Canadian port authorities, as the incoming and outgoing terminals of trade for this country, are extremely important. We just wanted to give them an additional tool so that in some cases where there was a good business case they could leverage the capability that would be available when the Canada infrastructure bank is in place.

We felt that this was good for ports that are continuing to grow in terms of their business. Some of the ports in this country are continuing to expand, so we want to help in that process.

**Mr. Sean Fraser:** On the issue of short-line railroads, we've heard a number of witnesses. Though it didn't necessarily relate specifically to provisions included in Bill C-49, we talked about the economic importance of short-line railroads to their communities in representing an area that's defined by small towns and rural communities in a province that's really only served by short-line infrastructure.

I'm curious as to whether the rail corridor funding available through your portfolio would help short-line railroads accomplish what they need to in order to ensure they're serving these smaller communities.

**Hon. Marc Garneau:** If you're referring to the national trade corridors fund, yes, they're eligible to apply for funding under it. As you know, on September 5, we closed the first call for expressions

of interest from across the country. I know that there were hundreds, and I'm looking forward to seeing them.

To be totally frank with you, I think the challenge with the short-haul railways is not so much that they.... The basis of the trade corridors fund is to remove bottlenecks, and I think their primary challenge is maintenance of their infrastructure, which is not quite the same thing. This is a challenge from that point of view. As I say, Transport Canada is looking at that as a separate matter at this point in time.

• (1105)

**Mr. Sean Fraser:** There are a number of different items about which, as you mentioned, the shippers will say, "We like this. Maybe we could have that." The rails might say something similar.

One of the themes I heard amongst most of the shippers and some producers as well was on the need for enhanced data. If we're going to be able to make decisions in real time, we need full information to do that. If we were to, say, tinker with the measures impacting data, would doing that potentially upset what you described as a fairly fine balance in the legislation among shippers, railways, and producers with regard to getting goods to market efficiently and allowing everyone to make money?

**Hon. Marc Garneau:** It's a very good point that you bring up, and it's an important one to take into consideration along with the very crucial importance of having a greater amount of shared data. It has been a complaint from shippers in the past that to establish rates for transportation, they felt they needed more insight into some of the data from the railways. We recognize that. We're coming up with a process, for example, in LHI, so that the Canadian Transportation Agency can determine comparable rates so that we are providing competitive rates to the railways. Doing that requires us to have a certain amount of information, which is not available at the moment, so that we can set those. That involves actually having waybill information, and this is crucial to the whole thing.

In terms of making that public though, we do recognize that there are sensitivities with respect to the operations of the railways. The data will be made public but in aggregate form so that we are respecting the need, from a competitive point of view, not to put everything on the table.

**Mr. Sean Fraser:** One of the other issues that Mr. Emerson raised while he was here was the notion that transportation is not a one-time project in Canada. We must seek continued improvement. We've heard from a few witnesses that implementing a mandatory periodic review into the legislation would be a helpful thing. Is this something that you think would be helpful or do you think the power to initiate a review from the ministry is as effective?

**Hon. Marc Garneau:** I don't think we need to put that in the legislation. It's the responsibility of all governments to continually review a situation to see if they can make it better, if there are flaws that were not anticipated, so I think the mechanisms are there. They don't need to be in the legislation.

**Mr. Sean Fraser:** Thank you.



**The Chair:** Ms. Moore, are you ready to go or would you like me to hold it down a little bit longer for you?

[*Translation*]

**Ms. Christine Moore:** If possible, I would like to ask a few questions.

In your bill, you claim that a passenger bill of rights will protect travellers against unfair treatment by airline companies.

Can you name a single provision that sets the specific amount that an airline company will have to reimburse passengers if a flight is cancelled?

**Hon. Marc Garneau:** Those amounts will be proposed by the Canadian Transportation Agency and I will have the final word. I can tell you, nonetheless, that if a passenger's rights have been violated and the airline is at fault, the amounts will be quite sufficient. This is not something the airlines will want to do on a regular basis.

**Ms. Christine Moore:** Do you know how passengers will be informed of the measures that will enable them to claim those amounts?

Flights are cancelled on a regular basis and the airlines will try anything because passengers do not necessarily know their rights.

What is your strategy to make sure that all passengers are aware of the process and do not have to go through endless bureaucratic red tape to be compensated?

• (1110)

**Hon. Marc Garneau:** It is certainly important for passengers to be informed. Once the information is released, I think passengers will follow it very closely in the media, so they will be well informed.

**Ms. Christine Moore:** Your department does not have a strategy in mind?

**Hon. Marc Garneau:** When you purchase a ticket, you receive information. If you do so on line, in particular, the first page describes your flight, but there are about six more pages that cover various other topics. They provide clear information, in French and English, about the steps to be taken if your rights have not been respected.

**Ms. Christine Moore:** You do not have a specific communications strategy in this regard?

**Hon. Marc Garneau:** When we finalize and implement the passenger bill of rights, we will probably implement a communications strategy in order to keep Canadians well informed. The information will then be available when people purchase their tickets.

**Ms. Christine Moore:** Okay.

Will your party be open if the NDP puts forward amendments to improve Bill C-49 and clarify compensation measures, specifically as regards overbooking in order to limit the removal of passengers from aircraft, for example? Can we expect your government to take a collaborative approach?

**Hon. Marc Garneau:** That is exactly why we will be creating regulations. That will give us the required flexibility to make any changes that prove necessary without having to present them to Parliament in another bill. The regulations will describe the passen-

ger bill of rights. Should we decide that we need to amend the charter for some reason at a later date, we would have much more flexibility to do so.

**Ms. Christine Moore:** As to the provisions pertaining to overbooking, do you have a specific plan or will regulations on this matter be forthcoming?

This is an increasingly serious problem, especially for destinations in Canada to which there are only two or three flights per day. Overbooking can lead to a 12-hour delay. People sometimes even have to wait until the next day.

What are your plans with regard to overbooking? Do you know what measures you will be taking or will that also be set out in the regulations?

**Hon. Marc Garneau:** Yes, that will be set out in regulations and they will be very clear. They will indicate the compensation when the airline has overbooked. That is what we have said since the beginning.

**Ms. Christine Moore:** Right now, there is only financial compensation. There are no protection measures for passengers who face major complications as a result of having to take a subsequent flight. I am thinking of passengers who are kicked off flights and then miss a funeral or other important event.

**Hon. Marc Garneau:** That is precisely why we are establishing a passenger bill of rights. The bill will very clearly indicate that there will be compensation in such cases.

I should perhaps add that the airline will be required to re-book those passengers. A new flight will be arranged for those passengers and they will be offered compensation. Moreover, the compensation will be significant.

[*English*]

**The Chair:** Thank you, Mr. Garneau.

Thank you, Ms. Moore.

Mr. Badawey.

**Mr. Vance Badawey:** Madam Chair, I have to say, it's been an enjoyable process, as I said earlier, because not only are we dealing with how Bill C-49 is going to enhance the overall transportation strategy and transportation 2030, but what we also accrued over the last few days was, I'll use the word "residual" discussion, dialogue, and therefore objectives. We spoke about asset management and how overall within the transportation 2030 recommendations and the movement of that it's going to breathe, how it then lends itself to integrating our distribution and logistics system, and the integration of transportation between the four methods of transportation—road, rail, water, or air—how they come closer together.

As we look at the Emerson report and now bring it into a manner of being pragmatic and really take on some of the recommendations that Mr. Emerson made, with that is the...I won't say smaller in terms of size, but I'll say they don't recognize in the Emerson report how we now have to bring things like short-line railways into the bigger picture. It will be my intent today to actually ask for a report, to then proceed with recommendations, all of us working together as we have been for the last few days, to look at short-lines as becoming a larger part of the overall integration of those transportation methods.

I have to zero in on one question, Minister, and I fully respect the efforts that all governments in the past have made with respect to the passenger bill of rights. I have to ask, one, how it evolved. Two, and most important, and I know the NDP put forward a private member's bill in the last session, how does the passenger bill of rights proposed now, differ from the previous approaches and the previous dialogue that we had with the industry, differ from the PMBs and the discussion of past Parliaments? How is this approach now different and how is it going to be more pragmatic, workable, and of course, advantageous to the priority, the customer, the passenger?

● (1115)

**Hon. Marc Garneau:** Thank you for your question. I've been a member of Parliament coming up to nine years now and, yes, it's not the first time the issue of a passenger bill of rights has come up. It has come up. You mentioned the NDP. It came up before that with the Liberals, with Gerry Byrne, in fact, who was a very big proponent of it.

I guess the big difference is that we were in opposition and it was not picked up by the government; however, we are now in a position to put it in place. That's the big difference, and we feel that it is something long overdue. We have an interest in doing it because I've heard the message very clearly from Canadians that we need to have a passenger bill of rights. That's the big difference, and that's why we are putting legislation forward that will make that happen.

**Mr. Vance Badawey:** Now I'll move forward and go to the preamble that I spoke of earlier, like the passenger bill of rights and the dialogue that's happened among all three parties over the course of time, the current government being pragmatic and moving forward with the bill, as I mentioned earlier, the short-line integration, transportation methods, looking at capital operating sides of the strategy. Is it your intent and the ministry's to take a lot of those residual discussions and dialogue we've had with the industry, with our partners, with our colleagues, and to take the next steps in a short amount of time, to now start implementing those other parts of the overall transportation 2030 strategy?

**Hon. Marc Garneau:** The short answer is yes. We're always looking at how we can improve transportation, and it is—as you know very well, because you have been particularly focused on it, as I know it's a strong interest of yours—a very complex set of files, and when we do come forward with a project like Bill C-49, which does actually have concrete measures in it, there's a tendency to ask about the stuff we didn't put in there. We're working on it. We're working on a whole bunch of things ultimately to make transportation safer, greener, more innovative, and economically as efficient as possible. All of these things touch on that. We continue

to work at Transport Canada, and I want to give a shout-out to my ministry. We have more than 5,000 people who are very competent people and who are working very hard to try to make our transportation system the best in the world, and we are the best in the world on some of it.

● (1120)

**Mr. Vance Badawey:** Finally, Minister, we're entering into NAFTA. We have CETA in place. How do you see now transportation becoming more of an enabler with our international trade?

**Hon. Marc Garneau:** I have already met a number of times with Secretary Chao, Secretary of Transportation in the United States, on the issues that touch on transportation that are critical. There's the fact that we're the two strongest trading partners in the country. Some 30,000 trucks go across the border every day and 4,600 train cars cross the border every day. We trade enormously, and we need to make it as efficient as possible. We need to harmonize regulations on both sides of the border so that we don't have any impediments to moving fluidly between our two countries. We need to make the process of security control as rapid and as efficient as possible.

Those are things that are top priorities for both our countries, for that \$635 billion U.S. we do in trade every year, and we'll continue to do that. I would say that within the NAFTA negotiations, there's a pretty good consensus on transportation.

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

Ms. Raitt.

**Hon. Lisa Raitt:** It's back to me again, Minister. It's more like a conversation than it is anything else, I think. The officials around you are probably thinking that this feels like the briefings they used to give me all the time in terms of questions.

Briefly, I want to say that I understand—I know that I'm talking to somebody who understands this—that there is a delicate balancing act when it comes to the portfolio. In the air sector you have to balance airlines, airports, and consumers. You have the bill of rights with that one. In marine you have cargo carriers, ports, shippers. All those guys are important.

In rail you have a different balancing act. It's a very difficult one, I will tell you. You know it's difficult. On one side it's farmers, forestry, mining, containers, and all that. On the other side it's rail companies, and then throw in a little dash of unions. It's a very difficult area. Any time you move off the status quo, which Bill C-49 does, you're going to have people who are winners and people who are losers. Our attempt here is to try to figure out what the best balance is.

I'd like to go back to something you said to I think Mr. Sikand or Mr. Fraser. It had to do with whether or not we need in Bill C-49 the ability, again, for the CTA to do self-implementation. This time I'll give the example of forestry, which is very different.

FPAC came to this committee and asked to have the ability for the agency to intervene so that they will be able to study something. I think it comes from a real place, because as my colleague Mr. Chong pointed out, we have seen this movie before in terms of having emergencies in the transportation of grain and transportation of commodities. Sometimes the politics that invariably are in a minister's office can cloud the quickness by which you can make a direction for a study to happen. It happens in all parties. It's not a partisan issue here. This happens in all parties.

I'm trying to understand, Minister, why you don't think it's a good idea for the CTA to have that experience, to be those people who are the knowledge people in the business, seeing a certain situation happening again where they can actually take action and get in there quicker in order to resolve these disputes because they have the ability to look at it themselves.

That's an area where I'm really concerned about the balance. I don't see the purpose in having the minister hold the only power to start off an investigation by means of a notice of direction. I have used that and you have used that in the past, but we're not always going to be.... I'm not going to be the transport minister, and one day you won't be the transport minister. We have to make the system work for everybody forever.

You have to bear in mind that sometimes ministers just won't take action, so why not have the CTA have that power?

**Hon. Marc Garneau:** Well, you and I will not necessarily be ministers of transport in the future, but the good news is that we have a ministry where there is continuity. The way things are organized at the moment, I would say to you that we fully respect the independence of the CTA, and it is as it should be. It is a quasi-judicial body that needs to have that independence.

Having said that, we do talk to each other. We do keep each other informed, so I am very comfortable about the fact that the mechanisms exist at Transport Canada. I'm even more happy with the data provisions that are included in this bill, such that we will have even greater awareness of the situation with respect to issues of rail transport in this country.

I think it is unnecessary to make changes at the moment. I think the CTA will have enormous responsibilities with respect to making sure that the measures that we've put in place with respect to freight rail transportation are dealt with efficiently and in a timely fashion. They will make us aware if there are problems that they perceive have not been addressed. Of course, we've also given them additional important responsibilities with respect to the passenger bill of rights, so they have lots of responsibilities on their plate, our channels are open, and I believe we have in place a good system that doesn't need to be changed.

• (1125)

**Hon. Lisa Raitt:** Thank you.

Minister, on the passenger bill of rights, bearing in mind that the CTA is going to be developing the regulations, and you've fleshed out what they should be looking at, can you give us a timeline for implementation? When will the passenger bill of rights go live for Canadians?

**Hon. Marc Garneau:** How quickly are you going to pass this bill?

**Hon. Lisa Raitt:** Well, let's pretend it passes today. What's the date that you can give Canadian passengers?

**Hon. Marc Garneau:** Okay, well, immediately—sorry, I couldn't help that.

**Hon. Lisa Raitt:** Last time I checked, Minister, you guys had a little thing called a majority.

**Hon. Marc Garneau:** Of course, I fully respect the autonomy of the transport, infrastructure, and communities committee.

Our intention would be for the CTA to get to work very quickly on its consultation process and to present to us some time early next year their recommendations with respect to it. They, of course, respecting the will of Parliament and the authority of Parliament, cannot get on with this work officially unless this bill gets royal assent. If it does, they will proceed forthwith. I've spoken with Scott Streiner, the head of the CTA. We will then look at it, and we hope to have the charter of rights in place some time in 2018.

**The Chair:** Thank you very much, Minister Garneau.

We have three minutes for Mr. Hardie.

**Mr. Ken Hardie:** Minister Garneau, you and I had a brief offline discussion about the interest in air travel in my home riding. I was going to ask you some questions after the fact, but maybe we can do it right now and just make it really simple.

My folks in Fleetwood—Port Kells do a lot of air travel by virtue of the makeup of the community and where folks are coming from, either visiting or for business. They really want to give you their input on the air passenger bill of rights.

As we go forward into the regulations that will actually have the details as to how the bill of rights will work, what are you going to be thinking about as those details come together? What input would you value from my constituents or anybody else in terms of informing the way those details come together?

**Hon. Marc Garneau:** I would welcome all input. I can tell you that 10 days ago—and I won't say what airport I was in—I was approached by somebody working for an airline, and offered \$400 to take a later flight. It's not the first time it's happened to me, so I am aware of the issue of overbooking. I've heard from tons of people. I've even done Facebook chats and heard about these things, but I welcome all input.

I, like everybody else, watched what happened with United Airlines. I, like everybody else, watched what happened with the Air Transat situation at Ottawa airport. I am hearing from a lot of Canadians. I've heard about Canadians who have said that they resent having to pay extra so that their kids can sit beside them. Yes, I've heard from people in the music industry whose instruments are extremely expensive and are their livelihood. They have felt that their instruments were not properly handled. I've heard from a huge number of people. I welcome all input on this. Though the charter of rights will be in place, it is something that will be open to making changes as required under compelling situations if it has areas that it has not addressed or that are inadequate in any way.

• (1130)

**The Chair:** Basically, your time is up, Mr. Hardie.

Minister Garneau, thank you so much for spending two hours with us. I think you will have heard that the committee has functioned extremely well, and I believe we all have the very best interests for Canada in mind and we are working very well together to ensure that Bill C-49 is the very best it can be.

Thank you to you and your staff for being here.

**Hon. Marc Garneau:** Madam Chair, I would like to say one last thing.

I too have to say that in the last hour while I was answering questions what was going through my mind was the loss of our dear colleague Arnold. I think, David, you were extremely eloquent. I would ask us all to reflect on Arnold's last opportunity to stand up in the House of Commons last June. If ever there was a display of non-partisanship and generosity from somebody who was living in incredibly difficult circumstances, I think he was a shining example.

I just wanted to say that today.

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

We will suspend for the other panel to come to the table.

• (1130)

(Pause)

• (1140)

**The Chair:** We reconvene our meeting with our next panel. We have with us representatives from the Department of Industry, the Canadian Chamber of Commerce, and the Competition Bureau. Welcome to you all. We very much appreciate your being here.

The Department of Industry rep, Mark Schaan, would you like to introduce yourself, and start with your opening remarks?

**A voice:** [*Inaudible—Editor*]

**The Chair:** All right, terrific.

**Ms. Melissa Fisher (Associate Deputy Commissioner, Mergers Directorate, Competition Bureau):** Madam Chair, my name is Melissa Fisher. I'm the associate deputy commissioner in the mergers directorate at the Competition Bureau. I'm joined today by my colleague, Anthony Durocher, the deputy commissioner of the monopolistic practices directorate at the bureau.

[*Translation*]

Also present is Mark Schaan, director general of the marketplace framework policy branch at Innovation, Science and Economic Development Canada. He is in charge of competition policy, while the Bureau carries out the independent enforcement function.

[*English*]

I understand that the committee has questions about changes in the bureau's role in relation to the review of arrangements between air carriers, as set out in Bill C-49.

I'll begin by providing some context about the bureau and its mandate. I will then speak to the bureau's experience in reviewing agreements and arrangements between air service providers. Finally, I will address the provisions of Bill C-49 that would impact the bureau's role in examining these types of agreements or arrangements.

[*Translation*]

The Bureau is an independent law enforcement agency that ensures that Canadian consumers and businesses prosper in a competitive and innovative marketplace that delivers lower prices and more product choice. Headed by the Commissioner of Competition, the Bureau is responsible for the administration and enforcement of the Competition Act and three of Canada's labelling statutes.

[*English*]

The act provides the commissioner with the authority to investigate anti-competitive behaviour. The act contains both civil and criminal provisions and covers conduct such as false and misleading representations, abuse of a dominant market position, mergers, and price-fixing. Civil matters are resolved before the Competition Tribunal, a specialized adjudicative body that comprises Federal Court judges and laypersons with expertise in business, commerce, or economics, whereas criminal matters are resolved before the courts. The act also provides the commissioner with the ability to make representations before regulatory boards, commissions, or other tribunals to promote competition in various sectors. The basic operating assumption of the bureau is that competition is good for both businesses and consumers.

Today I am here to talk about the bureau's role in reviewing arrangements between air carriers and how that role would change if Bill C-49 were passed.

The bureau has a significant amount of experience reviewing arrangements, including mergers and joint ventures, in the air transport sector. From the development of the first broad airline alliances in the late 1990s to the acquisition of Canadian Airlines by Air Canada in 2000 and the entry, and sometimes exit, of a number of carriers since then, the bureau has examined a variety of arrangements between air carriers that could harm businesses and consumers who rely on air services through increased prices and reduced choice.

Notably, in 2011, the bureau challenged before the tribunal a proposed joint venture between Air Canada and United Continental that involved co-operation on certain key aspects of competition, including pricing, capacity setting, frequent flyer programs, and revenue and cost sharing. After conducting an in-depth review, the bureau determined that the proposed joint venture would have resulted in the airlines' jointly monopolizing 10 key Canada-U.S. transporter routes and substantially reducing competition on nine additional routes. In turn, this would have likely led to increased prices and reduced consumer choice. Ultimately, the bureau reached a negotiated resolution with the parties. The consent agreement entered into prohibits Air Canada and United Continental from implementing their joint venture agreement on 14 transborder routes.

The Air Canada-United Continental matter is an example of how the bureau might review an air services arrangement under the Competition Act. The bureau typically examines this type of arrangement in the context of either the merger or the competitor collaboration provisions in the act, depending on how the arrangement is structured. These arrangements can have positive effects, such as increasing efficiency and competitiveness, in turn allowing Canadians to benefit from lower prices and better product choice. However, they can also raise competition concerns. If the commissioner determines that an arrangement is likely to result in a substantial lessening or prevention of competition, which is the statutory threshold, he may, subject to an exception for notifiable transactions under the act, challenge it before the Competition Tribunal, or alternatively, seek a consensual resolution with the parties in the form of a consent agreement.

- (1145)

With respect to the factors considered in reviewing mergers or agreements among competitors, the bureau undertakes an exhaustive, fact-intensive and evidence-based review, including quantitative analysis. In analyzing an airline joint venture, the bureau will focus on routes where there is overlap or potential overlap in the service by the parties.

In particular, the bureau typically considers whether the joint venture partners provide competing air passenger services on specific origin-destination city pairs, such as Toronto to Chicago or Winnipeg to North Bay. The bureau also assesses whether consumers view, for example, non-stop or one-stop service, or business and leisure travel as substitutes for one another. The bureau also considers whether there are competitors serving the parties' overlapping routes, any barriers to entry, and whether existing or potential competitors may constrain the ability of the parties to the arrangement to raise prices.

A joint venture that reduces the number of competitors or potential competitors on an already concentrated route will raise concerns. For any particular overlapping route, the bureau will want to ensure that consumers have access to competitive prices and services, and that a proposed arrangement would not result in any route being captive to one or more airlines with enhanced market power.

To assess the competitive impacts of a proposed joint venture, the bureau can require significant amounts of data and other market information from the parties to the joint venture and other market participants. This information is necessary for an informed and credible review based on sound economic principles. The bureau may seek such information on a voluntary basis from the parties to the arrangement, from third parties with knowledge of the industry, or from consumers. At times, it may also seek the issuance of a court order requiring that certain information be produced.

Bill C-49 establishes a new process for the review and authorization of arrangements involving two or more transportation undertakings providing air services. This process will cover all types of arrangements among air carriers, other than arrangements that would be considered notifiable transactions under the Competition Act. Notifiable transactions are transactions that meet specific financial thresholds regarding the size of the parties and the size of the transaction, and that cannot be completed until the commissioner has had an opportunity to review. Notifiable transactions have been subject to a potential public interest review by the minister of transport since 2000.

Bill C-49 proposes a new process for arrangements involving air services that will enable air carriers to voluntarily seek authorization of a proposed arrangement from the minister of transport. The commissioner will receive a copy of any notice of an arrangement that is provided to the minister, along with any information required by the guidelines.

If the minister determines that the proposed arrangement raises significant considerations with respect to the public interest, then the commissioner is required, within 120 days of receiving the initial notice, to report to the minister and the parties on any concerns regarding the potential prevention or lessening of competition that could occur as a result of the proposed arrangement. A summary of the commissioner's report may be made public. I would note in this respect the bureau's ongoing commitment to transparency within the limits of our confidentiality obligations, and that this commitment would continue under this process as well.

The bureau will carry out its usual competitive analysis, but to the extent that the arrangement raises competition concerns, it will not have the option of settling those concerns with the parties directly through the negotiation of remedies or by applying for a remedial order from the tribunal. The final decision in these matters will rest with the minister of transport, and the minister will consult with the commissioner on any remedial measures relating to competition.

In cases where the parties do not seek an authorization from the minister, or where the minister does not trigger a public interest review, the bureau will assess the arrangements under the Competition Act in the usual manner and without any change from its current process. The bureau will make its staff available to consult with the minister of transport to develop guidelines as required by the bill, and is committed to working with transport, including taking steps to ensure that the guidelines require parties to produce the information that the bureau needs to undertake an informed competition analysis.

While the bureau and the minister will work together to share information, the bureau's review of arrangements will remain separate and independent from the public interest review conducted by the minister.

• (1150)

**The Chair:** Do you want to make another few remarks?

**Ms. Melissa Fisher:** No, but I thank you for the opportunity to appear today.

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

Who would like to go next?

**Mr. Ryan Greer (Director, Transportation and Infrastructure Policy, Canadian Chamber of Commerce):** Chair, committee members, first let me offer condolences on behalf of the Canadian Chamber of Commerce regarding the passing of your parliamentary and caucus colleague, Arnold Chan.

**The Chair:** Thank you.

**Mr. Ryan Greer:** I think we all appreciate the challenge of continuing your work on a difficult day like today, so thank you for having us here.

Thank you for inviting the chamber to take part in your study on Bill C-49. The package of legislative amendments before you affects chamber members of all sizes across our network of 200,000 members.

I'd like to start by commending Mr. Emerson and the review panel for their work on the Canada Transportation Act review report. The report is a comprehensive landmark piece of work. It made important recommendations toward helping to modernize Canada's trade and transportation networks. Bill C-49 touches on some key issues raised by the review.

The lens by which the chamber considers the individual components of Bill C-49 and offers comments is how we see the proposed changes affecting Canadian competitiveness overall. I'll start briefly on the rail side before jumping over to a few remarks on air travel as well.

Canada's historical trend of privatization in rail is a tremendous success story that has resulted in significant private sector investment leading to some of the lowest freight rates and highest levels of service in the world.

To that end, the chamber offers caution about the urge to expand regulation into Canada's supply chains. In a global economy where connectivity has become a key determinant of economic performance, the objective of any transportation system reform should be on continuous improvement to the efficiency of our supply chains. This was a major theme of Mr. Emerson's review.

The network nature of these supply chains, including our rail system, is such that providing a regulated advantage to one customer, one sector, or one part of the network will inevitably take something away from other parts of the network. This is one of the reasons that the last two Canada Transportation Act review panels, in 2001 and again in 2016, recommended against increased inter-switching limits and maintaining a system based principally on commercial relationships and market forces.

Specifically, the chamber has concerns about the proposed new long-haul inter-switching provisions. I think we should be wary of unintended consequences, including disincentives to investment and reduced productivity. In particular, the economics around remote branch lines serving resource industries is already difficult. LHI could threaten to reduce the income that railways make on these lines, which makes their future even a little more perilous.

Another consequence of long-haul inter-switching is allowing U.S. railways to take advantage of Canadian lines without reciprocity. As currently drafted, Bill C-49 includes some geographical exemptions for U.S. access and, at a minimum, those exemptions should be maintained. Without the exemptions, Canada would stand to lose a large amount of rail and port business to the U.S., particularly through Vancouver and Montreal.

Broadly, supply chain competitiveness is better served by having a commercial marketplace that has sufficient provisions in place to protect customers in the event of a dispute. Bill C-49 does include some reasonable amendments to existing dispute resolution mechanisms.

On the issue of level of service decisions from the CTA, the chamber would suggest that the CTA should take into account the impact of decisions on all aspects of a supply chain and not just a single customer in making their decisions.

Moving on, we are supportive of provisions in the bill that will change the framework of the maximum revenue entitlement to remove some of the disincentives that have discouraged the acquisition of new hopper cars. We are also supportive of the measures for supply chain data transparency and some of the additional steps that the government has already taken in this regard.

We also support Bill C-49's provisions on locomotive video and voice recorders, including the proactive use of this data by railway companies. The minister has repeatedly said that his number one priority is safety, and this will help accomplish that.

Last, on rail, the chamber is supportive of increasing the individual share ownership limit for CN from 15% to 25%. This is an issue for fairness compared to other carriers and other modes and is important for accessing the necessary capital for long-term investment for the railway.

Moving on quickly to the air transportation sections of the bill, the chamber is supportive of a new framework for consumer rights. The current complaint-based system is a bit of a mess. It leads to inconsistent application of rules between carriers. A simplification and standardization of those rules is overdue, both for those traveling on the airlines and the airlines themselves. Like all business, our carriers can operate more effectively and efficiently when they have greater certainty of the environment in which they're operating.

As regulations under the framework are developed, we'd recommend that they clearly reflect the fact that airlines are one part of the air transportation system. For instance, security screening delays remain one of the top complaints from air travellers.

The bill also requires more information and data regarding air carrier service. I would offer that increased data requirements should not be limited to our carriers, but specifically include government entities within the network that affect system performance, including CBSA and CATSA.

• (1155)

We are also supportive of the joint venture provisions in the bill and setting up the new approval process for the minister of transport. Moving the authority or creating this new process will allow joint venture decisions to be made with a broader public and economic interest in mind.

We do recommend that some of the joint venture provisions in the bill be amended. Specifically, the allowance of a ministerial review of a joint venture after two years following its approval should be lengthened. The two-year clock begins following the ministerial approval of the joint venture, not from when the joint venture actually commences its operation. Once it's actually off the ground, so to speak, we believe that the two-year time frame will probably not provide sufficient enough time to test the joint venture in the market.

The chamber is also supportive of the CATSA cost-recovery section of this bill, with the major caveat that this is very much a band-aid solution, while the government continues to correct or tries to correct the CATSA funding model. We must look to end the chronic underfunding of CATSA to ensure that air travellers can receive

the efficient screening services that they are already paying for on their tickets.

We are also in favour of the foreign ownership provisions for airlines in this bill. The minister has stated that the objective of this change is to help promote more competition and bring down airfares. I would just add that if Canada wants to get serious about lowering airfares, it is time to review the government-imposed costs on ticket prices. This of course includes airport rents, security charges, Nav Canada fees and other taxes, all of which impact the competitiveness of Canadian air travel.

I'll wrap up by commending the minister, his team, and the department for the work they've put into transportation 2030 and Bill C-49, and this committee for all the work that you are doing this week. As the minister said this morning, Bill C-49 is only the first step in a long-term transportation plan and the Canadian Chamber of Commerce looks forward to continuing to work with the government on improving Canada's trade and transportation competitiveness.

Thank you.

• (1200)

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

Mr. Schaan is here to answer questions as a representative and the director general of the marketplace framework policy branch, strategic policy sector, so if any of you have any questions, you can direct them directly to Mr. Schaan.

On to questions, Ms. Raitt.

**Hon. Lisa Raitt:** I don't know who's going to take the question, and you will have to help me with that, officials, but I'll ask for commentary depending upon how you answer.

Here's my problem. The process that's put in place for the minister to make a determination on whether there are significant public interest considerations is so broad and so open-ended I don't know why any companies would ever try to do a joint venture in this country. I'll bring you through the process. Here's what bugs me.

The very first part of it, it's 120 days. This bears repeating because I don't think people understand exactly how difficult this is going to be. The minister or somebody finds out that there is this proposed arrangement. The minister has 45 days after that in order to make some kind of decision as to whether or not to move forward, and then the real time starts. The commissioner of competition has 120 days, and then after that the minister has another 150 days to send a report to the parties. The parties have 30 days to send the response back. The minister has 45 days to give a preliminary decision. The parties have 30 days to respond to the preliminary decision. The minister then within 30 days of those responses has to give a final decision. But wait, there's more, because he then has the ability two years after the deal has been approved to go back and say that he doesn't like that deal on the basis of public interest consideration. The final caveat to all that is found in the proposal, where it says, by the way, all of this timing, the minister can extend it by himself.

On my count, we're looking at 13 and a half months of a flat out process before you get a final decision, which isn't final, and you have no certainty that it's going to get handled in 13 and a half months.

How is that even possible to get investment in this country if that's the kind of process we're going to put companies through?

**Mr. Mark Schaan (Director General, Marketplace Framework Policy Branch, Strategic Policy Sector, Department of Industry):** I'll start, and my bureau colleagues may want to intervene.

One of the reasons we introduced the joint venture provisions in Bill C-49 as they are now is that currently joint ventures in this country actually don't have any set timelines necessarily, because they are subject to the commercial collaboration provisions of the Competition Act, which the commissioner of competition can initiate at any time and invoke a review of at any time. That does not allow for any certainty or predictability for proponents unless it's a notifiable merger.

We've taken the merger provisions that currently live under the CTA, which allow for a public interest consideration, and we have actually made those timelines more explicit and shorter. If I take the merger timelines, for instance, it's important to think about the time that leads up to a merger notice being given, but essentially you can take that same time frame and, say, 42 days to inform parties, and, where there is public interest, another 150, and then there's a TBD on all of the steps that follow thereafter.

With respect to the joint venture provisions, one point I want to clarify is that the 120 days for the commissioner of competition are parallel to the 150 days for the minister of transport. Really, in this particular set of time frames we are trying to balance providing predictability and certainty with the need for a robust competition consideration by the commissioner of competition and a robust public interest consideration by the minister of transport. We actually think this particular measure right now allows for an international competitiveness that Canada currently can enjoy like its other comparators.

To your point on the two-year minimum immunity period, I would stress that it's a two-year minimum period, so unless it is otherwise stipulated in the terms and conditions, joint ventures will

not have an expiry date and will continue to operate in perpetuity while being monitored annually. That being said, we believe the two-year minimum is sufficient. It's worth noting that in other jurisdictions, such as the United States, antitrust immunity can be reconsidered at any point by the transportation authorities, and so there is actually no certainty to pardon. Therefore, in the joint venture provisions in Bill C-49, we've tried to provide for a balanced and thoughtful consideration of competition and public interest considerations and as much predictability and certainty to parties as possible while ensuring that at all times there's due process.

• (1205)

**Hon. Lisa Raitt:** Okay. Thank you.

I take your point on the parallel, and thank you very much for clarifying that. It does make it a little more palatable, but still the overriding rule is that the minister can extend any time and any place.

In your experience, what is the definition of public interest consideration?

**Mr. Mark Schaan:** Public interest considerations can mean a number of things. The way Bill C-49 is laid out is there will be a guideline-setting process that will essentially be open for consultation to allow for parties to help inform that, but that can include things like safety, tourism, connectivity, economic benefits, and a number of other considerations that potentially provide both increased economic impact and connectivity for Canadian passengers.

**Hon. Lisa Raitt:** So a government or a minister in the future can probably pick anything out of the air and it will become a public interest. Who tests it if it's not written down?

**Mr. Mark Schaan:** The guidelines will be very clear about what constitutes a public interest benefit, and there will be a necessity to be able to manifest those public interest benefits with the possibility from the minister to continue the manifestation of those benefits as the joint venture becomes real.

**Hon. Lisa Raitt:** You and I both know that guidelines are never prescriptive and there's always a catch-all at the bottom, and anything else that the cabinet would deem to be of public interest is going to be public interest.

**Mr. Mark Schaan:** I would suggest that the goal of this is to try to ensure that parties on both sides of the equation, the minister of transport on one and the commissioner of competition on the other, and the parties themselves have clarity about what the expectation is and that it can then be communicated to Canadians how and why we are choosing to proceed with a given transaction.

**Hon. Lisa Raitt:** I want to ask about the ability to negotiate. I know that's an important part of the Competition Bureau's work. The ability to negotiate is taken away in this process. There's no negotiation, because the commissioner just provides the summary and then after that, it's in the hands of the minister. That's my read of the legislation. If I have it wrong, you can enlighten me.



**Mr. Mark Schaan:** My bureau colleagues may want to intervene, but the remedial orders rest with the minister of transport, because ultimately those remedial orders are subject to the minister's decision to approve or not. The actual negotiation of those remedial orders is informed by both the commissioner of competition and the minister of transport. The negotiation with parties to get to sufficient undertakings that would manifest itself to a good decision that satisfies both public interest considerations and competition considerations would be informed by both the commissioner and the minister of transport.

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

Mr. Hardie.

**Mr. Ken Hardie:** I had a visit from a couple of airlines prior to these sessions. They were concerned about things being vague with respect to joint ventures and what would be approved and what wouldn't. I actually had some advice for them. I said find out what the trigger points are that attract the interest of the Competition Bureau and don't do that.

Seriously though, looking at it from your vantage point, Ms. Fisher, what are the trigger points? At what point does behaviour become predatory?

**Ms. Melissa Fisher:** Actually, Mr. Durocher will answer your question with respect to the predatory pricing provisions in the Competition Act.

**Mr. Anthony Durocher (Deputy Commissioner, Monopolistic Practices Directorate, Competition Bureau):** Predatory pricing is something we take very seriously at the Competition Bureau. There was a major court case involving Air Canada in the early 2000s which dealt with that type of behaviour.

The starting point for us in looking at this is that it's a very fine line between what is vigorous pro-competitive, aggressive conduct that we want to see in the economy and what crosses the line to being predatory. Predatory conduct is really aimed at the elimination of a competitor, typically on a specific route, by pricing in such a way that losses can be recouped once the competitor has exited the market.

The jurisprudence from the courts in Canada provides that there's an avoidable-cost test that needs to be met to show predatory pricing in any given case. These are very fact and evidence-based exercises that require a lot of quantitative and financial data about the company to try to assess what its costs and revenues are on a specific route.

**Mr. Ken Hardie:** Briefly, you really don't want the equivalent of dumping, where someone takes a loss in order to drive a competitor out of business.

**Mr. Anthony Durocher:** Again, I think it really depends on the facts. It's normal for companies to react and drop their prices when there's competitive entry on a given route. The question is this: at what level does the lower price represent a predatory tactic aimed at eliminating the competition? That really is a case by case assessment.

**Mr. Ken Hardie:** Thank you for that.

We talked a lot about airlines with respect to competition, but we're jumping through hoops, or trying to—the previous government and this government—when it comes to the railways. The competitive line rates aren't used anymore because they refuse to compete. Does the Competition Bureau have any influence or observations on what appears to be price-fixing by the railroads?

• (1210)

**Mr. Anthony Durocher:** The Competition Bureau provided a very comprehensive submission in 2015 to the review panel on the Canada Transportation Act. In doing so, it consulted with a number of major stakeholders to get the lay of the land with respect to competition issues. A significant issue that came up was competitive line rates not being an effective means for captive shippers to benefit from—

**Mr. Ken Hardie:** It's the fire alarm. Hold that thought.

**The Chair:** Well, we did want to go outside at sometime during these four days. We may have an opportunity.

I will suspend the meeting.

• (1210)

(Pause)

• (1240)

**The Chair:** We will reconvene our meeting, and we'll try to make up our time.

Mr. Hardie, you have about a minute.

The idea would be for everyone to have five minutes and, if witnesses could try to be concise with their answers, we could still give everyone a chance to get their questions in.

**Mr. Ken Hardie:** I know you may not have wanted to answer that question about price-fixing by the railroads, but that's a little over the top. Just kidding.

Seriously, though, what role has the Competition Bureau played to address the fact that we've had to introduce extraordinary new measures in order to generate at least pseudo-competition from our two railways?

• (1245)

**Mr. Anthony Durocher:** Thank you for the question.

I agree. Someone, somewhere, did not want me to answer that question.

By and large, the bureau has an advocacy function, in addition to enforcement. As I was stating before we left, in the context of the 2015 review panel, the Competition Bureau provided a detailed submission providing advice, based on its competition expertise, on how to try to inject competition as much as possible in the rail system while acknowledging that market forces, which we would typically want to rely on, may not be appropriate in all instances.

With respect to our investigatory function, for issues such as price-fixing or abuse of dominance, the bureau investigates matters confidentially when there's reason to believe that an offence under the act has occurred. Price-fixing is obviously a major component of any antitrust policy in any country. In Canada these are criminal offences under the Competition Act which we take very seriously.

There is an immunity program in place that may prompt people to bring a bid-rigging matter or a price-fixing matter to the bureau's attention. These are matters that we would investigate in due course and take the appropriate action on, acknowledging that we reference such matters to the PPSC for prosecution as well.

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

Monsieur Aubin, for five minutes.

[*Translation*]

**Mr. Robert Aubin:** Madam Chair, I will limit myself to two topics in order not to go over the five minutes I am allowed.

My first question is for Ms. Fisher or Mr. Durocher.

Your presentation about the Competition Bureau was very well done, although it was a bit technical. For those who are following our work, I will try to be as clear as possible.

You mentioned the example of a potential joint venture between Air Canada and United Continental. After a series of negotiations and studies, the Competition Tribunal systematically blocked this agreement. It did not come to pass.

As I understand it, in view of the powers devolved to the minister in the current Bill C-49, that is over, the Tribunal will no longer be able to block anything. At most, it can recommend that the minister do so. If the minister decides otherwise on the basis of poorly defined public interests, there is no further recourse.

**Mr. Anthony Durocher:** Thank you for your question.

First of all, I would like to explain what happened in the case of Air Canada and United Continental. The Bureau referred the matter to the Competition Tribunal, alleging competition issues on 19 routes. The Tribunal never issued a decision on this matter. There was an agreement between the Bureau and the parties to resolve the competition issues on 15 of the routes. It was resolved by an out-of-court settlement.

**Mr. Robert Aubin:** I understand that example, but to put it more plainly, the minister's authority takes precedence over a potential decision by the Tribunal.

**Mr. Anthony Durocher:** As to Bill C-49, if the transport minister deemed something to be in the public interest, that would indeed be the case. It would be left to his discretion, while also bearing in mind the analysis by the Office and the Commissioner.

**Mr. Robert Aubin:** You can see the problem though. Competition has quite a clear meaning to all members of the public. Public interest, however, is vague, to say the least.

I will now turn to my second topic before my time runs out. I would like to speak to the official from the Canadian Chamber of Commerce. I will offer a different example this time. I think we are more likely to agree on the issue of economic development.

In my riding of Trois-Rivières, there is a regional airport that has expanded steadily over the years, first to accommodate those travelling for pleasure, then for a pilot school, an aircraft painting company and now to perform maintenance on some Air Canada aircraft. In short, there has been steady investment in an airport that is growing and contributing to regional development. There are even agreements with airline companies to schedule charter flights.

There is a problem, however, since Bill C-49 stipulates that if we want access to security measures for international travel, we have to pay for them ourselves.

With regard to regional economic development, does it seem fair to you that there should be two types of airports, those for which the cost of services is covered and those that have to pay to offer the same services to their customers?

• (1250)

[*English*]

**Mr. Ryan Greer:** Yes, thank you for the question.

You've raised what is one of, I think, a few different challenges with the current CATSA funding model and how CATSA operates as a whole. At its most basic level, the fact that we have an air traveller security charge, which funds general revenues of the government and not all of which is put back into security services—it does fund other things, but the fact is that not all of that is reinvested—already puts CATSA on its back foot when it comes to meeting its obligations in airports. I think that's one of the reasons that Bill C-49 in the interim seeks to allow airports to set up these arrangements.

As I said in my remarks, I think the ability of airports to enter into these arrangements should be viewed as a stopgap at best, and a band-aid, until the CATSA funding model can be dealt with in a more reasonable manner. It's not just airports in Quebec; it's small and medium-sized airports across the country, especially for peak tourism season. They get demand for some very high-end travellers or people on charter flights who want to come and spend a lot of money in their community, but for scheduling reasons, they have trouble getting CATSA staff, or funding reasons.

I think you've identified an inequity that is worth having a discussion about. However, before I think that can be addressed, the overall CATSA funding model and how the air travel security charge is actually used to fund CATSA is something that needs to be dealt with because now, as we're seeing, some of the big airports can't meet all their obligations with CATSA's current service provision. They're having to contract for additional provisions at Pearson and another airport.

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

Sorry, Mr. Aubin.

Mr. Badawey, you have five minutes.

**Mr. Vance Badawey:** Thank you to the panellists for coming out this morning and afternoon. It's a pleasure to have you.

This process, as I said earlier, has been very fruitful in terms of a lot of the information that's come out. There's no question it's going to be a work in progress. We had an environment that we lived in yesterday, and now we're going to have a new environment that we're going to live in tomorrow. I see this bill, in adding to the overall bigger strategy, as becoming more of an enabler, more a plan of action, being very pragmatic. With that, once it reaches royal assent, it will be able to execute a lot of the recommendations that are contained therein.

My question first of all is for Mr. Greer. Speaking of yesterday's environment, a competitive air transportation environment, as you well recognize, is a key economic driver, creating economic growth not only within relevant regions vis-à-vis those that have airports, but also the ones that they cater to that might be some distance away.

In your view, and this is again a work in progress, does this bill bring a proper direction forward in comparison to the way it was, and streamline the process, make it more user friendly, therefore customer friendly? Do you find that, again, we're moving in a more positive direction in comparison to what we had?

**Mr. Ryan Greer:** I think, on air travel specifically, moving from a regime that was very unpredictable and very difficult to navigate, both for consumers and for airlines to understand the penalties that could be levelled against them, moving to a clear, more transparent system where everybody understands what is expected of them and what the consequences of potential actions are, is going to be helpful moving forward.

That said, the devil is in the details. With the air passenger bill of rights, most of those provisions will be established through regulations, so if they're overly punitive, if they're, perhaps, penalizing airlines for things that are out of their control, then we may end up with a system that is less competitive or actually ends up resulting in additional traveller costs when airlines have to recoup some of these. I think the framework set out is a good one, but I think the details, the regulations themselves, will tell us whether we sort of get it right.

**Mr. Vance Badawey:** That is the reason we're having this dialogue now and the reason I actually asked the question. I think the minister was clear that we don't want to make it punitive. We want to ensure that if it's out of the control of the airlines that of course it wouldn't apply.

I'll ask the Competition Bureau the same question.

Mr. Durocher, do you find today's environment and the direction which the minister is moving in are going to streamline the process, in which you and the folks in your organization of course play a key role? Do you find that tomorrow it is going to be a lot more streamlined than it was yesterday?

• (1255)

**Ms. Melissa Fisher:** With respect to the proposed legislation around joint ventures, it will certainly implement a well-defined timeline in terms of reviewing those proposed arrangements. Under our current process, if we were to review an arrangement under the competitor collaboration guidelines, there's a bit less certainty in terms of timing for the commissioner's review, although we strive

to conduct our reviews as efficiently as possible, given that we're certainly well aware of the business community's desire to move quickly in negotiating and implementing transactions. Under the merger regime, we have a fairly well-defined time period with statutory waiting periods and service standards relating to user fees.

**Mr. Vance Badawey:** My last question is for Mr. Schaan.

Over the past week, I've really tried to attach Bill C-49 to the bigger picture when it comes to the transportation 2030 strategy. That, of course, has a balance attached to it when it comes to customers, especially with air, in terms of their rights, as well as with business, with industry, with really injecting this bill into that strategy with respect to trade corridors and enhancing those trade corridors when it comes to our infrastructure investments following those recommendations and strategies. How do you see this, as well as the bigger strategy, actually fitting into the overall strategy to bring Canada to a better performance globally?

**The Chair:** Could we have a short answer, please.

**Mr. Mark Schaan:** You bet. We're interested in this bill both because we think it's good for competition policy and because it's good for innovation and science and economic development. I think the interest is that a clearer, transparent internationally competitive joint venture process will allow for our air carriers to increase connectivity, particularly to trading zones or regions to which we may not currently have access.

**The Chair:** Thank you.

Mr. Hardie.

**Mr. Ken Hardie:** With respect to the pricing mechanisms, it always puzzles people that you can fly from Vancouver to London for a lot less than you can fly from Vancouver to Winnipeg. It gives rise to the suspicion that in fact there's cross-subsidization, that perhaps the domestic fares we're paying here in Canada are helping to offset fares or make them more competitive on those very competitive routes. Is this something the bureau has looked into?

**Ms. Melissa Fisher:** When the bureau conducts its investigations, we look at a particular transaction or a particular merger. We don't tend to look at industries as a whole, but in the context of looking at a particular arrangement, we would look at the competition on specific origin-destination city pairs. We would be looking at the pricing on that specific route to assess whether the transaction was likely to substantially lessen or prevent competition on that route, so whether the prices on that route would be increased or consumer choice would be decreased as a result of the proposed arrangement.

**Mr. Ken Hardie:** Mr. Schaan, do you have any comment on that?

**Mr. Mark Schaan:** No, other than that there are considerable powers afforded in the Competition Act for the commissioner of competition to examine the Canadian marketplace for any zones in which there's potentially anti-competitive behaviour. Whether that's abuse of dominance, price-fixing, deceptive marketing, or otherwise, there are clear processes in place for the commissioner to investigate.

**Mr. Ken Hardie:** I get the impression that nobody has really thought of that one yet.

Let's talk about the Department of Industry. The legislation provides for a review of a joint venture within two years. I think the airlines would say sometimes it takes about two years for everything to settle into place. For their benefit as well as for the consumer, what would your department be looking for within that two years that might spark some kind of reopening of a review?

**Mr. Mark Schaas:** It won't be our department but the minister of transport and the Department of Transport will have the capacity after two years to revisit the transaction as it was initially proposed. That's not the end of immunity; that's the potential for the reconsideration of the arrangement. I just want to make the distinction that it's not two years and then a re-review; it's two years potentially and much longer. One of the things they would be looking for is whether the public interest benefits that were promised or that were part of the overall undertakings or remedies manifest themselves. If it wasn't realistic that those public interest benefits could have manifested themselves in the time period allotted, that would be one of the factors that the minister of transport would need to weigh before deciding to re-examine the transaction.

**Mr. Ken Hardie:** Mr. Greer, you brought up the issue of the impact of various fees on the cost of air travel. It seems to be that never-ending balance between how the user pays or, if the fee is taken away, how everybody pays through some form of government subsidy. Your reflections on what would be a proper balance generally, please, but can you reflect on the challenges of serving the north and the enormously large airfares that it takes to get back and forth there?

• (1300)

**Mr. Ryan Greer:** Just to step back to one of your earlier questions about the cost of air travel in Canada, I think all of these extra taxes and fees and the airport rents are one of the reasons why it is more expensive to fly in Canada. Obviously there's the density of our population, but there are also our carriers that serve a lot of routes that aren't as profitable, including into the north, where some of their bigger haul routes actually can cross-subsidize and get into smaller communities the flights that may otherwise not make commercial sense for them. I expect that there is some cross-subsidization when it comes to making sure that Air Canada, WestJet, and other carriers are actually getting into smaller communities where there's maybe not a lot of potential to make money.

The user fee principle built into air travel makes sense, but again, only if those fees are used for what they're determined for. The problem with the air travellers security charge is that not all of that money is put back into CATSA screening. One of the things that Bill C-49 will do in allowing airports to contract out new services from CATSA is that inevitably those authorities will end up recouping those costs through their landing fees and other mechanisms, which are then built into ticket costs. That means consumers could end up double-paying for security fees. They're paying the air travellers security charge, and then they're going to be paying whatever fees end up getting built into tickets because of these additional costs that are being contracted out.

We think it's time for a review of all of the government-imposed costs. We're not saying to get rid of all of them. We're not saying

that there shouldn't be a security charge. We're saying to make sure that we're accountable for how those fees are used and that they're invested in what they're supposed to be invested in. Also, then, there's looking to see if there are ways in which we can make the sector as a whole more competitive. Again, airport rents are an area where we impose very high costs, which then of course have to be recouped through the end users.

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

Mr. Chong.

**Hon. Michael Chong:** Thank you to our witnesses for appearing. I appreciate the candour of your opening remarks and testimony.

In addition to failing to introduce market forces in grain handling in Canada by lifting the maximum revenue entitlements, thereby failing to address the underlying cause of the grain-shipping crises over the last 20 years, based on your testimony it looks like the government is also weakening the competition in another area by weakening the power of what is a law enforcement agency, the Competition Bureau.

I found it really interesting that in your opening remarks, Madam Fisher, you elaborated at length about the bureau's 2011 case where you went after Air Canada and United Airlines and their proposed joint venture, and ultimately required that they exempt 14 transborder routes from the joint venture in order to ensure greater competition for Canadian consumers and ultimately lower prices for Canadian families.

It's clear to me that the bill in front of us today weakens the bureau and weakens law enforcement by introducing a new process that would allow the minister to essentially bypass the bureau. Had the 2011 case been introduced under this proposed law, it's clear to me what would have happened. Air Canada and United Airlines would have applied directly to the minister for this new process and very likely the minister would have approved the joint venture, possibly without the exemptions for the 14 routes. That ultimately would have led to less competition and to higher prices for Canadian consumers.

I think it's safe to say that Bill C-49 weakens law enforcement. It weakens the powers of one of our premier law enforcement agencies when it comes to competition. Would you agree with that statement?

**Ms. Melissa Fisher:** The bureau is an enforcer. We enforce our legislation as it's been enacted. If the present legislation is enacted, we will enforce it as well, and we are strong enforcers.

In terms of our substantive competition analysis under the new legislation, that will not change from the current legislation in terms of how we conduct our review and in terms of the quality of our analysis. The rigour we apply will not change.

The proposed legislation does require the minister of transport to consult with the commissioner with respect to proposed remedies related to competition. We will continue to negotiate hard for those remedies. I don't see any of that changing.

• (1305)

**Hon. Michael Chong:** Thank you for that answer.

I just have a comment to make, Madam Chair.

I find it really interesting that there seems to have been a very cozy relationship between big business and government over the past two years. I don't think it's without coincidence that Air Canada purchased the C Series jet, thereby helping a Canadian company, while at the same time provisions concerning maintenance facilities for Air Canada in Winnipeg were watered down. We also now have a bill in front of us that would essentially allow joint ventures, like the one proposed in 2011 between Air Canada and United Airlines, to proceed without a rigorous, mandatory Competition Bureau review. It would also remove the ability of the bureau to directly negotiate the terms and conditions of those joint ventures.

I think it's concerning. Ultimately, the bureau is a world-class organization that has done very good work over the last number of years in enforcing competition and creating greater competition for Canadian consumers. I worry that this legislation weakens the powers of the bureau to continue that role in its world-class manner.

Thank you.

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

Mr. Fraser, you have five minutes.

**Mr. Sean Fraser:** Thank you.

I'll start with you, Mr. Greer. You mentioned that when we're dealing with long-haul interswitching, the absence of reciprocity is a problem. When we spoke with some of the witnesses who testified on behalf of the railways, one of the things that came out of the testimony was that in fact a very, very small portion of their business is subject to being lost to the United States.

What's the extent of this actual threat, with the lack of reciprocity, with business going to American railways?

**Mr. Ryan Greer:** As Bill C-49 is currently drafted, both major class 1s stand to lose some business in southern Alberta and southern Manitoba. That's what the current exemptions of the bill provide in Ontario, British Columbia, and Quebec.

I think my comment in my remarks was that in the absence of those exemptions, both those railways would stand to lose a significant amount of rail business, and then Canada would lose a significant amount of port business in both Vancouver and Montreal. As it currently stands, there will be a loss of traffic. The railways would have to give you a more precise description of what that loss of traffic in Alberta and Manitoba will be. With the exemptions, which would be maintained, a massive loss of traffic in some of our major centres won't be had.

**Mr. Sean Fraser:** I'm just curious, then, if we compare it not with the status quo but before Bill C-30 sunsetted, and if we look at the extended interswitching as a comparison, from your perspective, what's the relative loss of business that you would see under a new regime with the excluded corridors? This is as compared with the extended interswitching regime.

**Mr. Ryan Greer:** Part of the challenge with LHI, as I think you heard from both the railways and the shippers, is that there's still a lack of understanding about exactly how it would function and what the outcomes would be. The railways will hope that it doesn't

lead to a larger loss of business. Some of the shippers have suggested that the old interswitching provisions weren't used nearly often enough but were an important negotiating pressure point for them. It's unclear how LHI might itself include into it. Reading the bill as it is, I think LHI is probably an improvement from the old Bill C-30 in that it's seen as a matter of last resort, but again, we'll have to wait and see until it's in action.

Again, to us the biggest concern is that the exemptions stay in place. Without them, it would really be a free-for-all on major Canadian lines.

**Mr. Sean Fraser:** I'm going off memory here, so forgive me if I misinterpreted something from your testimony before the fire alarm went off. You spoke about the importance of data. I was unclear as to whether you were saying that the measures put in to enhance access to data were positive, or if you were saying that we need to go further and give the disaggregated data the shippers were talking about to really influence decision-making, or maybe both.

Could you perhaps elaborate on the importance of that quality of information in terms of enhancing efficiency in the transportation system?

• (1310)

**Mr. Ryan Greer:** Yes, the use of data, and having more data for all members of the supply chain, is hugely important and should be applauded. I think outside of this bill, the government is taking some actions to establish a new data and information group within the Government of Canada.

To me, when you start regulating certain amounts of data, it becomes a tricky proposition. We don't always know what the burden will be on companies to provide that and in a certain timely manner. However, there are a lot of examples of industry and government working together collaboratively, often on a voluntary basis, to bring together information from all parts of the supply chain. Our view is that more of that data is needed to make decisions on infrastructure investment and to make other policy decisions. That data also needs to look at the Canadian network as a whole, not just individual parts of it, and at how all decisions and infrastructure investments will impact supply chains from coast to coast to coast.

**Mr. Sean Fraser:** If I could move on to the competition folks, perhaps, Ms. Fisher, you'd be in the best position to answer this.

I've seen from a few recent news articles that Air Transat has come out swinging against the joint measure provisions here, using phraseology like this is going to kneecap the competition regulator. Do you think the provisions in this bill are going to prevent you from doing your work?

**Ms. Melissa Fisher:** In terms of our substantive analysis, the proposed legislation provides that the parties to the arrangement will provide the information we need to conduct a review. Having that information, we're going to apply the same rigorous test that we apply now. Our analysis is very well set out and is based on international standards. We'll continue to apply the same analysis as we have applied historically in conducting our review.

**Mr. Sean Fraser:** I'll go to Mr. Schaan quickly.

**The Chair:** Mr. Fraser, your time is up.

Mr. Godin.

[*Translation*]

**Mr. Joël Godin:** Thank you, Madam Chair.

Ladies and gentlemen, thank you for taking part in this exercise, which I think is very important to make sure that the bill is complete, well written, and that it achieves the objectives set out by parliamentarians.

My first question is for Ms. Fisher, from the Competition Bureau.

You said to one of my colleagues earlier that you enforce the law; that is the Competition Bureau's mandate. I understand your role very well. If, however, the bill is not clear, if it is incomplete or evasive, will you be able to play that role effectively? Will the bill give you the necessary tools and enough strength to play your role?

[*English*]

**Ms. Melissa Fisher:** In terms of the proposed legislation relating to joint ventures, I think our role has been very well described and it's limited to competition to the extent that there are other public interest factors that are being considered by the Minister of Transport. Those are his considerations to take into consideration.

We will conduct our analysis as we have conducted our analysis and we will prepare our report as we are required to do under the proposed legislation. In terms of how our analysis will be conducted, the factors that we will take into consideration are very well defined and industry players will know what those are.

We will continue to do that in the way that we have always done it.

[*Translation*]

**Mr. Joël Godin:** As parliamentarians, we want the bill to be even more effective. What would you add to this bill to help the Competition Bureau be effective?

[*English*]

**Ms. Melissa Fisher:** That's a good question.

I think the development of the guidelines will be very important in the proposed legislation because they're going to set out the information that we need to conduct our review. The quality, the comprehensiveness, the accuracy of any work we do is all dependent on the information that we have access to.

We're committed to working with Transport to develop those guidelines and ensure that the information that we require to con-

duct an analysis of a joint venture is clearly set out in the guidelines.

[*Translation*]

**Mr. Joël Godin:** I have no concerns about the effectiveness of the Competition Bureau in applying the letter of the law. I do have one concern, however. In the case of joint ventures, the minister has the right, after two years, to intervene on the grounds of public interest, but that public interest is not well defined. Is it political interest or a one-time interest? The question is perhaps more for Mr. Schaan.

I am a bit uncomfortable about this power being given. As I said to Mr. Garneau this morning, I do not have doubts about the current minister, but as my colleague said earlier, a law is above individuals and it has to be applicable in the future also. There is nothing in the bill that indicates the kind of public interest that would justify the intervention of an individual politician in that process.

• (1315)

**Mr. Mark Schaan:** Thank you for your question.

I have two important points.

First of all, with regard to alliances, the process already exists.

[*English*]

The same process that currently exists in the Canada Transportation Act for mergers is what we are now introducing for joint ventures. This notion about a public interest consideration has actually been in our laws since 2000. What we are doing is keeping up with the times in the way the industry internationally is moving forward. Our competitors in other jurisdictions, the United States, Australia, and others, have access to public interest considerations in their joint venture reviews, and Canadian airlines do not. That's one of the views.

The public interest considerations, the minister having heard from the commissioner of competition compulsorily about the considerations from a competition perspective, will be articulated and enumerated in guidelines. They include safety, access to increased connectivity, economic viability, and all sorts of important factors that impact the Canadian economy, Canadian travellers, and the healthiness and competitiveness of our Canadian air industry. Those will be set out in guidelines, and as I say, it's predicated on a process that has already been in existence.

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

Monsieur Aubin.

[*Translation*]

**Mr. Robert Aubin:** I have a very simple question for the Competition Bureau officials.

Are lobbyists allowed to lobby the Competition Bureau?

**Mr. Anthony Durocher:** I think it is allowed. To my knowledge, there is no prohibition against it. I can tell you, however, that in practice it is specifically in relation to files or investigations that we have dealings with the company representatives or their lawyers. That is how it works. That is partly because the political aspect is for the department to deal with, and not the bureau. Companies and their lawyers have dealings with us when we are conducting investigations.

**Mr. Robert Aubin:** So the answer is no. On the other hand, it is very easy to lobby a minister's office. That is even part of lobbyists' work. I have the feeling that the measure in Bill C-49 that gives the minister this new power is probably the result of lobbying.

So I come back to the same question. By virtue of his new powers, can the minister circumvent all the Competition Bureau's work?

**Mr. Anthony Durocher:** Once again, from the Competition Bureau's point of view, our role is clearly defined in Bill C-49.

**Mr. Robert Aubin:** Yes, and I have no doubts about the relevance and objectivity of your work. If your work can ultimately be circumvented though, there is a problem.

**Mr. Mark Schaan:** I would like to say something about the competition policy.

[English]

The beginning of this law was a function of the fact that we believed that there were considerations beyond those of a strict competition nature that needed to be considered in a joint venture transaction. That's what's being afforded by this particular opportunity. We maintained a very strict and compulsory role for the consideration of competition law by the minister, in addition to the public interest, to come to an ultimate determination of whether a transaction is in the public interest for Canada and Canadians.

[Translation]

**Mr. Robert Aubin:** When it comes to competition, everyone knows what we are talking about. In the case of public interest, however, it is not clear. Might there be a solution or an amendment to clarify this? Along with giving the minister an additional power, would it also be possible for the bill to define the concept of public interest?

• (1320)

[English]

**Mr. Mark Schaan:** The proposal is to have public interest expanded upon in the guidelines to allow for an evolutionary understanding of public interest, because it changes, and to allow for a full and robust consultation on what that is.

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

We've finished the first round. Does anyone have a single question they did not get a chance to ask that's important? Mr. Godin.

[Translation]

**Mr. Joël Godin:** Madam Chair, I have a very quick question. Thank you for letting me ask it.

My question is for the official from the Canadian Chamber of Commerce.

Here is what I understood from your comments today. On the whole, your members are satisfied with Bill C-49. Have I understood you correctly today?

[English]

**Mr. Ryan Greer:** I think that's a bit of a broad statement.

Our membership is very wide and has a lot of different interests within the Canadian chamber. There are some aspects of Bill C-49 which we view as good and necessary, and we are still waiting to see some of the details.

There are other issues, on the rail side, where we're not as certain. Often the chamber, with the size and scope of our network, comes at it from a broad approach, and we have some broad concerns about the creeping regulation into the sector and what that may mean for investment, for productivity, and for the effectiveness of all Canadian supply chains.

We like a lot of what's in Bill C-49. With some parts, we still need to see what's in the regs, and there are other parts where we have some concerns.

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

Thank you to our witnesses. Sorry for the interruption, but I think everybody has had their questions and their answers that they needed for today.

We will suspend and reconvene in camera at two o'clock.

• (1320)

(Pause)

• (1425)

**The Chair:** I am calling our meeting back to order, our study of Bill C-49.

Apologies that we're a few minutes behind schedule, but welcome to all of you who are here.

If you would like to start by introducing yourselves, we will start with Mr. Lavin.

You have 10 minutes for your comments.

**Mr. Douglas Lavin (Vice-President, Members and External Relations, North America, International Air Transport Association):** Madam Chairwoman and honourable members, I appreciate the opportunity to appear before this committee as it considers Bill C-49.

My name is Doug Lavin, and I am the vice-president for member and external relations for North America for the International Air Transport Association, or IATA.

IATA is a Canadian corporation created by a special act of the Canadian Parliament, representing the interests of 275 airlines in more than 117 countries around the world, including Air Canada, Air Transat, Cargojet, and WestJet. As such, IATA has a significant interest in the proceedings of this committee on Bill C-49.

I have submitted my written comments on Bill C-49 for your consideration in advance of today's hearing, but I'd like to take my time this afternoon to highlight several points included in that submission.

First, it is important to note that a key recommendation of the 2016 Canada Transportation Act review was to reduce the high level of government taxes and fees on Canadian air transportation because of their significant negative impact on both airlines and passengers. Specifically, the CTA review recommended a phasing out of airport rent, a reform of the user-pay policy to prevent the government from collecting taxes in excess of its investment in services and infrastructure, and a reduction in the air traveller security charge.

In announcing the government's transportation policy, Minister Garneau promised a reduction of what he characterized as a "litany of fees and charges" on air travel. In fact, this morning he mentioned that he had travelled the country in preparation for Bill C-49, and the number one issue he heard about was the high cost of air travel.

IATA was therefore disappointed that Bill C-49 fails to address any of these cost issues—no call for a reduction in rent, taxes, or fees.

To be fair, Minister Garneau has promised to address these cost issues in phase two of the government's vision for the future of Canadian transportation. We look forward to supporting Minister Garneau and his team in this second phase.

I believe my airline and trade association colleagues who have testified before you yesterday and this afternoon are better equipped than I am to address the issues of airline ownership, joint ventures, and CATSA cost recovery set forth in Bill C-49. I'd like to focus my remarks on Bill C-49's call for the Canadian Transportation Agency and Transport Canada to develop enhanced air passenger protection regulations.

IATA is currently working with approximately 70 governments that have either implemented or are considering implementing air passenger rights regulations. As you would expect, some governments have done a better job than others in this regard. We have seen two primary approaches to these passenger rights regimes.

The first approach is that government steps in and dictates how airlines should treat their passengers. This model is best seen in the approach taken by the United States and the European Union, where regulations impose stiff fines if airlines do not meet government-imposed requirements as to how passengers should be treated in the case of delay, cancellation, or lost baggage.

For the most part, these fines are punitive in nature, as they go beyond the cost of the delay or cancellation to the air passenger. We see a number of challenges to this approach.

First, it is difficult to define in regulatory terms exactly how to treat passengers in any given circumstance. Each irregular operation presents a different set of facts that are difficult to anticipate, much less to regulate. In Europe, for example, the courts stepped in to interpret the intent of the European passenger rights regulations,

which more often than not resulted in contradictory interpretations and confusion on the part of airlines and passengers alike.

Second, the most well-intentioned government regulators can sometimes do more harm than good when attempting to protect passenger interests. For example, in the United States the rule against lengthy tarmac delays has resulted in increased flight cancellations, which often prove to be more inconvenient to passengers than the tarmac delay itself.

● (1430)

In 1987, Canada deregulated the commercial airline industry based on the belief that the free market, rather than government regulation, would produce better results for airline passengers. There is little evidence to suggest that this assumption was incorrect then or now. We know that rare tarmac delays or lost luggage occasionally cause inconvenience for air passengers. However, the answer is not always government second-guessing airlines when the competitive market, and more recently social media, already provides them with all the incentives they need to treat their customers as well as possible.

While Europe and the U.S. passenger rights approach have been copied by some governments, other countries have taken a second approach that I believe this committee and Canadian regulators should consider.

Under this approach, governments do not impose strict passenger rights rules with accompanied fines or penalties. Instead, they put measures in place to ensure that air passengers are fully aware of their rights before they purchase their ticket, leaving it up to passengers to decide what level of service they're willing to pay for.

Australia is a good example of this approach. In addition to adopting a broad consumer rights law covering all industries, the government has worked with the airlines to develop customer charters that outline each passenger's service commitments and complete handling procedures. China and Singapore have also chosen this focus on transparency rather than imposing punitive measures, and have seen positive results in terms of on-time performance, lower cancellations, and lower airfares.

It is interesting to note that last year, the Canadian Transportation Agency took a step in that direction when it requested and received voluntary commitments by Canadian carriers to publish their tariffs and contracts of carriage in clear language on their respective websites.



Bill C-49 seeks to combine both approaches to this passenger rights issue. On the one hand, it requires airlines to make terms and conditions of carriage readily available to passengers in clear and concise language. IATA supports this transparency. Bill C-49 goes on to direct CTA and Transport Canada to develop regulations with minimum standards and compensation for passengers during irregular operations. IATA has significant concerns regarding this approach, particularly if the fines are prescriptive in nature.

If Bill C-49 remains as is and CTA and Transport Canada follow the U.S. and EU approach, we urge these regulators to follow several principles to promote clear and fair regulation. These include guarding against unintended consequences and including provisions to fix them when they arise, as well as ensuring that the benefits outweigh the costs of regulation. Compensation should be equivalent to the cost of lost time and property to passengers and not be punitive. We need to ensure that any customer service requirements apply to all parts of the air transportation ecosystem rather than just airlines, and that fines are only imposed on actions within the airline's control. Finally, passenger rights rules should not be extrajudicial in nature.

Thank you for your consideration. I look forward to answering your questions.

• (1435)

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

On to Mr. Priestley, Northern Air Transport Association.

**Mr. Glenn Priestley (Executive Director, Northern Air Transport Association):** Thank you, Madam Chair.

To the committee, thank you for having the Northern Air Transport Association here. My name is Glenn Priestley and I am proud to be the executive director of NATA.

Our membership is representative of all aspects of northern and remote air operations. Our operators are committed to the highest possible standards and co-operating with all government agencies to achieve this standard with rules and recommended practices that make sense and support the Canadian aviation industry.

I would like to take the opportunity to thank the committee and staff for including NATA, including northern and remote operations across Canada on these important discussions on the legislation contained in Bill C-49. Too often, aviation policy is formed with a focus on southern Canadian air services. There has been a genuine effort by this government and various committees like TRAN to understand the unique issues associated with northern and remote aviation and we thank you for that.

Bill C-49 is a large bill that has three sections that concern the Canadian aviation industry. For this briefing we'll be focusing on the passenger bill of rights legislation from the perspective of the northern travel experience. We'll be looking to ATAC as our senior association. We'll be looking at all of the aspects, but I'd like to focus on the passenger bill of rights, if I may.

The management of passenger safety and the overall cost of the travelling experience is a complex and daily issue for northern operators. Long-term commitment to isolated communities with initial and ongoing investment in newer aircraft and facilities creates a

special bond between the air carrier and customer. The relationship is more like a partnership, and a unique aspect of all northern operators is significant commercial partnerships with many first nation and Inuit governments. These relationships provide a recognition of the needs of communities and individuals.

Examples of this recognition would be the reserved seating section to community elders located in most northern airport waiting areas. Northern operators have had to find solutions to operational problems that simply do not exist in the south. Examples include long-range flight planning with limited information and support, creating the need for contingency planning to ensure the safety of the travelling public.

This committee had a substantial focus in its June 7, 2017, report on aviation safety in Canada regarding the lack of northern aviation infrastructure needed to improve the travel experience and improve overall system safety and service reliability. The northern focus concluded with the following recommendation, "That Transport Canada develop a plan and timeline to address the specific operating conditions and infrastructure needs of airlines serving Northern Canada and small airports."

Referring to the Canada Transportation Act amendment to include passenger rights legislation, the Northern Air Transport Association is very concerned with the generalities and the wording, and the increase in regulatory authority that these amendments and others will provide to the Canadian Transportation Agency.

To be clear, NATA agrees that fare-paying passengers have rights. However, there are concerns that because of problems that have been manifested in southern Canada and internationally, northern air carriers are going to be burdened with one-size-fits-all. NATA members are currently very engaged on flawed regulations that were developed this way regarding flight and duty time rules for flight crew.

Here is our summary.

NATA agrees that the travel experience should be as transparent as possible with expectations clearly stated.

NATA does not agree with any minimum standard of compensation in the regulations, as there are simply too many variables.

NATA does agree with the procedures that provide passengers with essential notice for any unscheduled occurrence that causes delay.

NATA agrees every air carrier continue to maintain some form of operation control manual for these and other procedures associated with carriers of passengers and their carry-on-board items as well as checked baggage.

NATA is concerned with the blanket amendment that empowers the minister to give the CTA extra-regulatory authority without consultation.

In summary, the Northern Air Transport Association has an excellent service record with its passenger management, challenging flight environments, and difficult locations. Northern operators pride themselves on a tradition of providing hot meals, for instance, on many flights included in the price of the ticket. Northern operators are invested in the community in a different way than southern operators, which is easy to explain.

NATA agrees passengers have rights. Our operator members have been respecting all their customers for a long time with recognition for special needs and unique cultures. NATA is proud to be an original member of the CTA's accessibility committee, an important forum that provides guidance to our members on how to make a good system better in the movement of all passengers.

Any passenger bill of right needs to recognize existing industry efforts regarding passenger safety. We encourage a new air carrier-centred conflict resolution model to be developed to replace the current CTA model that inhibits consumers' participation.

Thank you.

• (1440)

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

Now we'll go to the Canadian Federation of Musicians. It would have been lovely if we could have had some music in here this afternoon for us to enjoy as we finish our fourth day of being here.

Ms. Schutzman and Mr. Elliott, please go forward.

**Mr. Allistair Elliott (International Representative, Canada, Canadian Federation of Musicians):** Before I begin, I'd just like to express our condolences for the loss of your colleague.

**The Chair:** Thank you.

**Mr. Allistair Elliott:** Good afternoon. Thank you very much for the opportunity to appear.

[*Translation*]

We are pleased to be able to have a discussion with the members of the committee.

[*English*]

My name is Allistair Elliott. I'm the international representative for Canada for the American Federation of Musicians for the United States and Canada. As a professional musician over the last 40 years, I've travelled most of the world performing music. My performing career has been paralleled with my work for the Canadian Federation of Musicians, initially as an executive board member,

then as president of the Calgary Musicians' Association, Local 547, of the AFM, since 1999, and now as an international representative for Canada.

I'm joined today by oboist, teacher, and my friend, Francine Schutzman, who played in the National Arts Centre Orchestra for 38 years. She's the past-president of the Organization of Canadian Symphony Musicians, and currently the president of the Musicians Association of Ottawa-Gatineau, Local 180, of the AFM.

We are here today to enthusiastically applaud the Honourable Marc Garneau and Transport Canada for the inclusion of musical instruments as part of passenger rights in Bill C-49, an act to amend the Canada Transportation Act.

The Canadian Federation of Musicians is the Canadian national office of the American Federation of Musicians of the United States and Canada. We are comprised of 200 local offices across North America, collectively representing a membership of approximately 80,000 professional musicians, 17,000 of whom live and work in Canada. We've been representing the interests of musicians for 121 years.

As the distinctly Canadian division of AFM and under the federal Status of the Artist Act recognition, the CFM negotiates fair agreements and working conditions covering all musical services within Canada. Our goal is to pursue harmonization with the United States' FAA Modernization and Reform Act of 2012, regarding the carriage of musical instruments on commercial air carriers. We have included our original submission to the Canada Transportation Act review in January 2015.

I just want to thank the Honourable Lisa Raitt—I know she was in this morning and she's not in this afternoon, but her colleagues can pass it on—for encouraging us to enter that submission a few years ago.

Following extensive advocacy to all the key stakeholders, we were very pleased to be included in the discussions on passenger rights and are looking forward to working together to develop regulations once royal assent has been received.

We would also like to thank Air Canada for leading the way as an airline and working closely with the CFM to provide better service to musicians. This summer, at the 4th International Orchestra Conference in Montreal, Air Canada was presented with the Federation of International Musicians Airline of Choice award for 2017.

[*Translation*]

We thank Air Canada and offer our congratulations.

[English]

Musicians travel for business with oddly shaped briefcases. Players of smaller instruments generally have no issues with stowing their instruments on board. The problems arise with larger instruments. Cellos are the ones that have the most problems. Many instruments are made of wood, fragile, and affected greatly by temperature, which in itself, can damage an instrument beyond repair. Instruments belonging to professional musicians are often old and very expensive. Cellists flying with their instruments typically purchase a second seat for that instrument, but are nevertheless sometimes told they may not take the instrument on board. That equals lost job opportunities, lost work, and lost income. Some of you may be familiar with a song called *United Breaks Guitars*. This song was generated by an incident in which a guitarist, Dave Carroll, was forced to check his instrument, which arrived at its destination in pieces.

We applaud the steps that have already been taken to ease the problems of musicians travelling with instruments and we thank CATSA for working with us directly on some initiatives. There's still much work to be done. What we need is a well-advertised, industry-wide policy, so that musicians may plan accordingly for business travel with the tools of their trade and the confidence they will make the job interview or performance on time and without incident.

I'd like to conclude with comments made recently by one of our more high-profile member musicians, Dr. Buffy Sainte-Marie, on the floor of the Senate of Canada, when she was given special recognition for her contribution to Canadian music. During her remarks, she asked that the government help connect the dots so that musicians could travel with their instruments. She cited an example where she was charged overage fees of \$1,376 for an underweight guitar and a suitcase.

• (1445)

Musicians have long had difficulties transporting the tools of their trade, which are often very expensive and irreplaceable. On behalf of all musicians across Canada, we thank you for this inclusion, we applaud your efforts, and we look forward to working closely with you to develop regulations that will be effective for everyone.

[Translation]

Thank you.

[English]

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

We move now to the Air Transport Association of Canada and Mr. McKenna.

**Mr. John McKenna (President and Chief Executive Officer, Air Transport Association of Canada):** Good afternoon.

My name is John McKenna. I'm the president of the Air Transport Association of Canada.

ATAC has represented Canada's commercial air transport industry since 1934. We have approximately 190 members engaged in commercial aviation, operating in every region of Canada.

[Translation]

We welcome this opportunity to present our comments on Bill C-49 as it addresses important issues of commercial aviation in Canada. Passenger rights, foreign ownership, joint ventures, CATSA, and the CTA have been subjects of debate for some time.

[English]

My comments, however, will address only the major themes of the bill as the applicability of the proposed measures will be determined only by the company regulations to ensue. These regulations, which will be developed by the Canadian Transportation Agency, are probably one year away.

As for foreign ownership of Canadian airlines, the minister claimed, in his November 3, 2016, speech before the Chamber of Commerce of Metropolitan Montreal, that increased foreign ownership "will lead to more options for Canadians, and allow the creation of new, ultra-low cost airlines in Canada".

The presence of more airlines usually offers greater choice to travellers, but we have yet to hear convincing arguments supporting the claim that foreign investments will pave the way to ultra-low-cost carriers.

[Translation]

Contrary to what the government claims, increasing foreign ownership of airlines will not lead to the creation of ultra-low-cost airlines in Canada.

[English]

Lower operating costs to airlines, not the source of capital, are the key to lower costs to the travelling public. Only when the government decides to support, rather than bleed, the air transport industry will ultra-low-cost carriers stand a chance in Canada.

Increased foreign ownership of airlines can also lead to an increase in the export of profits generated in Canada to foreign interests rather than reinvestment in our industry.

This being said, we don't oppose the government's intention to allow foreign ownership of up to 49%. However, we ask that this proposed change be accompanied by reciprocity with our foreign partners. In other words, if we allow foreign investors to own a 49% stake in our airlines, we would expect to have the same privilege in their country.

[Translation]

I would be curious to know if our government has entered into discussions with our major trading partners on reciprocity in terms of increased foreign ownership of airlines.

[English]

Passenger rights is a popular theme in Canada, and the government wants to ensure that passengers are protected by law. Some of the measures the minister is keen to address include compensation standards for passengers for delays and denied boarding due to factors within the carrier's control, and lost or damaged baggage. The minister also wants clear standards allowing for children to be seated with parents at no extra charge, and for the transportation of musical instruments.

[Translation]

We appreciate that the government wants to help the travelling public navigate through simpler rules and have easier access to support in unfortunate circumstances where those standards are not being met.

[English]

Please bear in mind that over 140 million people travelled by air in Canada in 2016. The number of complaints filed each year at the CTA was well under 500. The reason I raise this is to give a perspective regarding the size of the problem. Of course some complaints remain at the airline level, but even then the vast majority of travellers have a good passenger experience.

We believe three major principles have to be incorporated in the passenger rights legislation.

● (1450)

[Translation]

A key principle of the bill is that the go-no go decision must remain with the pilot. The threat of severe, even unreasonable, financial repercussions should not be allowed to influence the pilot's decision.

[English]

Second, the compensation paid out to aggrieved passengers should be in line with the economic realities of travel in Canada. Unreasonable monetary compensation out of proportion to the magnitude of the carriers' revenue on any given flight could only result in a deterioration of our enviable air transport system, perhaps even including reduced service on some routes.

[Translation]

For example, air passenger rights in Europe are generous to the point that a passenger could receive compensation for a delayed flight which by far exceeds the price paid for the ticket.

[English]

Such practices can only lead to increased costs to airlines and to all passengers.

Shared responsibility is another major principle. You can't hold an airline accountable for events beyond its control. The minister has stated, "Some of the measures we are looking at include com-

ensation standards for passengers denied boarding due to factors within the carrier's control". We need a clear definition of what falls under a carrier's control.

While it may be a carrier's decision to cancel or delay a flight, the reason for doing so may be well beyond the carrier's control. Weather, ground delays as a result of de-icing pad congestion, snow clearance, congestion of the airport of destination, and air traffic control all affect an airline's decision. Also, some delays are safety related.

The safety of passengers is the utmost preoccupation of pilots and airlines. Safety-related delays should not result in penalties for the airlines. How such delays are managed by the airlines is what the law should address.

An additional principle is that a one-size-fits-all policy is so widespread at Transport Canada that Transport Canada's policy just can't apply here. You can't impose southern compensation standards as applied to Canada's largest airports to northern and remote airports.

[Translation]

Ease of compliance with the law, administration of complaints, and user-friendliness for passengers all depend on the complexity of the regulations which will accompany the proposed changes in the law.

[English]

We only ask that the government work collaboratively with stakeholders in the drafting of new regulations attached to the bill. Only then will the minister's objective of improving the passenger experience be met.

[Translation]

Thank you.

[English]

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

We go on to questions with Ms. Block.

**Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC):** Thank you very much, Madam Chair.

I want to thank our witnesses for joining us today. I appreciate your testimony and look forward to all the questions and answers that we are going to hear over the next hour.

My first question will be for you, Mr. Lavin.

I think back to your opening remarks, and you referenced some of the key recommendations that were made by the Emerson panel in the CTA review to review and reduce some of the taxes in this industry. Then you went on to note that Minister Garneau had promised a reduction, and that Bill C-49 fails to address any of these costs. You also then went on to state that you were looking forward to phase two and being able to support the minister then in terms of when these things will come.

I want to clarify, is it your understanding that we'll be going through this process once again looking at Bill C-49 and then including some of the those changes? Am I hearing from you that we're going to be here again in a year or two?

**Mr. Douglas Lavin:** I can't speak for the minister in terms of what his plans are or what the government's plan is, I can only tell you that his assurance to us when we challenged him on this issue was that it would be addressed in the second phase. As I said, that's the number one priority our member airlines that fly in and out of Canada have.

As you know, Canada gets incredibly high ratings for its aviation infrastructure. They're number one in the world, yet they're 68 in terms of taxes and charges around the world. That has a clear impact on airlines coming to this country.

As Mr. McKenna noted, the idea that ownership and control will change the equation here in terms of low-cost carriers is something we don't agree with because the biggest issue preventing airlines from establishing operations here in Canada is the high cost of doing business.

I'm hopeful on phase two. I wish it was phase one, but we'll be prepared to do it in any format that the minister proposes.

• (1455)

**Mrs. Kelly Block:** Thank you.

I would open up my next question to any of the witnesses to answer. In your view, does Bill C-49 have the potential to increase or decrease the cost of air travel in Canada?

**Mr. John McKenna:** If I may, as I mentioned, that would all depend on the compensation that is set, the format that is set. If compensation is beyond reasonable, that can only drive up costs down the line.

I can give you an example. Two of my brothers travelled back from Europe this summer, and their flight was delayed by one day. They both got compensation that way exceeded the price they paid for the round-trip ticket for the trip. I'm saying that having this kind of policy in place will only drive up costs for everyone.

**Mr. Douglas Lavin:** Our experience is that by definition the government in a sense re-regulating the airline industry through a passenger rights regime will drive up costs. That's why I stressed in my opening statement that we find it critically important that the regulators do a cost-benefit analysis. In the United States when the regulators pursued passenger rights regulations, three different sets of regulations, they estimated the cost and then they said that they would prove the benefits later. That's not the way to do a cost-benefit analysis.

But it will raise costs. Again, this is a significant issue here in Canada.

**Mrs. Kelly Block:** Okay. I want to follow up on that because it has been our concern on this side of the table that this bill is ambiguous at best in the details in regard to the passenger bill of rights. We recognize that detail is going to be left up to the CTA through regulations. I think what I've heard you say is that this is not the best model to use, in fact, it's better to use something differ-

ent. You also mentioned you have seen 70 or more governments address this issue.

Can you just reframe for us what you think would be the best way to attack creating a passenger bill of rights?

**Mr. Douglas Lavin:** Yes, as I stated in my opening remarks, the approach that we see to be most effective is to ensure that the passenger understands what he or she is buying when they purchase a ticket.

One of the dangers of passenger rights regulations is that one of the big competitions between airlines is their passenger service. They compete at that level. If you put a passenger rights regime as a common thread across all airlines in the marketplace, it takes away competition. We find that in Australia, Singapore, and other emerging markets what they have done—and frankly what the CTA did last year—was to make sure that that transparency is there so that passengers can decide what they want to pay for.

All surveys, all evidence, suggest that when they are buying a ticket, any non-business passenger's number one, two, three, four and five concern is the cost of the ticket.

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

Now we go on to Mr. Graham.

• (1500)

**Mr. David de Burgh Graham:** Thank you.

Mr. Lavin, I have a problem with one of the things you said early on. You're suggesting that in the 70 countries that have dealt with this, some have gone the legislative manner and the others have enforced that companies clearly spell out what it is they are offering in their tickets. For the government to be required to tell companies to tell us what they are selling us is an admission that the companies are not currently telling us what they are selling us. Is that correct?

**Mr. Douglas Lavin:** It is certainly the government's position in those governments that they are not as clear as they could be. For example, in the United States, for anybody who looked at a contract of carriage, it's a very complex and long document. It's difficult for passengers to navigate that document, so what the U.S. did was require them to put it in plain language and put it on the websites in a way that the passengers can understand. IATA is strongly in favour of that kind.... If you would call it a passenger rights regime we're all for it. Transparency is important.

**Mr. David de Burgh Graham:** My point is, why should the government have to tell the airlines to tell us what they are selling us? Shouldn't they already be doing that? Why is that the level of service you're suggesting we need to be asking for?

**Mr. Douglas Lavin:** I'm not suggesting that governments should step in at all. Around the world if you look at the level of cancellations and delays they have all gone down. In terms of lost luggage that has gone down. Since 1996 air carriers' tickets have gone down by 64%. I don't see a reason for governments to intervene. However, governments do like to intervene at times and I would suggest that, if they do so, make it as transparent as possible for the passenger.

**Mr. David de Burgh Graham:** I propose to you, in response to Mr. McKenna's comments—and I'll leave it to both of you or to anybody else who wants to jump in—that 500 or so complaints out of... Was it 14 million trips?

**Mr. John McKenna:** It's 140 million trips.

**Mr. David de Burgh Graham:** Okay, 140 million trips. Is it possible that people are not complaining because they're so used to the problems that they just don't see the purpose in complaining? I put that to you from a personal example because I flew to California for a vacation in January. On the way back, I flew United Airlines, which is known for its customer service, really.

During the flight from Los Angeles to Chicago, the crew never exited the galley at the back. They didn't pass once to offer service, they didn't respond to a single service call, and nobody complained because people were so used to that level of customer service.

If we're sitting at 500 complaints out of 140 million trips, maybe it's because we're used to bad service. Do you have a comment on that?

**Mr. John McKenna:** First of all, you should have travelled on a Canadian airline. You would have gotten better service, for sure.

I want to raise the question that was asked to the minister this morning as to why this is in regulations rather than law. I think the minister stated that it's easier to amend a regulation than it is to amend a law. Having dealt with Transport Canada for 15 years, I can say that nothing is easy at Transport Canada. Regulations there, on a good day, are very complex and difficult to follow.

I agree with what Mr. Lavin is saying. Whatever you decide to use has to be very clear and transparent for people. We've been waiting for regulatory changes for 10 years and they haven't come around. I think laws change about as quickly as that, so I don't think that's the solution. I do think that, for passengers, finding something in a bill or in a law is probably easier than navigating through Transport Canada regulations.

**Mr. David de Burgh Graham:** That's fair.

I have another quick question for Mr. Priestley. You mentioned the long-range planning problems. Can you give us a bit of a sense of the real-world differences between northern domestic airspace and southern domestic airspace, and what that means for you?

**Mr. Glenn Priestley:** As I said in my last testimony here, we own an awful lot of long, lonely routes. A flight on a daily basis from here to Iqaluit is the same as it is from Ottawa to Toronto or Montreal now. There's a beautiful new terminal that just opened up yesterday. Good investment infrastructure has gone into Iqaluit. However, we still have problems remaining at the 115 other airports in the north. They lack the infrastructure.

Say, for instance, we have to go to Pangnirtung. Pangnirtung is one hour and 15 minutes from Iqaluit. We can do that in an ATR-500 on a good day, and that means we have 40 passengers. On a bad day, when the weather's low, when the wind's blowing the wrong way—because we can only go in there one way, but we can go out both ways—we can only take 20 passengers. We have to reduce our load because of the local conditions.

Conversely, we have situations where we take off and fly further north than that. There is, of course, Rankin Inlet on the other side and Resolute to the north. Again, quite often because of the weather reporting, for instance, we can't get there, and we have to turn around and come back.

As I also mentioned, our passengers have a partnership with us. They understand. The average passenger in Canada south of the 55th parallel flies two trips a year. North of the 55th parallel, the average person flies six trips a year, so there's a better understanding.

● (1505)

**Mr. David de Burgh Graham:** Thank you.

**The Chair:** Monsieur Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you, Madam Chair.

I would like to thank our witnesses for being here.

I will begin with a question for Mr. Lavin.

I clearly heard your complaints about high taxes, high rates, and the need to reduce airport rents. The government is considering privatizing airports in order to create capital funding for the Canada Infrastructure Bank. This has not yet been announced, and perhaps it will not be, but it is in the government's plans.

So I would like to ask you the following question. Do you think privatizing our airports would lead to lower rents as compared to the current system?

[*English*]

**Mr. Douglas Lavin:** Thank you for that question.

In terms of privatization—and I know that's not the subject of Bill C-49, but I know it's being considered—we are strongly concerned about privatization. There are easier ways to deal with rent than privatization. The government has collected so much rent that it is way beyond the price of the land that was turned over.

We have a significant concern with privatization because airports have a significant market power that they can abuse as part of any privatization. If privatization is pursued, we would need to see very strict regulation to ensure that they don't overcharge airlines for projects on which we have no ability to provide them some direction. We'd need an independent organization to appeal on those issues. No, we are opposed to it in the United States, and we're strongly opposed to it here.

[*Translation*]

**Mr. Robert Aubin:** Your introductory remarks gave me a bit of a start, especially when you said that, in certain countries that have adopted a bill of rights that sets out all the usual problems, the fines sometimes exceed the damages caused to the traveller.

How would you assess those damages? How can you say that a fine is out of proportion with the problem caused to the passenger?

[English]

**Mr. Douglas Lavin:** I apologize. I didn't catch your question. I'm having difficulty hearing. Could you restate it?

[Translation]

**Mr. Robert Aubin:** Yes.

You said earlier that, in certain countries that have a bill of rights, the companies have to compensate the aggrieved passengers beyond their actual losses. What are your thoughts on that?

[English]

**Mr. Douglas Lavin:** Thank you.

Certainly Europe is a very good example of the dangers associated with compensating beyond the loss of time or property. In Europe, with the high fines for even minimal delays, we've seen businesses crop up to help passengers collect fines above and beyond what their damages were. For example, businesses will help a passenger identify a flight that is chronically delayed, have the passenger pay 20 euros for that flight, see it delayed, get the 670 euros for the delay, and then split it with the company. That's the kind of thing we see in Europe and could see here.

I wanted to mention that I think it's important for everybody to note that passengers have significant protections here, but I'll respond if anybody wants any more information on that.

[Translation]

**Mr. Robert Aubin:** I will now turn to the musicians. We rarely have musicians around the table with us.

Welcome.

I was trained in classical singing myself. The instrument is fairly easy to transport, since it does not take up any more room than myself. I can well imagine that if someone puts a Stradivarius in the baggage hold it might be all right as long as no one puts two or three suitcases on top of it. Yet I have a friend who is cellist whose instrument is worth more than my house. To my mind, that is an extreme. Some people buy an extra ticket to keep their instrument with them on the flight, but forget about it if it is a double bass.

What would you like to see in the passenger bill of rights to protect all instruments? I guess some of the larger instruments, such as a double bass, have to go in the cargo hold.

• (1510)

[English]

**Mr. Allistair Elliott:** It's a great question. Thank you for asking it.

Double basses obviously are not going on a plane as carry-on instruments. We understand that there have to be reasonable expectations to the regulations, and we're prepared to do that. I think the biggest thing we're looking for is consistency. Right now, consistency doesn't exist. It's very difficult to make any travel plans with any kind of instrument because currently you really don't know what you're going to get until you show up at the gate. That's the biggest issue for us right now.

Double basses of course are not going to go on a plane. They're going to have to go in the hold. There have been instances where a musician shows up.... I had two of them this summer that I got calls on with different airlines and different situations. A musician was told that they could bring it on and then got to the airport and was told that it had to go cargo. Of course, that caused a delay, and different arrangements had to be made. Again, the biggest issue is the inconsistency in the policies right now.

**The Chair:** Mr. Fraser.

**Mr. Sean Fraser:** Thank you very much.

I'll continue with the musicians, but before I do, Monsieur Aubin, I'm a musician as well. I've been playing the bagpipes for about 25 years or so. Perhaps if you and I travel together we can pay for one ticket and I'll store you in the overhead container.

**Voices:** Oh, oh!

**Mr. Sean Fraser:** I'm curious. One of the things that caught my attention, of course, was the fact that when musicians travel, they're not always travelling for leisure. There's an enormous economic contribution from arts and culture in Canada. Has anyone ever done an assessment on the economic impact of musicians' inability to travel when they do run into issues like this?

**Mr. Allistair Elliott:** Not that I'm aware of.

**Mr. Sean Fraser:** That was easy.

Ms. Schutzman, you were in the middle of a response. If you wanted to take this opportunity...?

**Ms. Francine Schutzman (President, Local 180, Musicians Association of Ottawa-Gatineau, Canadian Federation of Musicians):** I just wanted to say that if people who own large instruments know in advance that they will not be able to transport their instrument, they can purchase, for some instruments, a kind of case that will let them check the instrument. If you've been told that you can carry your instrument on board, and then you don't have that case with you, that's when an instrument can be damaged.

**Mr. Sean Fraser:** It seems that you guys might be singing the same tune—no pun intended—as some of the other witnesses. If there really was enhanced transparency, and you knew what the deal was before you made the deal, that would solve both of these problems?

**Mr. Allistair Elliott:** I believe it would.

**Mr. Sean Fraser:** Okay. That's helpful.

Just bouncing around here, a number of the other witnesses discussed the importance of ensuring that the fines only pertain to what's within the airline's control. I think the minister this morning was fairly clear that this was his intention as well. Is there something in the language of the proposed Bill C-49 that has you concerned that this will not be the case?

Mr. Lavin, go ahead.

**Mr. Douglas Lavin:** The language itself is not a concern, but as Mr. McKenna said, it's in the details of what the regulation will say. Let me give you an example of the concern. What is meant by "control"? We talked about such things as there being a snowstorm, or maybe no gates because of a snowstorm. That would be seen, and I think anybody would agree, as something not within the airline's control. What about a mechanical issue where the airline said that a part needed to be fixed, and a passenger challenged them that they could have fixed that part some other time, or that it should be investigated as to why that part was broken in the first place?

In the U.K., for example, in Europe, the courts decided that they had... In Europe they use the standard of extraordinary circumstances—i.e., that they don't fine an airline for delays if there are extraordinary circumstances. A court interpreting that in the U.K. decided that a very major thunderstorm was not an extraordinary circumstance because the airline should have anticipated thunderstorms in July. Again, with tarmac delays, with all the different things, the definition of it has to be quite subjective. As a result, we don't have certainty, which causes confusion for airlines and passengers alike.

• (1515)

**Mr. Sean Fraser:** How can we achieve that level of certainty? I'm thinking of a weather delay. Nobody is going to blame the weather on an airline, but if the airline made decisions to cut costs along the way and wasn't equipped to deal with the weather that we ordinarily expect, I think that rightfully falls within the intent of the legislation. How do we thread the needle on this one?

**Mr. Douglas Lavin:** I'm not sure if you can, and that's the challenge I have with, for example, a three-hour tarmac delay. I think it's important to recognize the experience of the U.S., for example, in implementing three-hour tarmac delays. If you say that after three hours it's a delay, that means that really it's a two-hour tarmac delay, because the airline will be turning back to the gate within two hours. How do you explain that to...? Think about an international flight. You're sitting on the tarmac at two hours and you want to take off to go to Europe. The next flight is 24 hours later. You're told, "We need to turn back now, because we could be subject to a tarmac delay."

We believe that the airlines are perfectly incented on tarmac delays. It's a wasted asset out on the runway. If it's within their control, they'll do whatever they possibly can to get back. I don't think there should be a hard and fast rule for that reason. As well, defining "control" is very difficult.

**Mr. Sean Fraser:** Okay.

Mr. McKenna, you mentioned that you're not necessarily opposed to foreign ownership but have some reservations, and that reciprocity would be a nice feature if that were possible. What's the rest of the world doing on foreign ownership? I'm thinking of the U.S., the U.K., the EU. What are the rules on foreign ownership in other countries?

**Mr. John McKenna:** I don't have the answer to all of those.

**Mr. Sean Fraser:** Perhaps I asked the wrong group. IATA possibly would know this.

**Mr. John McKenna:** Yes. I'm sure that the U.S. is not quite open to it.

I'll let my colleague answer that.

**Mr. Douglas Lavin:** The U.S. isn't open to it yet. The EU has provided for, in the U.S.-EU agreement, relaxation on ownership.

**Mr. Sean Fraser:** Only between the U.S. and the EU?

**Mr. Douglas Lavin:** Yes, that is correct. I'm not sure in terms of others. I'm just familiar with the U.S.-EU one.

IATA generally is in favour of airlines being treated just like any other companies. On this issue in particular, and I'm sure you've had this expression in your Parliament, we have friends on both sides on this issue, and we are voting with our friends. But generally I would say that airlines being treated like other businesses is what we're looking for.

**Mr. Sean Fraser:** Thank you very much.

**The Chair:** Mr. Hardie.

**Mr. Ken Hardie:** Thank you, Madam Chair.

You mentioned threading the needle, Mr. Lavin. I agree. That's definitely the case. We find ourselves as parliamentarians staring down issues that come along. An airline hasn't behaved well and people are demanding that something be done. They don't look to you. They look to us. There was that poor family that ended up being bumped from the flight, delayed a day, and then dinged another \$4,000 to get on the plane they had already actually booked a flight on. That's the sort of lack of judgment that brings down the wrath of the public on us. The heat gets transferred. You can understand that heat.

We have to look at two things here. There are two key words: judgment and expectation. You say that passengers should have a clear expectation when they buy a ticket. If I look at somebody's tariff, and it says that they'll fly you to Toronto for \$95, but your luggage will end up in Whitehorse, I'm still not going to buy that.

If we look at the logical sequence of the transaction, I buy a ticket with the expectation that I'm going to get on the plane I booked and that I'm going to end up at my destination with the stuff that's travelling with me. We can understand some delays along the way, because things can happen. I mentioned the other day sitting on the tarmac in Kelowna waiting for them to fix a safety problem. Take your time, guys. I don't want to go up there if I can't get back down safely.



What about the person who has a connecting flight. I'm okay. I'm getting to where I live. I have no problem, but what about the connecting flight? Isn't there a reasonable expectation, if people sequence a trip, that they're going to be able to make those connections? Would you not agree that there should be some compensation for the person who has to stay over a night and incur extra expense?

• (1520)

**Mr. Douglas Lavin:** You've raised a number of issues. First of all, I'll say I don't envy the job of a politician and don't pretend to be one. I understand that you get hit on these issues.

I think it's important to stress that these are very irregular operations, and they're called irregular operations for a reason, because there are fewer delays, there are fewer cancellations. The bags are being delivered where they're supposed to be delivered.

You mentioned the safety issue. I don't think you're suggesting that if there's a safety issue, we should be overriding the safety issue to make sure people make their connection. Safety is number one in our book.

What I'm suggesting is that, yes, there are circumstances that are unacceptable. The question is whether regulation addresses those circumstances.

**Mr. Ken Hardie:** When your members don't, then regulations have to. You're certainly not going to create an unsafe situation by taking off, but let's face it, you're responsible for the aircraft, its maintenance, etc. In this case, the aircraft wasn't airworthy for a period of time. What do you do? What would you suggest as a principle of good customer service in what happened to the people who missed their connections?

**Mr. Douglas Lavin:** Any airline that's a competitive airline does its best to accommodate passengers in those situations.

**Mr. Ken Hardie:** How?

**Mr. Douglas Lavin:** They accommodate passengers by putting them on a later flight. They accommodate passengers by giving them hotel accommodations when appropriate. There are all different things airlines do to accommodate their passengers, and again, their track records show that.

I'm not familiar with the exact situations. Certainly you have airlines that have testified to you before me and will after me, so those issues should be directed specifically to them on specific circumstances.

My point is that in 1987, your predecessors agreed to deregulate the industry, because they said that the private sector and the market mechanisms would do a better job, and there's no evidence that this is not the case.

**Mr. Ken Hardie:** I would disagree, in some cases, sir.

I want to talk about service to the north, because that is critical, and leaving the burden of that solely on the free enterprise system and market forces has led to extraordinary prices to get around there. I've been pricing some of that out, and it is quite steep. Obviously, those folks find it very difficult to get in and get out.

Is there a solution to that? Does it mean some sort of government subsidy to lower that cost, or are there other things that could happen, Mr. Priestley?

**Mr. Glenn Priestley:** We've got an area darn near half the size of Canada with the population of Kingston, if we go from latitude 55° north, which is the true north. It is a problem. It is a concern. How do the operators handle it? All of our airplanes are combi—we can move the wall, so that we can take more. There's always freight to go north. Sometimes there are not that many people, so we can move the wall within an hour to take more cargo if we have it that day. On occasion, sometimes, we reach a situation where we can't do that and some people get left behind.

I can't address your question on cost today. It's economics. It's just very expensive in the north. Our concern with the CTA is because of some of the other modernization initiatives, such as accessibility issues and insurance that they're looking at being empowered under the Canada Transportation Act. They are only going to make the costs higher.

**The Chair:** Thank you, Mr. Priestley.

Go ahead, Mr. Chong.

**Hon. Michael Chong:** Thank you, Madam Chair.

I have a question for Mr. McKenna concerning joint ventures. I know Mr. Lavin declined to comment on it.

Mr. McKenna, do you have an opinion on these joint ventures that airlines have proposed in the past, such as the joint venture between Air Canada and United Airlines that was struck in 2011?

**Mr. John McKenna:** Actually, we're still studying that matter and we don't have comments to make at this point. I'm sure you'll be hearing from other airlines later today that have comments on that, and I look forward to hearing their comments also.

**Hon. Michael Chong:** Mr. Priestley, do you have any opinions on that?

**Mr. Glenn Priestley:** No.

**Hon. Michael Chong:** All right.

Madam Chair, I don't have any more questions.

**The Chair:** That's wonderful. Sorry, I didn't mean it disrespectfully.

Go ahead, Mr. Badawey.

**Mr. Vance Badawey:** I'm fine.

**The Chair:** Mr. Badawey is fine.

Go ahead, Mr. Godin.

[*Translation*]

**Mr. Joël Godin:** Thank you, Madam Chair.

My first question is for Mr. Lavin.

In your opening remarks, you said you hope airport fees will be reduced. That is important to you. You said that the minister has not included this in the first phase of Bill C-49. It is unfortunate that this bill does not go far enough.

Do you think measures could be included in this bill to reduce airport fees while also respecting the passenger bill of rights and passengers' wish for a better travel experience?

• (1525)

[*English*]

**Mr. Douglas Lavin:** I guess I'm hesitant to second guess whether Bill C-49 could accommodate that. I think that's more your business than mine. All I can say is that the rents in particular have been a concern of the airline industry. For any airline that flies here, rents have been a significant barrier to, for example, Toronto or Vancouver becoming the global hubs that they would like to be. If you look at it, they've collected \$58 billion so far and expect to collect \$12 billion more in the future. We just find that is not competitive with the rest of the world. We are hopeful that, if you could accommodate that, certainly on the passenger rights side—I've stated our position quite clearly—I anticipate that we will work closely.

We have great respect for CTA and Transport Canada and hope that whatever they come up with post-Bill C-49 is reasonable. But the number one priority of the airlines and the passengers is the high cost of travelling in Canada.

[*Translation*]

**Mr. Joël Godin:** I would like to continue along this line of questioning.

You can identify certain fees that are perhaps excessive—if I may use that word—and that could be limited, reduced or eliminated. Can you say which fees, in your total bill, you would eliminate if you were in the minister's shoes?

I am asking you to do some role playing this afternoon.

[*English*]

**Mr. Douglas Lavin:** Certainly, the rent is a big issue. The air traveller security charge is one of the highest in the world. The fact that you have user-pay plus, plus, plus here, whereby the government itself is not making the investment that it needs on security, and in fact puts it on the back of the passengers, even exceeding the services that are provided. The estimates in terms of... As I said earlier, the baseline tickets globally are 64% lower now than they were in 1996 in real dollars. In Canada, that's not the case. I don't have that figure. It may be 64% at the base, but the fees associated with it—which are up to 50% to 60% of that base fare for taxes and fees—are the main barrier to a successful and vibrant commercial airline industry in Canada.

[*Translation*]

**Mr. Joël Godin:** Thank you.

As to reducing fees, you have offered some potential ideas and they are duly noted.

Returning to the customer experience, rather than imposing a fine or serious consequence on the company, you suggest that passengers should be informed. You would like us to follow the exam-

ple of Australia and China as regards transparency. Do you honestly believe that approach could have a positive effect on the experience of Canadian customers?

[*English*]

**Mr. Douglas Lavin:** Our experience in Australia, China, and other places, is lower ticket prices, lower delays, and lower cancellations by this approach.

If I can have just one minute I think it's important to recognize here that Canadians have passenger rights now. First of all, Canada is a signatory to the Montreal Convention, which put a maximum in terms of how much they are compensated for lost baggage and for cancellations. You already have those.

Secondly, the CTA—as Mr. McKenna mentioned—has their process. More than 95% of those complaints are resolved between the airline and the passenger. It is 95%. I think this transparency we're talking about in Bill C-49, absent the fees, would make the most sense.

• (1530)

[*Translation*]

**Mr. Joël Godin:** I have one final, quick question.

Are you in favour of the status quo or do you think Bill C-49 will improve the customer experience?

[*English*]

**Mr. Douglas Lavin:** I am concerned that it won't improve the customer experience because it will take away competition at the service level by harmonizing across as to the standards. I also feel that unintended consequences are very dangerous across that and it will increase prices. The only place that airlines can go with those increased costs is to pass them on to passengers.

Thank you.

[*Translation*]

**Mr. Joël Godin:** Thank you, Mr. Lavin.

Thank you, Madam Chair.

[*English*]

**The Chair:** Monsieur Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you, Madam Chair.

I would like to talk to Mr. McKenna for a few minutes.

You made some recommendations for future regulations, which are unfortunately not included in Bill C-49. I hope the Canadian Transportation Agency has heard you and that we can resume this discussion one day.

You also mentioned foreign ownership. In your opinion, there is no evidence that increasing foreign ownership would lead to the creation of low-cost airlines or to price cuts by current airlines.

I was surprised when you said that there is no reciprocity. I would ask you to elaborate on what you mean by that. Are you saying that we should have included such agreements in free trade accords, such as the one with the European Union? Is it on a case-by-case basis such that, for instance, a British investor could not invest in a Canadian company unless Canadian investors could also invest in Great Britain?

**Mr. John McKenna:** That is exactly what I meant.

Reciprocity means that we are given a right if we also give that right to foreign investors. So if Americans wanted to invest in Canada, would we have the right, by virtue of reciprocity, to invest in an American airline up to 49% or 25% per investor, as the case may be? That is the question we are raising.

This could indeed be included in a free trade agreement on a national basis, and not necessarily between companies.

**Mr. Robert Aubin:** Thank you.

I will go back to the musicians.

I clearly understood that you want to see the greatest consistency or uniformity possible in services from one company to the next. I would ask you, however, to tell us the specific elements that would enable us to establish that consistency for all companies.

Would it be reserving the overhead bins for instruments? Or companies having pressurized equipment that would enable them to put larger instruments in the cargo hold? What minimum standards would you like each airline to accept?

[*English*]

**Mr. Allistair Elliott:** We refer to what our colleagues in the U.S. went through in the last few years with the FAA Modernization Reform Act of 2012. I don't have that memorized, but the consensus of it is primarily with regard to carrying instruments on within the cabin. If it fits in the overhead bin, it can be put in the overhead bin, not asked to be removed to be replaced with luggage and not asked to be taken off the plane.

If I'm correct, I believe there's a weight limit as opposed to a size limit. As we said earlier, musicians' briefcases are oddly shaped, and they don't fit in the little compartment that is for carry-on baggage. That's the crossover. It didn't get into storage of instruments or pressurized areas underneath the planes. We respect that there are a lot of dollars involved in the economics of that. It hasn't gone that far.

The biggest ask is consistency with regard to carrying instruments on, more than anything.

• (1535)

**Ms. Francine Schutzman:** I'd like to add that Air Canada's current practice, if I understood correctly, is that musicians will be allowed to pre-board. I think that we have all seen many things put into overhead compartments that could easily be put under seats.

It's a question of balance. When you're talking about something so extremely valuable that even putting it in a pressurized cabin, like animals.... We've heard of animals being harmed in pressurized cabins. It's part of your life. It's your soul, and you want to keep it as close to you as possible.

[*Translation*]

**Mr. Robert Aubin:** Thank you.

[*English*]

**The Chair:** We have completed round one. Are there any other questions anyone has that they would like to ask?

Mr. Graham.

**Mr. David de Burgh Graham:** I'm not going to take much time, I just wanted to finish with Mr. Priestley, from when we were cut off.

Just out of curiosity, in the north, how many of our airports have things that we take for granted in the south, like paved runways, control towers, or ILS?

**Mr. Glenn Priestley:** Nine out of 117, and only five of those have all of those things you mentioned.

**Mr. David de Burgh Graham:** That puts it into perspective. Thank you.

**The Chair:** Mrs. Block.

**Mrs. Kelly Block:** I have just one more question. I want to go back to some of the observations I made around phase two. I cannot get away from that knowing what brought about the Emerson panel report was the fact that we expedited a statutory review. That statutory review takes place every 10 years.

If we're believing that phase two is going to happen anytime between now and 10 years from now, I'm interested to see how that's going to happen. It doesn't mean that you have to wait 10 years, but there's no requirement to do it. In fact, we've had witnesses recommend that we put back provisions in the bill that require a review of the changes that have been made because that's missing in Bill C-49.

What measures should have been put in this Bill C-49 to address the concerns you've raised about the costs that our air travellers incur, and do you see prices going down under any circumstances in Bill C-49 as it is?

**Mr. Douglas Lavin:** I'm happy to answer. I don't see any circumstances whereby Bill C-49 by itself would reduce prices.

In terms of what we would have liked to see, again, the number one focus was costs. First of all, we're on record saying that we want an elimination of airport rent, but even a phase-out of airport rent would be useful. A reduction in the CATSA fee and more government investment in security would be good, as opposed to putting that on the backs of air travellers. We see a lot of evidence in the Emerson report talking about how CATSA could be reformulated to address the security lines issues and to change the one-size-fits-all.

There are all those different things, and those all impact on the competitiveness of the airline business in Canada. The minister said that ownership.... If you listen to his remarks and look at Bill C-49, the only thing he points to on reducing costs is ownership and control, which in theory would increase competition in the marketplace. Again, Mr. McKenna and I have both stated that we find that highly doubtful when the costs to doing business in Canada are so high. It is not ownership and control that are preventing airlines from coming in here and doing business.

**Mrs. Kelly Block:** Thank you.

**The Chair:** Thank you.

Monsieur Godin.

• (1540)

[*Translation*]

**Mr. Joël Godin:** Thank you, Madam Chair.

I have a very quick question for Mr. McKenna.

Correct me if I am wrong, but I think you said that the cost of reimbursements would affect the fees travellers pay. In other words, that cost would determine whether fees have to go up or down.

Is that what you said?

**Mr. John McKenna:** I said that if the bill or the subsequent regulations require the airlines to pay large amounts of compensation, that will ticket prices will of course be higher ultimately.

**Mr. Joël Godin:** Okay. That brings me to my second question.

This summer, my son went to Victoria. Owing to special circumstances, Air Canada asked him to give up his place, which meant he had to wait at an airport for 24 hours. For a young person, sleeping on an airport bench is no problem, but older people prefer greater comfort. In any case, my son accepted the offer. His ticket cost about \$435, but he was offered \$800.

Is it common industry practice to offer compensation above the cost of the ticket?

**Mr. John McKenna:** You are talking about a case where one, two or three passengers are asked to leave the aircraft and are in turn offered significant compensation. It is a very different different situation when an airline has to offer compensation to all passengers due to a delay. The cost to the company is not at all the same. That kind of practice does exist. The airlines want to entice those people to leave the aircraft voluntarily, without leading to complaints or similar problems. Those are not really the same circumstances.

**Mr. Joël Godin:** Okay, thank you.

[*English*]

**The Chair:** Is everyone happy? Does everybody have sufficient information?

Thank you to the witnesses. It has been a bit of a long afternoon for you folks as well, so we thank you very much for coming and sharing your thoughts with us as we move forward.

We will suspend for the next group to come to the table.

• (1540)

(Pause)

• (1550)

**The Chair:** I will call the meeting to order.

Our witnesses are in place, and our staff. We have a very short break between this group and the next, so if we can gain five minutes, I think it would be appreciated.

We have with us, Air Transat, Canadian Air Transport Security Authority, Canadian Automobile Association, and the National Airlines Council of Canada.

I thank you all for being here. Who would like to be the first up?

I don't see any volunteers, so how about Air Transat going first? Please introduce yourselves and go on with your opening remarks. Thank you.

[*Translation*]

**Mr. Bernard Bussièrès (Vice President, Legal Affairs and Corporate Secretary, Transat A.T. Inc., Air Transat):** Thank you, Madam Chair and dear committee members.

My name is Bernard Bussièrès and I am the vice president of legal affairs at Transat. With me is George Petsikas, senior director, government and industry affairs.

Transat is honoured to be invited to appear before you today as part of your consideration of Bill C-49, Transportation Modernization Act.

Since we were founded in 1987, we have always worked diligently and proactively with government decision-makers, legislators, and regulatory officials in order to develop informed policy that supports growth in travel and tourism, which is an important industry in Canada. It is in this spirit that we appear before you today.

• (1555)

[*English*]

You should be in possession of our detailed corporate brief that we filed with the clerk earlier this month. We would like to use our few minutes this afternoon to offer some supplemental thoughts and reiterate some of our key points outlined therein, which we trust will add value to your deliberations.

[*Translation*]

To begin, we regard Bill C-49 as a first step in resolving certain challenges facing the airline industry, which is vitally important to Canada. Although the bill attempts to include some of the Emerson report recommendations, it does not address certain key aspects such as tax policy for the sector, cost competitiveness, the funding of air travel infrastructures, revision of the user-pay model, and airport governance.

We would ask the federal government to follow up on these aspects as soon as possible in order to thoroughly and comprehensively improve the policies that affect our industry and travellers alike.

[*English*]

With respect to the proposed airline consumer rights framework outlined in Bill C-49, Transat was one of the first industry stakeholders to publicly welcome this initiative after the tabling of the bill in Parliament. As we publicly stated at the time, we are fully prepared to work with government regulators and our industry colleagues to achieve a fair and balanced compensatory and duty-of-care framework that ultimately enhances the consumer experience.

We refer to our further caveats outlined in our brief, and reiterate support for the input that will be provided by our NACC colleague today.

[*Translation*]

Today we would like to focus on our main concerns about Bill C-49, specifically the provisions pertaining to air carrier joint ventures. At first glance, these provisions seem harmless, but they are not. I readily admit that they are obscure and complex. In our brief, we tried to explain in detail why they are in fact a long-term threat to healthy competition in our industry and to achieving a fair and reasonable balance between the public interest and the interest of airline customers.

We therefore invite the committee members to consider the following as they examine the amendments we are proposing to these provisions.

[*English*]

Transat is not attempting to be obstructionist with its approach in this case. There are indeed many reasons why airline joint ventures may result in more services, destinations, and other additional benefits for Canadian travellers, communities, and for the economy as a whole.

This, of course, is good, but we do not believe it should be achieved at any cost or risk to the consumer interest. Put simply, stated efforts by the government to rebalance the public versus consumer interest consideration in this case have resulted in the pendulum being shifted to the other extreme and to the ultimate detriment of fair competition.

[*Translation*]

The ubiquitous public interest standard, which is a common feature of legislation seeking to provide residual powers for ministerial authority to address a broad range of undefined matters and circumstances, is simply not sufficient as drafted here to justify the pre-

empting of critical competition law oversight to these potentially anti-competitive agreements between competitors.

[*English*]

The conservation and coordination of critical functions such as route development, capacity deployment, fare-setting, etc., among JV partners should be considered as a de facto merger of these respective commercial entities. Existing law is sufficient to establish whether these types of agreements between competitors are in the public interest.

Indeed, we believe it is incumbent on those stakeholders who are advocating for joint-venture specific provisions to justify why they are in fact needed and why their commercial or corporate objectives are impossible to achieve without same.

[*Translation*]

It must always be remembered that past commissioners of competition have already expressed serious concerns regarding potential anti-competitive behaviour by airline joint ventures, especially in environments where they control high concentrations of market share. This is not just Transat waving the caution flag here.

[*English*]

Furthermore, and as indicated above, we recognize that there has often been a legislative and policy balance to be struck between the concepts of the public and/or national interest versus the narrower consumer interest that competition law primarily oversees. This balance has already been achieved in the transport sector through the merger provisions incorporated through the Canada Transportation Act, which were crafted at that time jointly by the commissioner of competition and the then Minister of Transport.

• (1600)

[*Translation*]

Therefore, instead of reinventing the wheel, we propose for greater clarity and consistency that these merger provisions be largely adopted for the review and approval of joint ventures. The process that we propose would be more transparent as the report of the commissioner of competition, and the decision to immunize a joint venture, would be made public.

[*English*]

It would provide a public rationale for the choices made by the Governor in Council, with input from all relevant departments, instead of granting the Minister of Transport sole responsibility for immunizing joint ventures in a decision that requires no publication.

[*Translation*]

This would result in a decision enforceable by both the commissioner of competition and the minister of Transport, who have different knowledge and responsibility with respect to the joint venture.

[*English*]

It would include a periodic review process to ensure that the consequences of the joint venture continue to justify immunity.

[*Translation*]

In closing, the need for a fair, transparent and public process regarding the immunization of airline joint ventures from competition is particularly important in the Canadian context, where the industry is dominated by one major carrier. We believe our proposal, which mirrors the current process for mergers in the transportation sector, meets these objectives.

Thank you for your kind attention and we look forward to answering your questions.

[*English*]

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

We'll go on to Mr. Parry and the Canadian Air Transport Security Authority.

**Mr. Neil Parry (Vice-President, Service Delivery, Canadian Air Transport Security Authority):** Thank you, and good afternoon, Madam Chair.

My name is Neil Parry. I am vice-president of service delivery at the Canadian Air Transport Security Authority, also known as CATSA. Thank you for the opportunity to speak with you today.

As many of you know, CATSA is an agent crown corporation, funded by parliamentary appropriations and accountable to Parliament through the Minister of Transport. CATSA is responsible for taking actions, either directly or through a screening contractor, for the effective and efficient screening of persons who access aircraft or restricted areas through screening points. Also, the property in their possession is controlled, as well as the belongings or baggage that they give to an air carrier for transportation.

CATSA, as the civil aviation security screening authority for Canada, is regulated by Transport Canada and is the designated national civil aviation security authority. CATSA is subject to domestic legislation, regulations, and procedures in the way that it conducts its business and screening. In this context, CATSA's mandate outlines four core responsibilities within the realm of aviation security: pre-board screening of passengers, screening of hold baggage or checked baggage, the screening of non-passengers, and the restricted area identity card program.

Given the nature of today's meeting examining Bill C-49, the transportation modernization act, my remarks will focus on the amendment associated with the Canadian Air Transport Security Authorization Act. Specifically, this relates to the cost recovery of security screening operations in airports across Canada.

Bill C-49 contains two changes to the CATSA act. These changes would formalize policy authority for cost recovery initia-

tives for designated airports that strive for expedited passenger screening and cost recovery for non-designated airports. These services would normally be beyond CATSA's mandate and would require authorization from the Minister of Transport.

Under the direction of Transport Canada, CATSA has undertaken two trials on cost recovery to date. In 2014, the Greater Toronto Airport Authority sought the approval of the Minister of Transport to purchase additional screening capacity directly from CATSA for pre-board screening operations. CATSA and the GTAA subsequently entered into an agreement, following authorization from the minister, that allowed us to effectively sell them additional screening hours. A similar trial agreement was entered into in June of this year, between CATSA and the Vancouver Airport Authority, for the same thing.

In 2015, Transport Canada amended regulations to allow non-designated airports to enter into cost recovery agreements with CATSA for the purpose of attracting new commercial routes and potentially enhancing economic development. These airports must meet the same requirements as a class 3 airport within Canada. To date, CATSA has entered into consultations and discussions with 12 non-designated airports and while the discussions have been productive, no agreements have been signed.

With those introductory remarks, I thank the committee. I would be happy to answer any questions related to the subject.

• (1605)

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

We will go to the Canadian Automobile Association and Mr. Walker.

**Mr. Jeff Walker (Chief Strategy Officer, National Office, Canadian Automobile Association):** Thank you very much.

My name is Jeff Walker and I am the chief strategy officer at the Canadian Automobile Association, or CAA as most people know us.

Thank you very much for having us here today. We're looking forward to speaking today on Bill C-49, specifically as it relates to air passenger rights.

I'm going to begin my remarks by providing a little bit of background on our role in air passenger rights issues. As many of you probably know, CAA has been around for over 100 years. We were founded in 1913 and our major mandate at the beginning was road and driver safety, as an advocate for the consumer and the consumer interests around roads and driving. Today we have 6.2 million members from coast to coast and we offer a wide range of services that go far beyond that.

In fact, CAA is Canada's largest leisure travel provider and we have a large network of 137 stores across the country and online that provide services to members. We remain a not-for-profit, member-driven organization that is at its heart an advocate for the Canadian traveller.

Our agents at CAA work with air passengers every day and we understand this business very well. This allows us to take a strong and informed position in favour of air passenger rights while at the same time recognizing that the consumer interest is best served by healthy, competing airlines.

The passenger protection regime we have in Canada has been untouched for many years, leading to a widening discrepancy between how U.S. and European air travellers are treated on one side, and how Canadians are treated on the other. It's time we do better when it comes to protecting Canadian air travellers.

We do a lot of polling, a lot of member research. The work we've done in talking to members and non-members alike has found that over 90%—in fact, 91%—of Canadians agree that it's time Canada had its own national airline consumer code. We welcome and support Bill C-49 as it contains many of the improvements that we have been calling for over the last several years, and we believe it's going to be better for the travelling public. At the same time, the bill will only take us partway to where we need to be. The bill leaves the all-important details on treatment and compensation—for example, when and how much—to a future regulatory process, and we urge this committee to pay close attention to that process. A good-sounding bill will end up not meeting expectations if the end result is a coffee coupon and compensation for being bumped somewhere someday. We all have to work to make sure that doesn't happen.

Bill C-49 addresses some important areas such as covering all airlines, both domestic and foreign, as well as all passengers, non-Canadian or Canadian, to avoid situations where there is an uneven playing field. It sets out minimum standards of treatment and compensation for key categories such as delays, cancellations, over-booking, and lost bags. It addresses the seating of families with children at no extra fee. It provides the CTA's ability to collect and monitor airline performance data as it relates to passenger handling, and it gives the agency the ability to extend decisions to other passengers on the same flight who are affected by the same incident.

However, the bill relies on a complaint from a passenger in order to trigger any action. We agree with Scott Streiner, who is the CEO of the CTA, and David Emerson, both of whom said in testimony earlier this week that the regime would be more effective if the agency could initiate its own investigations when it deems necessary and make industry-wide rulings on minimum treatment rather than restricting its findings to passengers on one specific flight.

It's worth noting that the CTA was able to initiate hearings in the Air Transat situation a few weeks ago only because it concerned an international flight. It just happened to fall into that space; otherwise, unfortunately it could not even have been dealt with in that context. The CTA wouldn't have had the authority, even under Bill C-49, to decide to hold a hearing into a similar situation if the flight occurred within Canada, nor will the CTA be able to examine any broader systemic issues that the CTA might note unless they come

from a specific complainant. It might have to ask the minister for permission to investigate them.

Another matter worth noting is that in some circumstances, regulations are likely to set out clear rules, for instance, that for a delay of  $x$  hours within an airline's control, passengers might receive  $y$  in compensation. The current system would require a complaint from a passenger in order to initiate that payment. Airlines have this information though, and they know when they're offside, so why does this system have to wait for a complaint? Why not compensate proactively in these cases?

This is an important consideration in light of recent findings from the EU consumer association, which reports that only one in four EU flyers is getting the compensation they're due for lengthy delays because airlines are not required to proactively offer it. This would allow CTA to focus on more complex complaints.

● (1610)

The International Air Transport Association says 60 countries have some form of passenger rights legislation already in place. For too long Canada has relied on the airline's own policy, and a needlessly complex complaint process through the CTA. While the vast majority of air travel goes off without a hitch, a clear set of standards would benefit everyone from passengers to the industry, which will be able to compete on a level playing field.

However, as noted earlier, whether this new regime is effective will be dependent on the regulatory process. As a consumer watchdog, here are some of what CAA is looking for in this process.

First is clear, simple, and understandable terms and conditions that the average traveller can understand. Second is levels of compensation and minimum treatment that ensure travellers are well treated and that for the airlines, in the words of Parliamentary Secretary McCrimmon, “it’s not worth your while...to treat people this way”. Third is proactive disclosure by airlines of a consumer’s right to compensation and minimum treatment. Fourth is regular reviews to ensure that regulations and compensation levels remain appropriate, and finally, airline performance reporting with respect to the handling of passengers and luggage should be made public regularly. Sunshine is after all the best disinfectant.

We will be participating in the regulation-making process to be sure that consumer interests continue to be heard loud and clear. In order for Canadians to judge the new system a success, we need to make this right.

We urge this committee to stay engaged even beyond these hearings to make sure the eventual system is one that works well for all Canadian air passengers.

Thank you. I’d be pleased to take any questions.

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

We go to the National Airlines Council of Canada and Mr. Bergamini.

Welcome.

**Mr. Massimo Bergamini (President and Chief Executive Officer, National Airlines Council of Canada):** Good afternoon, Madam Chair, members of the committee.

[*Translation*]

My name is Massimo Bergamini, and I am President and CEO of the National Airlines Council of Canada.

I want to thank you for the opportunity to appear today to provide my organization’s perspective on Bill C-49.

But before I begin, allow me to say a few words about our organization and industry.

The National Airlines Council of Canada was created in 2008 by Canada’s four largest airlines—Air Canada, Air Transat, Westjet and Jazz Aviation—to advocate for policies, regulations and legislation that foster a safe and competitive air transportation system.

[*English*]

Collectively, our members carry over 92% of Canada’s domestic air traffic, and 65% of its international air traffic. They employ over 50,000 Canadians directly, and contribute to an additional 400,000-plus jobs in related sectors such as aerospace and tourism. According to the Conference Board of Canada, in 2012 our industry contributed almost \$35 billion to Canada’s GDP. Those are significant statistics that speak to the role that a strong, competitive aviation industry plays in ensuring Canada’s economic prosperity.

More to the point of our discussion, commercial aviation has become the only practical way for millions of Canadians to travel to be with family, for work, or simply to explore our vast country, and travel they do. According to Statistics Canada, the total number of passengers emplaned and deplaned in Canada increased by some

30% between 2008 and 2016. There’s no doubt that the era of elite jet-setters is long past.

Our members alone were involved in over 71 million passenger movements last year. As people now book flights as readily as they drive cars, air travel is becoming the domain of the middle class, not the 1%. For Canadians, flying is now part of daily life. It’s the lifeblood of an open, diverse, and geographically dispersed society.

In our country the freedom to travel is considered a given. Air transport has become an essential link between people and communities. To quote the Emerson report:

Not only does air travel provide access and labour mobility to urban, rural, and remote locations in Canada, but airports and air carriers act as economic engines for communities and for the country as a whole....

This is why a competitive commercial air industry is so important. That is why this bill is so important, and that is why getting it right is also so important.

Unfortunately, we think the government’s approach falls somewhat short of that mark.

The Emerson report recognized the complex interconnections that make up the travel experience and that contribute to our industry’s global competitiveness. It proposed a three-pronged approach to addressing the major components of a competitive airline industry: cost, access, and the user experience. Bill C-49 addresses only one, the user experience.

For the government to lead with Bill C-49, absent economic measures to address the public cost structure issue, from our perspective, risks creating further economic imbalances that may eventually hurt those the bill is meant to protect.

● (1615)

[*Translation*]

To be clear, while we find that some aspects of the bill require clarification—you will find our recommendations in the technical annex to my remarks—we do not take issue with the bill or in any way oppose its adoption.

We are, however, concerned that the government’s approach amounts to putting the cart before the horse.

Putting in place an economic penalty system as the framework for dealing with service issues, without addressing public cost structure at the same time, runs the risk of negatively affecting the industry and, ultimately, passengers.



[English]

As Mr. Lavin of IATA pointed out earlier, the international experience on this matter is instructive and should be noted.

As I said at the time of the bill's tabling last May:

Our organization and members share and support Minister Garneau's commitment to ensuring that all air passengers have the best air travel experience possible and look forward to working with him and with the Canadian Transportation Agency to this end.

However, we also recognize that the air travel experience doesn't start with check-in and end with baggage pickup, and it doesn't happen in an economic or systems vacuum.

There are a lot of moving parts in getting a passenger to destination. It involves the coordinated efforts of hundreds of dedicated people working in airlines, airports, air traffic control, air security, and border services. Every trip takes place within a complex web of systems, regulations, and costs. Each piece contributes to the outcome, and each must be considered when trying to improve service to passengers. There is no doubt that, sometimes in this complex system, capacity is stretched by unforeseen circumstances, mistakes are made, flights are delayed, luggage is lost, and connections are missed.

In 2016, there were some 2,800 passenger complaints made to the Canadian Transportation Agency, or about eight per day. Of these, 560 were either withdrawn or were outside of the agency's mandate. Of the remaining complaints, 97% were resolved through facilitation. That is to say, the airline was informed of the complaint and reached a mutually satisfactory agreement with the guest without further agency involvement. Less than 1% went to adjudication.

[Translation]

Far be it from me to minimize the significance of these complaints, or the inconvenience that passengers experienced, but it is important to place those numbers in the context of a system that moves over 350,000 passengers per day, every day.

[English]

Clarifying and codifying the rights of passengers, as Bill C-49 does, is a positive measure, and it will lead to more certainty in the marketplace. Of that, there is no doubt. We are disappointed, however, that this measure was not introduced in conjunction with concrete steps to address the uncompetitive public cost structure faced by our industry or the systems bottlenecks caused by underfunding of air security and border screening.

The Emerson report recognized how mounting fees and charges, as well as delays in security screening, affect travellers and the efficiency of the industry. It recommended phasing out airport rents, reforming the user-pay policy for air transport, and putting in place regulated performance standards for security screening. Unfortunately, absent any provisions in the government's five-year fiscal framework for additional spending in this area, Bill C-49 alone will do nothing to address the cost pressures on our airline industry or the systems bottlenecks outside of its control.

September is when the leaves start changing in Ottawa and when Parliament resumes sitting. It is also when budget deliberations get under way in earnest within government. It is our hope that when

your committee has completed its study of this bill and is ready to return it to the House, you include a recommendation that the government begin taking immediate steps to implement the competitiveness provisions of the Emerson report in next year's federal fiscal framework. Implementing the Emerson report recommendations on the air industry's public cost structure as well as on eliminating passenger screening bottlenecks in parallel with the provisions of Bill C-49 would be a true game-changer for airlines, airports, travellers, and ultimately the country.

Thank you.

• (1620)

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

Going on to questions, we have Ms. Block.

**Mrs. Kelly Block:** Thanks very much, Madam Chair.

I want to thank all of you for joining us today. I'll get right to my questions, since six minutes goes by pretty quickly.

We know that Bill C-49 is the result of consultations in response to the Emerson panel's review of the Canada Transportation Act, which was expedited by the previous government back in 2014. As was referred to by many of our witnesses, while they appreciate some of the things in Bill C-49, it misses the mark in many ways.

One of the things that I would like to pick up on would be the measures you've just identified that were in the Emerson report but are missing here. I would ask you to comment further on that. Were you consulted during the time when this bill was being contemplated? Were there measures you recommended to Minister Garneau to be included in Bill C-49?

**Mr. Massimo Bergamini:** With respect to consultations, yes, on Bill C-49 but also on the industry cost structure. We've had discussions with the government, and not only with the current government but with previous governments. This has been a long-standing issue, of course.

The basic problem is not so much with a willingness and a general commitment on the part of Minister Garneau. Minister Garneau has told us, as I believe he has indicated to this committee, that he is looking at a phased approach. We note, however, that in November, when he unveiled his vision 2030 plan, the minister indicated that he was working towards a set of regulated performance standards for CATSA.

I can tell you that on budget day we were waiting very impatiently for the budget to be tabled so we could see what changes were actually introduced with respect to performance standards, which is a key element of the solution. Of course, performance standards without funding are meaningless. As you can imagine, we were disappointed. The budget was silent in that area.

The issue is not so much that there hasn't been consultation or there haven't been commitments. The issue is that there are competing political priorities that require the allocation of scarce dollars by this government and by all governments.

This is really fundamentally what we're saying: if you go with this as your first step, you run the risk of people saying, "Check, done, and we can move on to something else." We believe it is fundamentally important to look at the complexity of the system and take an ecosystem or holistic approach to dealing with it, and that requires funding.

Thank you.

**Mrs. Kelly Block:** Would anyone else like to add anything?

**Mr. George Petsikas (Senior Director, Government and Industry Affairs, Transat A.T. Inc., Air Transat):** That's fine.

**Mrs. Kelly Block:** Okay. We'll move from the holistic approach that you were hoping for or asking for to drill down into some of the measures that have been raised as problematic.

In your view, is it in the consumer's best interests to have the Minister of Transport, rather than the Competition Bureau, determine whether joint ventures should be approved or blocked? I'll throw that out to any one of you.

• (1625)

**Mr. George Petsikas:** We'll start since we've made it pretty clear that it's something that concerns us.

As we indicated in our opening statement, we are trying to be realists here. We know how the world is evolving. These joint ventures are out there, not only in Canada but in the United States and Europe, and they offer a lot of potential advantages for travellers in terms of enhanced connectivity, more destinations, etc. However, when we look at it in the Canadian context, we have to look at our specific circumstances here.

We are a small market in Canada. We have one airline in particular that is interested in these sorts of joint ventures and in these provisions that would effectively indemnify that joint venture, protect it from the scrutiny, if you will, or active enforcement of competition law by transferring that power to the minister. We know who that airline is. They're a member of a joint venture right now, which, according to our numbers, out of 30 transatlantic markets in 2016, controlled over 35% market share. That's those three major members: Air Canada, Lufthansa, and United. This is in and out of Canada.

In several of those markets, that figure exceeded 40%, and in two of them over 80%, and one 90%, Switzerland. These are extraordinary market shares, and as such, when you take that reality, and all of a sudden you propose to curtail the ability of the commissioner of competition to look at the ultimate consumer interests here, how this is being deployed, and whether or not it may not be in the long-

term interests of the Canadian consumer, that's why we're ringing the bell here and we're saying hold on. Yes, the minister has a role to play. Yes, there are public interest considerations that must be looked at: job creation, connectivity, and trade and commerce. This is all good, and I think our colleagues from WestJet talked about connectivity yesterday.

However, it's not at any cost. What has happened here is that the pendulum, as we said in our opening remarks, has swung too much towards the ability of the minister, in terms of a politicized process, to make this decision without necessarily having a meaningful input on the part of the competition commissioner, and a transparent input at that.

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

We go on to Mr. Sikand.

**Mr. Gagan Sikand:** Thank you, Madam Chair.

My question is going to be directed towards Air Transat.

I was on a flight once from California that had to declare an emergency landing in Arizona because the air conditioning stopped working. It got so hot in there that the pilots couldn't operate the plane anymore. I can attest to how unbearable that situation is.

When I hear of passengers stuck on a plane for over six hours, I can tell you unequivocally that it's not acceptable, especially if they have to call 911 to get water. This isn't a forum to do an investigation or talk about tariffs, so I'm going to just ask you the same question I asked the other air carriers, and that's whether you understand why passengers are frustrated with the level of service they sometimes receive from your airline and why they may feel powerless or lacking rights?

**Mr. George Petsikas:** Thank you, Mr. Sikand, for that question.

First and foremost, we'll state the obvious. This was an extremely unfortunate incident. We obviously regretted what happened there. We are a proud airline with 30 years of service to Canada and Canadians. We have won numerous international awards for our service. This is not the way we wanted things to turn out. We have apologized to our passengers. We are working actively and transparently with the CTA public inquiry into this matter. As you know, they held public hearings a few weeks ago, and we told our version of events there. I don't want to repeat that right now because, obviously, it's all on the record, and I don't think it adds anything more to the discussion here.

What I can say is this. If we are to look at anything in terms of a silver lining from this awful situation that took place, it's that it's a cautionary tale. You heard, I believe, our colleagues at Air Canada and WestJet yesterday talk about a holistic, system-wide approach to ensuring that these sorts of things are avoided in the future.

One thing that you have to understand it this. Just putting out an obligation, a penalty, or a fine and saying that, if you don't disembark your passengers after certain hours, you're going to pay this amount of money, would not have helped those passengers that evening. I can assure you that, because we don't need a financial incentive or threat to do what we're doing. Our crews want to get those people where they're going as quickly and as safely as possible.

What happened here was a system that broke down in terms of communications in terms of central coordination. When an airplane is at 35,000 feet going 600 miles an hour, the captain and his crew are basically in control of the situation, with air traffic control, of course. Once that airplane full of people lands on a piece of pavement at an airport, it's a whole different ecosphere. Now we're talking about all sorts of intermediaries and service providers running all over the place. Usually that works well in normal circumstances. I call it the symphony when the plane pulls up to the gate and the trucks come in, the fuellers and the baggage handlers. But when things go wrong, like they did in Toronto, and the whole thing is in complete meltdown, then we need a plan. We need somebody to conduct that symphony right now. We respectfully suggest that it should be the airport.

• (1630)

**Mr. Gagan Sikand:** I'm going to just jump in with having heard you say that you need a plan, because I'm short on time.

I can recognize that's not the norm. I used to take Air Transat to England when I was studying there, all the time.

Because of situations like that, we have introduced amendments in Bill C-49. I'd like to know how Air Transat is going to move with regard to the implementation of Bill C-49.

**Mr. George Petsikas:** We're going to work with you. We're going to work with the CTA in the regulatory process. We will abide by what the ultimate verdict is in terms of the regulation.

The devil is in the details, if you don't mind that expression. Clearly, we're working with enabling legislation here. As long as the high-level principles are agreed to, we'll work with the CTA to come up with a balanced framework that improves the customer experience.

**Mr. Gagan Sikand:** Okay.

I think I'm going to give you an opportunity to discuss joint ventures. Could you reiterate some of your remarks that you mentioned?

**Mr. George Petsikas:** I was with a bunch of American lawyers this morning at the American Bar Association's air and space law forum in Montreal before I drove here. They had a panel on competition law, and aviation and concentration, and their market in the U.S.

It is absolutely a given that if anybody asks for immunity from the application of antitrust laws in the U.S., airline joint ventures—as they've done there—at a minimum, the government has to ensure that they have a comprehensive open skies policy to make sure that the joint venture is being disciplined, if you will, through market

forces, competition, and thus the consumer is provided another level of protection.

That's not necessarily the case here in Canada. Canada has some great open agreements with many countries, but we also have restricted agreements with many network competitors that can compete with the JV here in Canada; that is, Atlantic plus, plus.

If you get immunity from competition law, and at the same time you get protection from vigorous competition that's supposed to protect the consumer, well, you just had your cake and your chocolate chip cookies and your ice cream, and you got to eat it. We're suggesting that's not what public policy should be about.

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

We'll move on to Monsieur Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you, Madam Chair.

Welcome to you all, and thank you for joining us.

My first questions also go to the officials from Air Transat. Perhaps they had not finished their answer. My question is along the same lines.

In the United States, there is an immunization process for certain companies. I do not know whether Bill C-49 mentions harmonization, but perhaps you could list for us, in as clear and simple language as possible, what are the points of convergence and divergence from the immunization process that Bill C-49 is trying to establish.

**Mr. Bernard Bussi eres:** Thank you, sir.

My answer will be quite practical.

Just now, we said that when joint ventures work together to share routes and establish prices, it's a de facto merger. According to the Competition Act and the Canada Transportation Act, it is currently a merger. The current legislation has a process on mergers.

We have attached to our brief an opinion from a former commissioner of the Competition Bureau, Konrad von Finckenstein, who is very well known and respected. He took the time to analyze the proposed provisions on mergers. If joint ventures were subject to those provisions, the concerns would be addressed. The process would then be transparent. Rationales could be submitted and a report could be prepared. So everyone would be able to comment. It would allow companies like ours, or anyone else, such as consumers, to have their say so that any negative consequences for them could be determined.

That is the aspect we are trying to highlight. We are asking you to make some amendments, which basically already appear in existing legislation.

• (1635)

**Mr. Robert Aubin:** Thank you. It is much clearer already. We understand each other better now.

Something that is very clear in the mind of every customer and every airline passenger is the idea of competition. Perhaps we all have a slightly different definition of competition, but we know full well that, basically, it should be good for our wallets.

As a passenger on your airline, or on any other airline, why should I be worried about the current measures?

**Mr. George Petsikas:** As I mentioned just now, in Canada, we are in a situation with one major player with major market shares, I might even call them market strongholds, that may be considerably supported by the proposals in the bill, were the Minister of Transport to agree to immunize that player against the enforcement of the Competition Act. As a result, we would end up with a dominant player that could potentially exercise undue influence on the prices in the market, not at all what a competitive market is supposed to be. Transat is interested in a competitive market. Transat competes with the company we are talking about, Air Canada and its partners in joint ventures.

You may say that it is in my interest to be negative about what those companies want to do, and about the expansion of the network, but that is not the case at all. We are interested in doing what we have been doing for 30 years, that is, to provide consumers with a service at an attractive price and a choice of travel destinations. For us to do so, the market has to be structured to be competitive.

This is a process of giving a player who is already dominant the ability to strengthen that dominance and therefore to shut out competitors like Transat and prevent them from offering consumers better prices and better choices. That is a goal that everyone wants to reach. But what is happening here is a threat to that goal.

**Mr. Robert Aubin:** Thank you.

Now I would like to talk to the CAA representative.

When I first saw your association's name on the witness list, I thought about my CAA card. I was wondering what the connection was between your association and our study, until I remembered that you are one of the biggest travel agents.

You said that Bill C-49 could be an obstacle for the air passenger bill of rights if there were not an efficient transition from the principles in the bill to specific regulations. We will see what happens in the coming months.

If I am not mistaken, you also said that some things are missing in the bill of rights or in the focus it is being given. As I see it, when we analyze a bill, it is just as important to analyze what may have been forgotten as what it contains. Could you tell me what is missing in these major principles that will form the basis of the future bill of rights?

[*English*]

**Mr. Jeff Walker:** To us, the key piece missing from the bill is the implementation measures that will be provided for people in various circumstances when they run into a problem with an airline. We're not necessarily convinced that those pieces have to be put in-

to the bill. We want to make sure, though, that the Canadian Transportation Authority has enough, if you will, licence or latitude to put appropriate measures in place and to adjust them over time.

Concerning some of the points made down the table here, some provisions that could be put in place might end up being too onerous or might not work properly. Any of us at this table understand that if you try to change legislation because one small line item about baggage handling is not properly written, you could be looking at 10 years, whereas if you give the CTA the licence to make necessary adjustments over time—with ministerial oversight, obviously—we're going to be much more able to put a system in place that is consistent for everyone and as adjustable as we need it to be over time to make it right.

That's what's missing, but I'm not necessarily suggesting making a change, other than to make it such that the CTA has the right.

• (1640)

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

We go on to Mr. Hardie.

**Mr. Ken Hardie:** Thank you, Madam Chair.

Mr. Walker, you may be aware of the situation with the Thivakaran family from Toronto. They were the ones who showed up at an airport, were denied entry with their family even though there was space on the plane, were told to come back the following day, and then they were charged again for tickets because they had booked through a travel agency instead of directly with the airline. This to me is a symptom of the old "point in the other direction".

May we have your comments on this?

**Mr. Jeff Walker:** I don't know that case in detail. What I understand about it is that it wasn't just any travel agency. It was a travel agency that was out of country, and there was some murkiness about what the pricing behind that ticket was. I don't want to comment, therefore, on that particular case.

However, there is one sub-element to it that I think we really have to understand. Other people at this table have already talked about it. What we're trying to do is put some system or practices in that are for ordinary Canadians—people who travel once or twice a year, like that family. They don't know their way around an airport. They don't know who to call. They don't know what desk to go to. We need some provisions in place so that it's easy for those people who go to an airport twice a year, not 25 times a year, to know what they're getting and that they're getting the same thing as the people who go 25 times a year.

**Mr. Ken Hardie:** Mr. Bussières, you were mentioning—or perhaps it was you, Mr. Petsikas—that when you had your situation on the ground, people were running around all over the place trying to figure out what would happen next. I think “meltdown” was the term you used.

As it would have been in the situation I mentioned with Mr. Walker, where was the person who just basically said, “My God, we’ve got to look after those passengers who are in the plane”? Where was that person?

[*Translation*]

**Mr. Bernard Bussières:** Thank you for your question, sir.

Let me put what happened into context, because the situation was exceptional and absolutely extraordinary.

The Toronto and Montreal airports were closed because of weather conditions. Twenty aircraft were rerouted to the Ottawa airport, including an Airbus A380 and some Boeing 777s and Boeing 787s. On those 20 aircraft were more than 5,000 people who suddenly and unexpectedly found themselves at the Ottawa airport. There was refuelling equipment, but no staff. There were also handling staff. That was the situation at Ottawa airport, and it was exceptional.

[*English*]

**Mr. Ken Hardie:** Sir, with respect, I understand—

[*Translation*]

**Mr. Bernard Bussières:** Sir, an investigation is under way.

[*English*]

**Mr. Ken Hardie:** I understand how exceptional it was, but we didn’t get complaints from those other aircraft, not that I’m aware of.

Again, if you become aware that you have people in your custody, in your plane.... It’s kind of a rhetorical question at this point, and I understand that. But you could save yourself a world of pain and a world of grief from a government that is asked to do something about the problem that’s created when people don’t think, when they don’t use their head, and they don’t ask the simple question, “What are we going to do for our passengers?”

Johnson and Johnson set the bar pretty well in the Tylenol tampering. They said they didn’t care what the problem was; they would just fix it. Lloyd’s of London did exactly the same thing following the San Francisco earthquake. It just dealt with it and paid the claims.

That’s the value statement that needs to be nailed to the wall in every airline, every business, in fact. Number one is the customer, and we failed, and that’s why government is doing what it’s doing right now.

Mr. Bergamini, I’m going to talk about the balance between user-pay and everybody pays. It was interesting that one of our earlier witnesses mentioned that we’re first in the world when it comes to our airports. They’re great facilities, great everything, but we’re 61st when it comes to the cost. He didn’t really seem to get the connection between the two: the fact that we do pay a lot is the reason we have really good facilities.

What is the appropriate balance between user-pay, through all of the fees, etc., that we talk about, and everybody pays, which turns into a government subsidy? What’s the proper balance here?

• (1645)

**Mr. Massimo Bergamini:** I’m not sure I have a simple answer to that question. Let me just say that there’s no doubt that, from 1994 to today, with the devolution of the airports to local, not-for-profit authorities, we’ve seen massive user-funded investments that have given us enviable infrastructure. That’s the good news.

The bad news is that the governance system and the policy framework have not kept up. This is fundamentally what we’re talking about here. As this committee and this government embark on a quest to improve the air traveller experience, it really is important to look at the entire picture, all of the players and all of the elements that are at play that involve whether a passenger movement is successful or turns into a nightmare.

With respect to user-pay—and all we have to do is look at other modes of transport that are heavily subsidized—there’s a modal equity debate that we should be having. I can tell you one thing: if we embraced the Emerson report recommendations, reversed some of these historical policies, turned some of that money that is currently being collected by governments and/or through users, and put it back into the system, I think we’d have a much healthier, much more competitive, and much stronger air transportation system. I would even argue that it would be a lot easier to find solutions to some of the issues that we are trying to address through regulation and Bill C-49.

**The Chair:** Thank you, Mr. Bergamini.

Mr. Bussières, just hold your response here and if you don’t get a chance to get your point in by the end of the meeting, I’ll make sure to give you that opportunity.

Go ahead, Mr. Badawey.

**Mr. Vance Badawey:** Madam Chair, I just want to preface my comments by saying that this whole process and what we’re trying to contribute to the overall, bigger strategy is quite frankly about people.

We're trying to balance passenger rights with value, as well as recognizing the returns that you expect to do business. As a business person, I recognize the challenges you have and that we all have. The way I was brought up in the business world was that you deal with it, period. Easy or not easy, you deal with it. While you deal with it, you put plans in place. You put contingencies in place and best prepare for those situations on an ongoing basis because we all recognize that businesses don't always run smoothly. At the same time, we also have to respect the people that we're actually trying to make it run smoothly for, who are once again, people.

Having said that, my first question is for Mr. Walker. With the organization you represent, it seems the Minister of Transport has moved fairly quickly on this bill. That's why we're here the week before the House is scheduled to sit. With regard to air passenger rights, which is our priority in having embarked on this process, in a span of a year and a half, he's put forward a very comprehensive set of goals and a regulatory plan to ensure necessary safeguards for Canadian air passengers. How long has CAA been pushing for such a regulatory track?

**Mr. Jeff Walker:** Informally, for more than a decade and probably since I took over this role, which was seven years ago. For seven years, we've been lobbying for this and talking to people as well.

**Mr. Vance Badawey:** With that said, obviously, we've been aware of the challenges for the past decade, if not longer. When I say we, I mean all of us, regardless of government. This is not partisan. This is business, regardless of sector or interests, actually. We've recognized this challenge for the past decade.

My question now is to the industry. Recognizing the challenges that are in front of us, was there in fact a strategic plan with identified objectives put forward? As part of that strategic plan with objectives recognized, was an action plan attached to each and every objective that recognizes, for over a decade, the challenges to yourself, with respect to what you're talking about, the expectations of government, but most importantly, expectations of the passenger? Was there a strategic plan, with objectives identified, and actions attached to those objectives?

• (1650)

**Mr. George Petsikas:** Are you referring to coordinated industry action and objectives or are you talking about a carrier-by-carrier basis?

**Mr. Vance Badawey:** It's to deal with the challenges that passengers are recognizing, I won't say on a regular basis, but on a basis that sometimes is more frequent than not. When situations such as Mr. Hardie and others were speaking of happen, in your strategy and the objectives you identify on behalf of the people you're actually servicing, the passengers, what are those actions over the past decade?

**Mr. George Petsikas:** In 2010, as head of the National Airlines Council of Canada, you coordinated with our member airlines the filing of tariff commitments in our tariffs, which are contractually binding. Unfortunately, this is one thing that we've messed up in terms of the public debate because we say there's nothing in Canada to protect the consumer of air travel, but that's incorrect. The largest airlines in this country, represented by the NACC, over 75% of the market, benefit from contractually enforceable tariff provisions regarding overbooking and procedures to be followed in that respect,

including calling on volunteers, compensation to be offered, etc. Management of cancellations and delays with respect to duty of care, with respect to refunding of fares in the event that the delay exceeds a certain number of hours, that's in there. There are commitments with respect to baggage delivery. We already have a very clear framework on baggage compensation internationally.

In Bill C-49, I realize that we're trying to establish a clear framework for domestic compensation. We have no problem with that. However, my point is that these provisions have been in place since 2010. They're not widely reported, unfortunately, but what we're saying, for the record here, is that they are there and they provide very real rights for our customers and our consumers. As such, I have always said that we have a basis to work with and, if the minister and the government now wants to codify what we've already had in place since 2010, at least the four major airlines, then I'm there. We can do that. However, it was wrong to say that there was nothing to protect airline consumers in this country compared with the U.S., Europe, etc. That is wrong.

**Mr. Vance Badawey:** Mr. Walker, can you comment on that?

**Mr. Jeff Walker:** Yes. I think the challenge really is that those things are there in some cases, some airlines. Good luck finding them on the website. It's really tough. We had our team go and look for them, and it was a hell of a time to find that stuff.

The other thing is that it's case by case. Like I said, go back to my two trips a year people versus 25 a year. The 25-a-year people, they know where to find things. They know who to call and they know what to do, but families like the one that was just discussed a few minutes ago haven't got the foggiest idea that anything could be available to them.

**Mr. Vance Badawey:** Hence the reason we're here. I'm not here to talk about the past. I'm here to talk about the future.

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

**Mr. Vance Badawey:** Let's work toward that future to ensure that strategic planning objectives and the actions that are attached to them, we can move forward on, including Bill C-49.

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

Mr. Chong.

**Hon. Michael Chong:** Thank you, Madam Chair.

I want to make a general point because I've been hearing this on this panel and on the previous panel, too, and that's about the high cost of air travel in Canada. The government's airport rents and the fees are always blamed for that as if it's exclusively the only problem, but the reality is that it's not the major area for why there's a cost differential.

There's a Conference Board report from 2012 that did an analysis of why airline tickets are more expensive in Canada than in the United States. It found that we do, indeed, pay about 30% more for air travel in this country than they do south of the border, but that only 40% of that cost is Nav Canada fees and airport fees, and that 60% of that cost is attributable to utilization rates, labour costs, fuel costs, and other things that have nothing to do with airport landing fees and other fees that are charged in the system. I want to put that on the record because, while 40% is a significant component of the 30% price differential, it's not the only thing that's causing that price differential.

I have a question about joint ventures. In the 2011 case where Air Canada proposed the joint venture with United Airlines, the competition bureau disallowed 14 transborder routes from that agreement. Did Air Transat do a cost analysis of what would have happened had the competition bureau not imposed those conditions on that agreement?

• (1655)

**Mr. George Petsikas:** No, not at the time. We have not done that.

**Hon. Michael Chong:** Do you have any information or data for the committee that would inform us as to how much a ticket would rise in price if these joint ventures were allowed to proceed under the new legislation without any conditions imposed by the competition bureau?

**Mr. George Petsikas:** We don't have empirical evidence that would point to that necessarily. What we do have is analysis in terms of the trend, in terms of ticket prices in Canada. I mean, that's something that the NACC has worked on, and it showed that mean prices have dropped domestically.

Internationally we look at that, but we don't have anything that points to prices going up necessarily if these joint ventures are authorized, at least in the short term. What we do know is that we have evidence that they already hold dominant or fortress market shares in 20 of 30 transatlantic markets. This is the joint venture we're talking about that's of relevance, Atlantic plus, plus. As such, we're saying the chances are pretty good that, if this operation is immunized, protected, or exempted from competition law enforcement, there's a risk in terms of abusing that dominant position.

We're not accusing these companies of going to do that or doing that right now, absolutely not. What we're saying, though, is that you are more at risk for that sort of behaviour in terms of higher prices, because any economist will tell you, once you control a certain amount of market share in a defined market, you have an inordinate ability and power to drive pricing to your interest in that market, not necessarily to the consumer interest. That's not me talking. Any economist in any competitive market will tell you that.

What we're doing here, I think, goes against that. It basically confirms that wisdom.

**Hon. Michael Chong:** Are there any other joint ventures that you're aware of that are in the works?

**Mr. George Petsikas:** In Canada?

**Hon. Michael Chong:** Yes.

**Mr. George Petsikas:** No, we're not aware of them. Obviously WestJet is the second-largest airline in Canada, and I'm sure they would be able to tell you on their own if they have an interest in that, but speaking from Transat, we are always looking at ways of evolving our business model. We don't preclude the possibility in the future, but certainly we have no plans now.

**Hon. Michael Chong:** It's safe to say, is it—correct me if I'm wrong—that transborder routes are more profitable than domestic routes?

**Mr. George Petsikas:** I'll look at my colleague Massimo here. Maybe he can answer. We haven't really done an analysis of that.

**Mr. Massimo Bergamini:** No, I don't have any data.

**Hon. Michael Chong:** I have no further questions, Madam Chair.

Thank you.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** Thank you, Madam Chair.

I'll start with Mr. Walker, but I'll open it up to the rest of the panel after that.

I don't know if you heard that last panel, but the IATA told us a few minutes ago that there are two main approaches to passenger rights. One is legislative-regulatory, as we're proposing here, and the other is to tell airlines to please disclose what they are offering when you buy a ticket.

I took that comment as an admission that airlines don't currently do that. They don't currently say what it is you're buying when you buy a ticket. I wonder if you have a reaction to that.

**Mr. Jeff Walker:** I would be speculating. I think there is some level of disclosure, at least to the people who get compensation. I don't know about public disclosure—

**Mr. David de Burgh Graham:** Not at that point but at the point when you buy a ticket, what exactly are you buying? If you buy a ticket on an overbooked flight, what you're really buying is a stand-by ticket and you're hoping to get a flight. You don't find that out until you get to the airport. If you're not an experienced traveller, you find that out the hard way.

What they're recommending is that we have a system whereby we tell airlines they have to be up front about that fact. If they're telling us that we have to do that as a government, that's admitting that they're not doing it themselves. I wonder if you agree with that.

**Mr. Jeff Walker:** Yes, I think that's fair to say. I think it's fair to say that there's probably more that can be done to inform, but I still think there's utility in having some commonality, and not just in terms of that one example. There's a range of issues and it can get pretty complicated if you start putting all of that information on every single possible scenario in the original communication.

**Mr. David de Burgh Graham:** Right. It's a matter of making sure that everyone knows what they're getting.

I wonder if the airlines have a comment on this.

Mr. Bergamini or Air Transat?

• (1700)

**Mr. Massimo Bergamini:** I think to your point, more transparency and a greater.... You know the old saying, of course, of buyer beware. A better-educated and better-informed consumer will lead to a more competitive environment. There's no doubt about it.

At the end of the day, what is important to also keep in mind is—I think some of our member airlines spoke to this—the wafer-thin margins on which airlines operate. I think it was WestJet that talked about clearing in terms of profit about \$8 or \$9 per passenger. That puts into context what we're talking about.

In terms of viewing the industry, I think it's useful to look at it like going to dinner for an all-you-can-eat buffet as opposed to a fancy, five Michelin-star restaurant. You go for the all-you-can-eat buffet and you might need some medication afterwards; there might be a little indigestion. That's the reality, unfortunately, when you operate with those margins where you need volume. That's the reality in which we operate. This is why, as we've said, we have to change the economic foundations on which our system operates. Do that and the picture changes dramatically.

**Mr. David de Burgh Graham:** Gentlemen?

**Mr. Bernard Bussières:** If I could add to this, Transat is peculiar in the sense that it's not only an airline company. We have travel agents and we're also a tour operator, so we do inform our clients. One of the peculiarities of being a travel agent is that it's your duty to inform your client well.

[*Translation*]

That is why it is in your interest to deal with a travel agent, because they can explain it all to you.

Can we be better? We can always be better. We at least are trying to be very diligent and give our customers all the information they need so that they know their rights and their remedies.

[*English*]

**Mr. David de Burgh Graham:** Mr. Bergamini, I'm going to go back to you very quickly.

You keep talking about changing the financial plan. Do you have a specific submission to give to us on that, on what needs change and how?

**Mr. Massimo Bergamini:** In terms of changing the system, you can look at the Emerson report. I think we endorse those recommendations.

Let's phase out the airport rents. Let's deal with proper funding for this agency so that we eliminate some of the system's bottlenecks that have cascading impacts on performance right across the system. Let's look at the level of taxation on aviation fuel, both federally and provincially.

Those are all things that would change the dynamics and bring us more in line with our international competitors.

**Mr. David de Burgh Graham:** Thank you.

Mr. Parry, I think you're going to have the last few questions for the last few minutes. I have one I have been wanting to ask you on the cost recovery basis for airports. I come from a large rural riding. I have Mont Tremblant in my riding and it's closer to the cities than most of the small rural airports. What would a cost recovery base actually look like for an airport like mine, which has flights seasonally, once a day or a couple of times a week? If you go further north you have very rare flights, but you still have to provide CATSA services. What would the cost-recovery cost look like in those circumstances?

**Mr. Neil Parry:** First, it would depend on what the business objectives of that airport are. Specifically, in the case of Mont Tremblant, that's already a designated airport so we provide a level of screening commensurate with the flight volumes and activity it has.

For a non-designated airport seeking to have screening services, it can range, depending on what level of commercial activity it is striving for or achieves.

In all likelihood, and I'll speculate here, because these are smaller non-designated airports, the level of screening they would require would probably, to quantify it, be between one or two screening lines operating several times a week in some cases, maybe five days a week in others, depending on the flight activity. It could range anywhere from \$500,000 to \$2 million a year.

**Mr. David de Burgh Graham:** Okay. Thank you.

**The Chair:** Mr. Godin.

[*Translation*]

**Mr. Joël Godin:** Thank you, Madam Chair.

My first question will go to Mr. Bussières, but first, I would like to provide all members of the committee with some information.

I did some quick research on my iPad. The minister and others mentioned this morning that nothing had been done in the last 10 years. We must not forget that, during that period, the Liberals were in power for two years, but that's another story. The Conservatives were in power for the other eight years and I am going to provide some justification for six of those years.

It must be understood that the aviation industry has evolved a great deal. Let me give you this statistic: from 2010 to 2016, that's six years, the number of flights has increased by 31 million. So the industry had to react and adjust. That is probably what explains why the government has decided to develop a bill in order to improve the situation.

So that is now clear. It's important to put things in perspective so that some people's questions can be properly answered.

As I mentioned, my first question goes to Mr. Bussières, from Air Transat. Let me take a different tack. We are not in a courtroom here; our role is not to accuse this airline of badly managing the crisis that arise from the events that took place in Ottawa. At least, I do not intend to do so. I intend to be constructive.



You happened to experience that situation, but it could have happened to other companies. Actually, no airline is immune to problems like that. You have to react to unique situations, and that is quite legitimate. That said, I hope that your reflex is to put mechanisms in place so that you do not have to experience other similar problems. I am sure that you are not happy to have to manage a situation like that.

Could you tell us what, in your opinion, could be included in the passenger bill or rights to deal with that kind of situation and to minimize the impact on Canadians?

• (1705)

**Mr. Bernard Bussi eres:** Let me go back to the situation which, thank heavens, is extremely rare. If it were not, we would be talking about it a lot more.

As my colleague Mr. Petsikas mentioned, this is a complex ecosystem. The captains on board their aircraft have to make a decision and, to do so, they need information. The better the information, the better the decision. If the captain can be told precisely how long it will take to refuel the aircraft, it does not matter whether it is 30 minutes, two hours or three hours, everyone's decisions will be better.

At the outset, I have to say that we deeply regret what happened in Ottawa. That is first and foremost. However, I am asking you to consider the background to the situation: no company deplaned its passengers. Everyone was being told that they would be refuelled with the next 30 or 45 minutes. In a situation like that, the captains have a certain mindset: they have to make a decision and to use their judgment that is reasonable in the circumstances. Of course, if the captains are quickly informed of the exact amount of time necessary, the decisions will be better.

As for the passenger bill of rights, situations like that have to be put in context. As my colleagues have mentioned, and I will repeat, the ecosystem is complex; it has links to NAV CANADA, to the airport, and to all the people inside that system. Watching it work is extraordinary. It is fascinating. From 2010 to 2016, the number of flights has increase by 31 million. Considerable organization is needed to get it all rolling. So, touch wood, we have an absolutely extraordinary system. Imagine the risks that all the companies in the sector take in order to make a profit of \$8, as was just described.

**Mr. Jo el Godin:** Let me stop you there, Mr. Bussi eres.

What is your advice to us? We are parliamentarians, we are not aviation experts. What items should we ask the minister to include in the passenger bill of rights?

**Mr. George Petsikas:** Specifically, I would say that we have to start by requiring airports to have emergency plans for that kind of situation. That is clear.

We have to know who is coordinating what, what the lines of communication are, and who you have to call when you need answers. These situations need a conductor, like an orchestra. The requirement should go to the airports because they have communication channels with all the suppliers.

We deal with one ground contractor in Ottawa, but there are several. That contractor said that it would take another 10 minutes, while another was saying something different. In those circumstances, confusion reigned.

Emergency plans must be in place in conjunction with the airlines and the other suppliers, and there must be lines of communication so that people know who to call. Then it has to be communicated to the entire industry.

In the case we were just talking about, our captain could have asked to be given an exact time for refuelling. He could have had a telephone number to reach people at the airport, who would have told him that it might take 45 minutes or it might take two hours. He could have made the decisions that his passengers needed. Unfortunately, there were no lines of communication like that.

• (1710)

[English]

**The Chair:** We'll have Mr. Aubin, and then if we have any time we will go back to any members who have a question.

[Translation]

**Mr. Robert Aubin:** Thank you.

Let me fire off a series of quick questions.

As I understand your comments, it is not your responsibility; it should be coordinated by the airport. At the beginning of your remarks, you said that Bill C-49 contains no airport governance measures. Is that what you were alluding to?

**Mr. George Petsikas:** I do not want to say that we had no responsibility in the situation we were just talking about. Airlines are part of the overall system and we all have a common responsibility.

**Mr. Robert Aubin:** Mr. Bussi eres, at the beginning of your remarks, you said that Bill C-49 is silent on the matter of airport governance measures. Is that what you were alluding to?

**Mr. George Petsikas:** May I answer that for you?

No, that is not what we were alluding to. We were actually talking about the system of governance, the way in which airports are managed, how boards of directors are formed and who has the right to appoint administrators to those boards. As you know, airport authorities are governed by a board.

We consider that the issue should be addressed, but Bill C-49 does not address it.

**Mr. Robert Aubin:** Thank you.

Mr. Parry, I have a quick question for you. It will help me to confirm or refute some other testimony we have heard this week.

Does the funding you receive allow you to fulfill your mission? That is the simplest way to ask you the question.

**Mr. Neil Parry:** Thank you for the question.

[English]

As you know, CATSA receives its funding through parliamentary appropriations. I would answer, yes, we are able to carry out our mandate effectively with a focus on the highest levels of security for the travelling public. While CATSA does not have a mandated service level, we have been able to achieve a service level of 85% of passengers screened in 15 minutes or less, consistently for the last four years, based on the appropriations we've received.

[Translation]

**Mr. Robert Aubin:** Thank you.

I have a question for Mr. Walker.

In some testimony yesterday, an amendment was proposed for a potential passenger bill of rights, to the effect that only flights leaving from Canada should be considered.

Let's say that I buy an air ticket that includes connections with joint venture airlines. My question is very simple: should the company I buy my ticket from provide the service from the beginning of the trip to the end, or can it toss it like a hot potato to the second, joint-venture company?

[English]

**Mr. Jeff Walker:** I heard about this earlier today. Our impression or our take on this is that it has to be the company that the person has purchased the ticket through that is, if you will, the shepherd of that. It may not be reasonable—let's say it's Air Canada and Lufthansa—for Air Canada to carry the ball if a connection with Lufthansa doesn't work, but it has to be somebody's job at Air Canada to shepherd the person to the appropriate process at Lufthansa so they know what their rights are.

Are they responsible? They are not necessarily for the cost, but I think they are for the shepherding of the person to the right place. That would be our take.

[Translation]

**Mr. Robert Aubin:** Thank you.

[English]

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

We have completed our first full round. I have Mr. Fraser, Mr. Badawey, Mr. Godin, and Mr. Hardie with additional questions.

Please try to be punctual to your point. We'll start with Mr. Fraser.

**Mr. Sean Fraser:** Thank you. I don't think this will take a full six-minute round.

I'll pose the question to CAA, or the observation—

**The Chair:** Mr. Fraser, it's just one question.

**Mr. Sean Fraser:** Perfect.

Right now, I think we're in an era when the number of passengers is exploding. I expect that the trend will continue to grow. I think we're in a situation where, with increased knowledge, there will be more people making complaints. We're already starting to see that. I've been through exercises where it seemed too troublesome for

me to claim it, where the payoff was limited to \$100 on the terms of carriage. I'm hearing the airlines say, on the flip side, look, if compensation levels get too high under this new regime, it will drive up costs.

I'm wondering if you have any comments, when we're looking at this explosion of passengers and the assertion that this will drive up costs, whether the answer is not to say, "Look, if we establish standards, you have to meet them, even though you have razor-thin margins."

If you could comment, that would be great.

● (1715)

**Mr. Jeff Walker:** You'd have to unpack the whole puzzle of the extent to which the margins are exactly as they've been described, etc. Again, from our point of view, the case is that the U.S. has this kind of system, the Europeans have this kind of system, and I'm not seeing their systems collapse and all the airlines going out of business in those places. There's an explosion in passengers on those routes just as there is in Canada.

That's my answer to that question.

**Mr. George Petsikas:** May I make a comment about the European system, Madam Chair?

**The Chair:** Go ahead.

**Mr. George Petsikas:** The European regulation right now is under enormous pressure from all groups as being a very poor piece of legislation. The European Council is trying desperately to amend it. They are not able to do it because of a problem they're having, a political problem. The European regulation is certainly not what I would call a success right now. It is understood that it has imposed destructive costs on industry. It goes above and beyond compensating passengers proportionately in terms of what they have experienced with regard to loss and inconvenience. Even in cases where delays are incurred to ensure that the aircraft is able to operate safely, airlines have been penalized under the system in Europe, which is roundly criticized as undercutting a comprehensive safety culture in aviation.

I would definitely take exception to people saying that the European model is working.

**The Chair:** Mr. Badawey.

**Mr. Vance Badawey:** Thank you, Madam Chair.

I just want to make a comment. We've been in this process for quite some time now, especially over this past week. As was mentioned earlier, this is not something that will be over tomorrow or next week or next month. This is an evolution of collaboration and, of course, partnership with all 338 members of the House, as well as the industry itself.

An assumptions report has been completed. It leads up to 2022. Within the report it recognizes the socio-economic, supply, and strategic factors. With that, it influences the forecasts of demand for air transportation—for example, gross domestic product, personal disposable income, adult population, economic outlet, airline yield, fleet route structure, average aircraft size, passenger load factors, labour costs and productivity, fuel costs, fuel efficiency, airline costs other than fuel and labour, passenger traffic allocation assumptions, and new technology. That's the basis of a strategic plan. That's the basis of next steps.

May I suggest the following? This committee is not going anywhere, at least for the next two years with the people around this table. Beyond that, there will probably be new people. The bottom line is that we have an opportunity here. Bill C-49 is the foundation that will be injected into the overall strategic plan as it relates to transportation. Let's all go back to our respective organizations and come up with tangible, pragmatic objectives attached to strategy. Let's attach actions to that, actions that are doable, actions that we can execute in the short and long term, based on the socio-economic, supply, and strategic factors I just outlined.

This is not done, gentlemen. Mr. Rock outlined 10 years ago that this was a challenge. I'm surprised it wasn't dealt with within that 10-year span. Unfortunately, it wasn't, but again, I don't want to talk about the past. I want to talk about the future. We have an opportunity here. Let's seize it and move forward with new recommendations, based on what you give us, in terms of the input we're looking for.

Again, Bill C-49 is here, but we have many days after that when we can help to strike that balance for people when it comes to performance, when it comes to passenger rights, when it comes to value, and when it comes to return, because we want you to do good just as much as you want to do good.

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

Can we go on to Mr. Godin?

[*Translation*]

**Mr. Joël Godin:** Thank you, Madam Chair.

I would like to make a quick comment; then I would like to ask Mr. Bergamini a question.

I share the opinion you expressed in your introduction when you said that you considered the government's approach was missing the mark. I think you have hit the nail on the head; it really is missing the mark. I respect Minister Garneau a great deal, but I think this is all for show and that there is no substance to the bill. Everything is just being shuffled to one side.

The Emerson report mentions that increases in fees and charges, as well as delays in security screening, are having an effect on all travellers and on the effectiveness of the industry.

How do you see the situation? Do you have the sense that the Emerson report is true?

• (1720)

**Mr. Massimo Bergamini:** Thank you for the question.

I feel that our carriers' daily experience shows us that the reality of delays....

Please excuse me, but I'm going to answer in the language of Shakespeare so that I can explain myself better.

[*English*]

As to delays at the front end—and this is the point that we were making—the travel experience doesn't start with check-in. There are all of those steps, and when you have a delay.... We appreciate what our colleagues at CATSA have done in very difficult conditions from a financial perspective and a planning perspective, but our organization, along with the airport council, have been pushing for regulated performance standards that eliminate those bottlenecks that have an impact not only on the passengers affected at that airport, but if there are delays, these delays cascade across the system domestically and internationally.

It really is important and in this sense I echo what has been said by my colleagues at Air Transat.

[*Translation*]

We have to address that question in terms of a complex ecosystem. The problem of funding the system absolutely requires attention. It is not enough to deal with the issue through regulations.

I am sure that you all remember the Walkerton tragedy. I have worked at municipal level. A good number of provincial governments across Canada have passed regulations in order to deal with situations like the one that occurred in Walkerton.

[*English*]

Provincial environment ministers were heroes. They signed these tough new regulations, but they passed the bill on to municipalities that didn't have the resources or the capacity to implement those regulations in the first place. You have to look at these things from a holistic perspective. This is a regulatory exercise, in general we agree with it, but we absolutely have to look at the economic foundations of this industry if this is going to work.

**The Chair:** Mr. Petsikas, you were trying to make a point earlier on. You've made quite a few, but you had a particular one you wanted to add on. Did you get a chance to get that point done?

**Mr. George Petsikas:** Not really. If I may, I would just add on to what Mr. Badawey was saying before.

In fact, I agree with you. For years—again, before Massimo's time, before he joined us—as head of the NACC I begged government for a strategic top-down integrated plan to help our strategic industry help this country succeed. That means a holistic, as Massimo said, approach. The minister said today it's a first step. Bill C-49 is not the basis for that holistic approach, and that's our problem, because there are a lot of issues that are on the table, especially infrastructure financing.

I'd just like to address the point made before when we talked about whether we are asking for a subsidy by the taxpayer to the industry to help us pay for those airports. I would argue that over the last 20 years there has been subsidization absolutely by the user towards the taxpayer. We are talking about airports that were transferred in the early nineties that had a nominal book value of about \$1.5 billion. Today, we are talking about well over \$7 billion paid in airport rents up until now into the federal treasury. It's not a bad return. Secondly, airports have had \$18 billion in capital investments put into the ground, and that's been jobs, construction workers, downstream economic benefits, and billions and billions in terms of economic activity that's enabled by this infrastructure. It's all been paid for by the consumer, not the taxpayer, and this is an almost unique model in the industrialized world.

All we're saying is that it's time to have a look at that again, because we don't think it's helping us achieve what we can achieve or we could achieve, which is even greater things in terms of support in Canada in terms of economic growth, connectivity, trade and commerce, and competing with those global tigers out there who actually do get it when it comes to their aviation sectors. That's all we're saying, so let's go. I'm with you.

• (1725)

**Mr. Vance Badawey:** May I say something just quickly?

**The Chair:** No, I have Mr. Hardie next, and that will be the end of this panel. We have worn them out, I think, with all the enthusiasm and questions on this side as well.

Mr. Hardie.

**Mr. Ken Hardie:** I do take Mr. Petsikas' point because there are more than just dollars and cents involved. There are the ripple effects—the social, environmental, and a lot of beneficial effects—in any sector of business, and that is a key one.

I have a spare question for Mr. Parry. When we talk about development at airports, they've made the investments, as Mr. Petsikas has said, in many cases. The Vancouver airport is a wonderful facility. The one area where I don't see much additional capital investment is in the capacity of CATSA to do its job. Are you're involved in planning with the airports to make sure that as they look at volume increases you will actually have the floor space to do your job?

More importantly, what about the future of your business? Where is technology leading us? Are you going to have some significant capital commitments or requirements going forward to use technology and smarter operations to meet the performance standards that people expect?

**Mr. Neil Parry:** With regard to the first part of your question, in terms of capacity planning with the airports, you've hit on a really key driver behind our screening checkpoint operations. CATSA operates in the airport's space. It's not our space. It is the airport's space. It provides the space, and we operate in it.

In some cases, I would argue that we have adequate space. In other cases, due to significant growth in the industry, which you've heard about today as well, we're butting up against the wall. We do work very closely with the airports. We recognize the challenges for the airports. They have to make capital investment decisions,

and that's not free. Ultimately, someone has to pay for that. It's an ongoing dialogue with airports.

In terms of effecting an improvement in what are defined as performance standards, we're talking about service levels in terms of wait times. In some cases, we're kind of maxed out within the checkpoint space, so we're having those dialogues. In other cases, there's more space to grow.

That brings me to the second part of your question. The answer is that it requires capital. In terms of the long term, right now we're engaged in dialogue and consultation with Transport Canada officials to look at a forward-looking, long-term plan for our organization in terms of capital investment.

**Mr. Ken Hardie:** While you're speaking of dialogue, I have just one last point. The minister is committed to the kind of dialogue that everyone's been talking about here. This is an iterative step. The dialogue will be going forward, even in the creation of regulations that will backstop some of the things that are positioned in Bill C-49, and also as we look forward and move to a system that works even better than one that we all have to admit is working very well.

**The Chair:** Thank you all very much. I know sometimes some of the things were a little tough, but this is a forum. We all need to learn, and we're all working as parliamentarians to do the very best we can on behalf of everyone.

Thank you all very much for coming.

Everyone can get themselves something to eat, and I'll get the next panel up as soon as possible so we can continue.

• (1725)

(Pause)

• (1745)

**The Chair:** We are resuming our study on Bill C-49.

Thank you to our witnesses who are coming late in the afternoon of our fourth day of these hearings.

From Flight Claim Canada, we have Mr. Charbonneau, president and chief executive officer.

Please introduce yourself and take your 10 minutes for your presentation.

[*Translation*]

**Mr. Jacob Charbonneau (President and Chief Executive Officer, Flight Claim Canada Inc.):** Thank you, Madam Chair.

My name is Jacob Charbonneau. I am the co-founder and the President and Chief Executive Officer of Flight Claim Canada Inc. I am accompanied today by my colleague Meriem Amir.

Flight Claim Canada Inc. is a multidisciplinary firm, duly registered with the Quebec Bar and made up of a number of professionals governed by Quebec's Professional Code. Through our lawyers, we provide legal services pertaining to air transportation.

The company's primary mission is to advocate for the rights of air passengers by informing consumers of their rights and by helping affected travellers to obtain compensation easily, quickly, and free of risk. We offer our clients a comprehensive service in order to provide them with compensation for delays, cancellations or denials of boarding.

We are proud and honoured to have been invited to these public consultations. So we have submitted a brief, written jointly by Jean-Denis Pelletier, a former Transport Canada commissioner, and myself. In the brief, we highlight the current situation in the airline sector.

In recent months, there have been many discussions, criticisms and complaints regarding air transportation. A number of events have made the headlines, notably cases of overbooking, flight cancellations and delays, failures in passenger care, long waits on the tarmac, and questionable business practices. There is a lack of information about passengers' rights, and pressure from airlines to withdraw advertising intended to inform passengers of their rights. All this is occurring at a time when airlines are raking in record profits.

We therefore feel that that short-term profits and share prices may count for more than client services. Passengers are treated like cargo. The lack of regulations leaves airlines with broad discretion in how they treat their clients. Air carriers suffer few to no consequences from their lack of service to passengers, which leads to general resentment and a loss of passenger confidence in the system.

For this brief, we first of all undertook a survey of our clients who had experienced problems with flights in recent years. We had more than 333 respondents. The following are the highlights from that survey. You can find them in appendix 6 of our brief.

First, we were surprised to learn that, before they heard of us, more than 35% of our clients were unaware that they might be entitled to compensation. Almost all passengers, more than 99% of them, feel that Canada should adopt regulations guaranteeing financial compensation for passengers whose flight is delayed or cancelled.

We also analyzed flight delays and cancellations in Canada, as well as trends in recent years. The following are the highlights from that study.

The number of delayed flights is increasing. The percentage of flights affected by delays of one form or another, in all time slots, went from 12% in 2014 to 15% in 2016. Canadian flight cancellations have also increased. They went from 1.2% in 2014 to 1.4% in 2016. That is a 16% increase. By comparison, with flights subject to European regulations, the rate is 0.4%, or four times less.

We clearly need a law and regulations that will set a minimum level of quality of passenger protection, thus bringing a significant citizen dimension to the liberalization of the aviation market. That

means standardized Canadian protection for all users, incorporated into a charter of passenger rights.

Passengers are left to their own devices and do not know who they can turn to for help. They are grateful that there is now a company that can help them navigate their way through the system and obtain compensation. Some of our clients had already attempted the direct approach with the airline and were turned down.

While the Canadian Transportation Agency does have a mediation role, many of our clients prefer to use our services, thereby saving time and benefiting from our expertise to obtain a turnkey solution.

- (1750)

The new law and regulations resulting from Bill C-49 must include clear and unequivocal provisions that will reduce differences in interpretation resulting from the existence of gray areas. This new law will make it easier for passengers to assert their individual rights, and will help to restore traveller confidence.

We have therefore focused on current trends and best international practices in order to provide recommendations that will place Canada in the forefront of traveller protection.

The proposed amendments also take into account the financial impact on the airline industry and therefore anticipate measures to limit costs.

Here is a summary of the 15 proposals in our brief.

We propose: to declare Bill C-49 to be complementary to the Montreal Convention; to amend section 67.3, referred to in clause 17 of Bill C-49, by replacing “a person adversely affected” with “from or on behalf of a person,” consistent with section 156 of the current Air Transportation Regulations; to amend paragraph 18(2) of Bill C-49, regarding subparagraph 86(1)(h)(iii) of the act, to allow adversely affected persons to be represented by counsel, consistent with our constitutional rights; to enact clear rules on posting the rights and remedies of air passengers in Canadian airports, in particular, allowing companies and associations that defend passengers' rights to advertise in Canadian airports; to require airlines that deny boarding or cancel a flight to provide each affected passenger with written notice of the reason for the denial of boarding or cancellation. Carriers should also make an effort to inform passengers who reach their final destination with a delay of three hours or more of the reason for the delay; to establish more public monitoring of the management of Canadian airports; to apply or follow the European legislation regarding the minimum compensation to be paid in the event of a long delay, cancellation or denial of boarding. It would be helpful if the committee could provide Transport Canada, who will subsequently be writing the regulations, with clear guidelines on the criteria to be used, equivalent to the European guidelines; to define a long delay as being two hours for domestic flights and three hours for international flights; to establish minimum compensation equivalent to that for a cancelled flight for passengers whose flight is delayed on the tarmac for more than three hours, and require carriers to allow passengers to deplane after 90 minutes, in accordance with the carriers' tariff conditions, regardless of whether or not there are extraordinary circumstances; to apply the same right to care found in the European regulations for cases of denied boarding, cancellations or long delays. This care should apply even under extraordinary circumstances that are beyond the control of the airline; to define extraordinary circumstances as an event that is not inherent in the normal exercise of the activity of the air carrier concerned and that is beyond the actual control of that carrier on account of its nature or origin. We also propose declaring that the burden of proving the extraordinary circumstances is on the carrier; to declare that the limitation of action is equivalent to the three-year time limit applicable under common law in Canada; and finally, to make Canadian airports liable in the event of strikes, major renovations or technical failures that cause long flight delays or cancellations. This would entitle passengers to the same compensation and rights as passengers who have suffered damage caused by air carriers.

In conclusion, we firmly believe that the Canadian Transportation Agency and the government should adopt legislation that is as generous and transparent as that existing at the international level. More than anything, the law should be human and protective and should facilitate access to compensation. It should be a clear and unequivocal law that reduces gray areas as much as possible and leaves little room for interpretation.

This legislation is essential for restoring travellers' confidence in air carriers. These measures will allow us to follow best international practices and trends in consumer protection. They will enable Canada to become a leader in the protection of air passengers.

• (1755)

[English]

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

Next is Mr. Gooch, from the Canadian Airports Council.

**Mr. Daniel-Robert Gooch (President, Canadian Airports Council):** Thank you, Madam Chair.

Ladies and gentlemen, thank you for the invitation to appear before you as part of this committee's study of Bill C-49.

My name is Daniel-Robert Gooch, and I am the president of the Canadian Airports Council.

[Translation]

The CAC has 51 members, operating more than 100 airports in Canada, including all the private airports in the National Airports System (NAS). Our members handle more than 90% of commercial air traffic in Canada, and an even higher percentage of the international traffic.

[English]

The CAC's priorities involve promoting safe, strong local airports, improving the traveller experience, value for money in government services, and growing by air a globally connected Canada. Over the last few days we've been listening to the testimony on this committee's study of the Transportation Modernization Act.

Certainly, air transport is a complex industry involving interaction with several different partners on the airport grounds, including airport authorities, and airlines, of course, but also Nav Canada, service providers, and government entities such as the Canadian Air Transport Security Authority and the Canada Border Services Agency.

In terms of the role of airport authorities, they provide the infrastructure needed to facilitate air carrier movement and the processing of passengers. They enforce airport safety regulations, employ airport emergency response services in response to aircraft emergencies, and provide central command to respond to operational safety, infrastructure, and security matters.

Major airports have passenger care response plans in place to support passenger needs during irregular operations. These plans involve the deployment of certain assets as needed, such as airfield buses, water bottles, snacks, and baby supplies. Airports are empowered to activate their passenger care plans when needed, and can call in extra resources to assist in ensuring passengers have the basics they need on a short-term basis. During irregular and regular operations, the goal is always to get passengers to where they need to go in a timely, safe, and secure manner.

Airports strive to improve passenger experience on an ongoing basis. This is becoming increasingly important for airports that have seen tremendous growth in air traffic over the past decade. In the first seven months of this year so far, for example, there has been a 6.3% increase in passenger traffic. This traffic is boosting international visitor numbers, which is contributing to Canada's economy and providing extra tax revenues for government. It's a good news story. But while this is good for business and the Canadian economy, fuller airports can create logistical challenges to delivering the high level of passenger experience that the industry strives for. Canada's airports have made strategic investments in infrastructure when needed to accommodate growth and respond to the needs of passengers. In fact, they have spent \$22 billion since 1992 on infrastructure, with improvements to safety, security, comfort, and the flow of passengers.

This growth has put a particular strain on government services at airports, in particular on screening provided by CATSA and on border services provided by CBSA. Travellers are faced with long line-ups at security screening checkpoints and at our air borders during peak times. This has a negative impact on passenger experience. In fact, it's the complaint that we hear about most often from travellers.

You may recall that I've spoken about these issues before, at your committee earlier this year as part of your study on aviation safety. I'm pleased to say the file is progressing, but we're not where we need to be yet. Transport Minister Marc Garneau has begun important work in this area.

The launch of Transportation 2030 almost a year ago commits to look at CATSA's governance, making it more accountable to a service standard, and its funding more responsive and sustainable. Bill C-49 provides a framework for CATSA to administer new or additional screening services on a cost-recovery basis. This will provide added flexibility for airports to supplement security screening services for business reasons, such as giving a higher level of service for connecting travellers, or a separate check-in area for premium travellers. However, this should be accompanied by a full allocation of air travellers security charge revenue from passengers to funding screening by next year's budget. Otherwise, airports have a real concern that the cost-recovery mechanisms in Bill C-49 would become the mechanism used to prop up funding for screening. In other words, passengers today paying their travel security charge for service at screening...not all that money going to the airports. If airports are having to also pay up to get an acceptable level of service, then they will have to raise additional revenue that would then have to be recovered from air carriers and passengers. In other words, travellers would have to pay twice, and travellers should not have to pay twice for this service.

Canada's airports are pleased that the government has recently begun additional work on a long-term structural fix for the problem. Our shared goal should not only be to improve screening wait times, but to also deliver a professional, facilitative customer experience while continuing to provide a high degree of security.

• (1800)

Some airports believe the best approach would be to allow airports a greater role in the delivery of screening at airports, as is the

case in Europe and many other parts of the globe, but the important message is that, when it comes to a permanent solution, one size does not fit all. It is important that a fulsome exploration of all options occur before a final decision is made by government.

Finding a long-term solution for screening is essential for passengers, who deserve predictability and value for money, but we also can't be complacent in the meantime. CATSA needs to be sufficiently funded next year to support demand. Government should also restart its stalled investments in CATSA Plus lanes, which is a new approach that is improving traveller experience in the limited sites where it has been deployed. But CATSA isn't able to proceed any further until funding is restarted.

Improving air traveller experience also means improving air service in communities through more air links and lower airfares. The proposed amendment to the Canada Transportation Act to increase foreign ownership limits on Canadian air carriers from 25% to 49% is intended to stimulate traffic and domestic competition, and these are worthy goals.

[*Translation*]

Canada's airports are delighted with the progress made by this government in all these major areas. We hope that the dynamic approach will continue, and that the work that has been started as part of the Transportation 2030 strategic plan, and through the hearings of your committee, will translate into concrete reforms.

Once again, thank you for giving me the opportunity to speak to you today.

[*English*]

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

Moving on to Air Passenger Rights, with Gábor Lukács, welcome.

**Dr. Gábor Lukács (Founder and Coordinator, Air Passenger Rights):** Madam Chair and honourable members, thank you for inviting me to this meeting. It is an exceptional privilege to have the opportunity to present the perspective of air travellers today.

Air Passenger Rights is an independent, non-profit network of volunteers devoted to empowering travellers through education, advocacy, investigation, and litigation. Our Air Passenger Rights Canada group on Facebook has more than 5,000 members.

My name is Dr. Gábor Lukács and I am the founder and coordinator of Air Passenger Rights, which grew out of my advocacy for the rights of Canadian travellers. Since 2008, I've filed 26 successful regulatory complaints against airlines, relating to issues such as liability for baggage damage, delay and loss of baggage, flight delay, flight cancellation, and compensation for involuntary denied boarding.

I'm here today to deliver a cautionary message. Bill C-49 does not address the key issue of lack of enforcement of the rights of passengers in Canada, it does not adequately protect Canadian passengers, and it falls short of the rights provided by the European Union's regime. I will be expanding on each of these issues in turn.

The lack of adequate legislation is often blamed for the woes of passengers. This is a myth. The Montreal convention is an international treaty that protects passengers travelling on international itineraries. It covers a wealth of areas: damage, delay, and loss of baggage, up to \$2,000; delay of passengers, over \$8,000; and even coverage in the event of injury or death. The Montreal convention is part of the Carriage by Air Act and it has the force of law in Canada.

Canada also requires airlines to set out the terms and conditions of travel in clear language in a so-called tariff. Failure of an airline to apply the terms and conditions of the tariff is punishable by a fine of up to \$10,000 and is an offence punishable also on summary conviction. Thus, the existing laws, regulations, and regulatory decisions could provide substantial protection for Canadian passengers if only they were enforced by the regulator, the Canadian Transportation Agency. The trouble is that the agency has abdicated its duty to enforce the law. As you see in this diagram, which shows the statistics for the past four years, the number of complaints has soared, nearly quadrupled over the past four years, while the number of enforcement actions has dropped by an equal factor of four.

The agency has also been criticized by the Federal Court of Appeal. In a recent judgment, Justice de Montigny found that the agency erred by ignoring not only the wording of the Canada Transportation Act, but its purpose and intent. Justice de Montigny went on to remind the agency that it has a role to also ensure that the policies pursued by the legislator—you parliamentarians—are carried out. There's no doubt these laws can be improved, and it is our position that they should be. However, without enforcement, the law will remain that letter. Bill C-49, as it is reads now, does nothing to remedy this state of affairs.

Bill C-49 suffers from numerous major shortcomings. It misses important areas of passenger protection altogether and undermines existing rights in other areas. First, the bill does not create an enforcement mechanism or any financial consequences for airlines that break the rules, that disobey the rules that are laid down. Thus, breaking the rules remains the most profitable course of action for airlines. Second, the bill offers no protection for the most vulnerable passengers: children travelling alone and persons with disabilities. Third, the bill hinders advocacy groups—such as Air Passenger Rights—in protecting the rights of passengers by barring most preventive complaints that seek intervention before anyone could suffer damages.

• (1805)

All but one of the 26 complaints I brought and that I mentioned earlier were successful and were of this preventive nature. I was not personally adversely affected, but the practices that I challenged were clearly harmful and were recognized as such.

We recommend that the committee remove from the bill the proposed section 67.3 found in clause 17 of the bill.

Fourth, contrary to the testimony of Transport Canada officials that you heard on Monday, Bill C-49 does not provide protection that is comparable to the European Union's regime. For the all-too-common event of mechanical malfunction, the bill proposes to actually relieve airlines of the obligation to compensate passengers for inconvenience. This is cleverly hidden in proposed subparagraph 86.11(1)(b)(ii).

In sharp contrast, the European Union's regime recognizes that it is the responsibility of the airlines to adequately maintain their fleets and requires airlines to compensate passengers for inconvenience in the event that the flight is delayed or cancelled because of mechanical malfunction.

We recommend that the committee amend paragraph 86.11(1)(b) to clarify that in the event of mechanical malfunction, airlines are liable to compensate passengers for their inconvenience.

Fifth, the bill takes a step backward with respect to long tarmac delays by doubling the acceptable tarmac delay from the current Canadian standard of 90 minutes to three hours. This is a step backward. It's actually clawing back our existing rights as passengers.

We recommend that the committee amend paragraph 86.11(1)(f) by replacing three hours with 90 minutes and thereby restore the status quo.

In closing, we would also like to draw attention to some troubling facts that deepen our concerns about the impartiality and integrity of the Canadian Transportation Agency. Before this bill is passed by Parliament and before any public consultation takes place about the regulations to be developed, the agency has already sought IATA's input with respect to the regulations that the agency is to draft.

IATA is the International Air Transport Association. It represents the private interests of the airline industry. In our view, this was in disregard of the parliamentary process and of the rule of law. Evidence showing this, for the record, is found in an affidavit submitted by IATA in Supreme Court of Canada file number 37276.



We have also received reports from passengers about agency staff turning them away, unceremoniously advising them that their complaint filed with the agency would be closed. The agency did not make a decision or order dismissing these complaints, yet complainants were made to understand that their complaint had been dismissed. Complainants were either not informed about their right to ask for formal adjudication or were discouraged from exercising that right by agency staff.

In our view, the agency has lost its independence, and the integrity of its consumer protection activities has been compromised. The agency's actions and failure to act to enforce the law, as we see right in the statistics, have undermined public confidence in the agency's impartiality.

We recommend that the committee amend the bill to transfer regulation-making power from the agency to the minister and transfer other responsibilities relating to air passenger rights to a separate consumer protection body.

I would like to thank you for the opportunity to present the concerns of air travellers to the committee. A brief outlining these concerns and also providing detailed recommendations on how to salvage the bill has already been submitted.

• (1810)

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

We go on to our first questioner, Mr. Chong.

**Hon. Michael Chong:** Thank you, Madam Chair.

I would like to ask a question of the first panellist, who gave us a very informative slide deck about the number of delays we could expect that would receive compensation, if the government were to implement the same guidelines as currently govern practice in the United States.

I notice that one of the slides in the slide deck says that you estimate that an average of 13,353 flights per year would be delayed beyond two hours or more for domestic flights and three hours or more for international flights, triggering compensation.

Maybe you could tell the committee what the cost of that would be for the airlines. If there are about 13,500 flights delayed, what sort of cost would the airlines be looking at by way of compensation?

• (1815)

**Mr. Jacob Charbonneau:** We have to take the number into consideration. When we look at the number it represents less than 1%, so it's 0.061% of the total flight. We also have to take into consideration that when there's a regulation in place, the number of flight delays and number of flights cancelled will be less because, obviously, the industry will adapt.

**Hon. Michael Chong:** In Europe what is the compensation for delayed flights?

**Mr. Jacob Charbonneau:** It will depend on the number of kilometres and the number of hours of the delay, so it will go from 250 Euros to 600 Euros.

**Hon. Michael Chong:** We're talking about some pretty big numbers here. Let's say there's an average of 100 passengers per flight.

For 13,500 flights that's some 1.3 million passengers. If they are all going to be compensated, let's say at an average of \$300, that's approximately over \$400 million Canadian a year in compensation that the airlines would have to pay out, if that is in fact the model that would be implemented under this bill. I just make that as a point on the record.

I was interested to hear what Air Passenger Rights had to say about enforcement. Do you have any insight as to why the number of complaints that have been investigated and enforced has dropped significantly in the last three or four years?

**Dr. Gábor Lukács:** My understanding is that the Canadian Transportation Agency suffers from regulatory capture. We have a manager of enforcement, who admitted under oath on cross-examination that she's on a first-name basis with executives of the industry against whom she's supposed to take enforcement actions. The vice-chairman of the Canadian Transportation Agency is a former lobbyist for the airlines. The chief complaint officer is a lawyer who was suspended for misconduct and was never reinstated. Should I go on? Is it any surprise?

It's a broken system, and that system needs to be fixed before anything else can actually be done to improve Canadians' rights.

**Hon. Michael Chong:** How should the agency be fixed? I know you said that the passage of new legislation isn't going to address the fundamental problem, which is lack of enforcement. In your view, since you have been on this file for a number of years, what would be the solution to greater enforcement? Is it a restructuring of the agency? Is it a brand new model, maybe a non-agency model? What is it?

**Dr. Gábor Lukács:** We have several recommendations.

First, we would propose transferring those responsibilities to a body that has the single mandate of consumer protection. The second point is to have mandatory compensation and fines for each violation. For one hour on the tarmac over what is allowed, there should be a fixed amount of penalty and a fixed amount of compensation. For an airline that fails to pay compensation and that fixed amount of penalty, there should be no discretion about penalties. The mere fact that they are breaking the rules should automatically trigger a penalty.

The goal is not to punish airlines for their normal business; the goal is to punish airlines that fail to abide by the rules. We also propose having mandatory cost awards in courts on a solicitor-and-client basis when passengers are successful in enforcing their rights. Currently, it is almost impossible from an economic point of view for a passenger to enforce their rights, because it would cost way too much to retain counsel, way more than what the passenger can recover.

**Hon. Michael Chong:** I have no further questions.

Thank you.

**The Chair:** Mr. Fraser.

**Mr. Sean Fraser:** Thank you very much.

It's been an interesting discussion with all three witnesses.

I hope I have time to touch on something with each of you.

Dr. Lukács, you served up the EU as a model for something that we could be striving to mimic more. Why is the EU a good model? We had testimony just in the last panel saying for God's sake not to do what the EU is doing, because it's crippling the system. The European Council is trying to roll it back.

I'm hearing two different stories here. I do want to protect consumers' rights first and foremost, but I also want to encourage an efficient system that doesn't bring transportation in Canada to its knees.

• (1820)

**Dr. Gábor Lukács:** The point we are making first is that the testimony of Transport Canada officials requires some rectification. They were claiming that they are taking the best of the European rules, and that's factually not true.

One area where I believe that one should not necessarily follow the European rules is with respect to genuine weather delays. I'm not talking about having rain in Vancouver and therefore flights being cancelled in Halifax; I'm talking about genuine snowstorms, which can happen in Canada's unique climate. But in other aspects, the European system has worked. It has resulted in significant improvements in the rights of passengers.

Just a couple of weeks ago, I was flying back to Budapest to visit my grandmother. We were in Frankfurt airport. There was a small delay that would have required the crew to time out. Lufthansa had a backup crew that was available in 30 minutes to take their positions, because if it had taken them longer they would have been liable to pay compensation. So the place where we see a difference with respect to safety issues—and airlines do have to maintain their fleets and it is possible to maintain fleets—and where we see that this works, is in the European Union. It's the oldest system, and it works.

**Mr. Sean Fraser:** I want to move on to a similar theme but to our other panellists from Flight Claim Canada. The structure that Dr. Lukács has suggested sounds to me less like a bill of rights for passengers and more like a bill of penalties against airline providers in terms of the compensatory model. If we adopted his approach and said we're going to make mandatory payment—once you break the rule, you make the payment rather than assessing the situation with the customer—it might lead to a circumstance.... I think he said a two-hour delay would be appropriate for domestic flights, and a three-hour delay for international flights. In an instance where that doesn't cause a passenger to miss a connection, for example, is it your opinion that the same penalty should still apply, or should we take an individual approach as was suggested by the testimony by Air Canada earlier this week?

[Translation]

**Mr. Jacob Charbonneau:** Given the reality of globalization, it would be helpful to have the same rights as passengers coming to Canada. At the moment, the legislation operates on two levels. For example, on a flight from Canada to Europe with a European company, European rules provide for possible compensation in the event of a problem. However, on a flight to Europe with a Canadian company, that right does not exist. So, two passengers travelling on the same route, with the same departure point and the same destina-

tion, do not have the same rights. Passengers travelling from Canada to Europe and encountering problems with delays or cancellations are not eligible for compensation. But when they return from Europe, they can get compensation if a problem arises during the flight.

In today's globalized world, the viable solution would be to adopt the best practices and provide the same rights to all passengers, no matter the airline or the destination.

[English]

**Mr. Sean Fraser:** You've touched on something interesting. I know in Europe, they're in a world of ultra-low-cost carriers. I would love to see more low-cost carriers come here. We had earlier testimony describe a situation where the penalty—if we adopted the European fee model, for example—could be so extreme that the penalties paid out on a habitually late flight could outstrip the cost of the fare itself. Is that something that you foresee happening, and do you even think that's a problem?

[Translation]

**Mr. Jacob Charbonneau:** It is actually possible, but it depends on the tickets. Today, you often see discount sites advertising tickets at \$99 for certain destinations and for a limited number of seats. So it is possible, but, with delays impacting a very small number of flights, they don't want to compensate all the passengers affected by delays, or 14% of flights in Canada. They just want to compensate the small number of passengers affected by very long delays and for whom a delay had consequences.

[English]

**The Chair:** You have 35 seconds, Mr. Fraser.

**Mr. Sean Fraser:** Can you just elaborate on the CATSA Plus screening that you touched on, Mr. Gooch?

**Mr. Daniel-Robert Gooch:** Yes. CATSA Plus is a different process that incorporates technological elements. There's a centralized screening, and then as you actually approach the lane, there are four parallel divest stations, so it gets travellers going through the lane a lot more quickly, and it's a much better traveller experience.

CATSA had plans to roll that out at the eight large airports. There was a plan for that and some money requested, we understand. Unfortunately, all that was funded was what had previously been approved for a very limited implementation at the four largest airports. So, for example, it's in Toronto at U.S. transborder, but it's not at the domestic check-in point in T1, which is the biggest. We really would like to see that investment get restarted. It was put on hold in the budget.

• (1825)

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

On to Mr. Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you, Madam Chair.

Good evening, ladies and gentlemen. Welcome, and thank you for being here today.

I will start the discussion with the people from Flight Claim Canada Inc.

First, congratulations for your courageous testimony. If the government adopted all the recommendations you are proposing, I suppose your operation would close its doors.

**Mr. Jacob Charbonneau:** It actually gives us additional tools with which to help passengers. Today, although European rules are clear, we are mostly helping European passengers.

**Mr. Robert Aubin:** Thank you. It was more along the lines of a joke.

In your opening statement, one thing caught my attention. We have been talking about the passenger bill of rights for weeks. The usual things we hear about are lost luggage, overbooking and flight delays.

You are now adding questionable business practices that require compensation. Could you give me some examples of what you call “questionable business practices”? What impact could they have on passengers, and what solution do you propose?

**Mr. Jacob Charbonneau:** When I said questionable business practices, it was against the background of the current state of affairs and the perception of airlines that passengers have. I am not proposing specific compensation for that. But I was referring to the fact that a class action has been filed about the “Mexican game”, where airlines were selling tickets for so-called direct flights that turned out not to be.

**Mr. Robert Aubin:** Thank you.

I would now like to turn to Mr. Gooch.

I do not know whether you were here when we heard the testimony from the previous group of witnesses. We briefly touched on the recent events involving Air Transat. Air Transat seems to want to share the responsibility—to put it politely—with the airports. According to Air Transat, a good number of factors put the passengers in the situation they were in because the Ottawa International Airport was not able to respond to unscheduled diversions of flights. Is that the case? Are airports programmed to handle that kind of unexpected happening to any extent?

If we are considering providing passengers with compensation, should we also be considering sharing the responsibility between airlines and airports?

**Mr. Daniel-Robert Gooch:** Thank you for that question.

I heard what was said at a meeting with Air Transat last week. Clearly, the situation is really complex. After two days of discussion, I never managed to find out who was responsible for that situation.

[*English*]

I think it's fair to say that the passenger doesn't really want to see a lot of finger pointing, that the passenger wants people to take responsibility.

My sense is that our members from coast to coast strive to positively influence and control the experience of passengers—to the best ability that they can—travelling through their airports, even though they don't necessarily have direct control or influence over a lot of those areas. Certainly what happened was out of the ordinary.

I think it's fair to expect airports to have plans. Major airports do have plans on how they handle irregular operations. I think it's also fair to expect that everybody will communicate and coordinate with each other and strive to do better on an ongoing basis.

I'm not going to speak for the Ottawa airport—I'll let them speak for themselves—but I heard my colleagues there speak to what they had in terms of the buses, the water bottles, and the snacks that were available. A lot of that came from learning from previous experiences.

With airports, airlines, Nav Canada, ground handlers, refuellers, we don't need government to tell us to talk to each other to work better. We do that all the time. When there's an incident like this, everybody gets together and asks, what happened here, where did we drop the ball, and how can we do it better next time?

It was a very unfortunate incident. Certainly aviation is very complex. There are a lot of players involved.

• (1830)

[*Translation*]

**Mr. Robert Aubin:** Thank you.

I would now like to turn to the representatives of the two organizations that advocate for passengers in these matters.

In the cases you have been involved in, has it ever happened that airlines have backed out by putting the responsibility on the airport and by refusing to compensate passengers?

**Mr. Jacob Charbonneau:** Speaking on behalf of Flight Claim Canada Inc., I can say that the answer is no.

We make sure that the regulations in place are enforced. That is why I said earlier that it would give us additional tools.

We rely on the rules that are in place. The European regulations, in particular, define what is acceptable and what is not acceptable for airlines. In addition, they set out when extraordinary circumstances are applicable and when they are not. Finally, they define what is inherent in the services provided by airlines.

**Mr. Robert Aubin:** Mr. Lukács, earlier, you said that compensation should also be provided for mechanical malfunctions. Did you mean full compensation? We all know what mechanical issues are, and that even when our car leaves the garage, there can be a glitch. If the airline demonstrates that it has followed its maintenance plan to the letter, should it still be responsible for compensation for mechanical malfunctions that it clearly could not have foreseen?

[English]

**The Chair:** Make it a short answer, please.

**Dr. Gábor Lukács:** The answer is yes. The only exceptions are mechanical issues for which a whole model of aircraft is grounded. If a particular model affecting all models across the airline is grounded, that could be extraordinary. Other than that, it's the airline's responsibility to ensure that they have spare aircraft if needed. That has been the case law already in the context of the Montreal convention, actually.

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

Mr. Badawey.

**Mr. Vance Badawey:** Thank you Madam Chair.

I have a few questions for Mr. Charbonneau with respect to where we're going and how we're getting there.

Your organization has been pushing for more accountability and more clarity for the traveller for quite some time. You wanted uniform, or you've advocated for a uniform compensation regime. How far do you think Bill C-49 has gone? How far are we, and how much more do you think we should do? Do you think C-49 sits nicely now, that it's a good bill, a good piece of legislation; or do you think that we have some more work to do?

[Translation]

**Mr. Jacob Charbonneau:** This is a good starting point that encourages some very good ideas. There is still a need to clearly define when the compensation applies, when it does not, and the type. The committee must study this matter and submit clear rules so that the regulations that result are clear as well.

[English]

**Mr. Vance Badawey:** With respect to the time, you've been at this for a while. You've been advocating and lobbying for an air passenger rights regime for quite some time. In that time frame, first off, why do think it has taken so long? With that said, what did you gather in terms of information throughout that time? Does it exist now? Is it part of the information that you're speaking of?

**Mr. Jacob Charbonneau:** I'm not sure I'm getting the question.

**Mr. Vance Badawey:** You've been advocating for a passenger rights regime for quite some time. It's been a while since you've been doing this, so over that course of time, I'm sure that you've been communicating with people to sort of gather information on what those needs actually are. Again, going back to my first question, did we capture it? Do we have more to do? What specifics haven't we captured? What specifics can we actually take the next step towards? I go back to the panel that was before you. I'm just trying to sort of get down in the weeds a bit and be a bit more pragmatic, beyond the introduction of this bill.

[Translation]

**Mr. Jacob Charbonneau:** What matters is the way passengers will be informed afterwards. We may have the finest legislation and regulations in place, but if people do not know their rights and the recourse available to them, those laws and regulations are not very useful.

We realize that, although European regulations have been around since 2004 or 2005, few people in Canada have been aware of them in recent years. Less than 2% of people in North America made claims as a result of delays or cancellations, because they were unaware of their rights or did not want to fight with the airlines.

First, people must be informed of their rights. Second, the airlines must comply with the regulations in place. Customers come to us after trying to approach the airlines that have rejected their claims. They are not very familiar with the legislation, and once their claim is rejected, they do not think they have anywhere else to go, whereas the provisions in place would allow them to obtain compensation.

● (1835)

[English]

**Mr. Vance Badawey:** What I'm getting at essentially is the next steps. We all know what happened in the past. In the last panel, the message I was trying to get across was "Let's move forward." Let's work together to ensure that we can deal with this. It is an ongoing process; there's no question. The problems are not going to stop tomorrow; they're going to continue. With that, and with your comments just now, what do you think a fair metric is going to be? We recognize what outcomes we want to recognize. Performance measures are a key part of that, so that we can continue to challenge these problems head-on. What metric, what performance measure do you think would be appropriate? Where is the benchmark?

[Translation]

**Mr. Jacob Charbonneau:** Actually, a number of measures can be taken, such as examining the impact of the legislation and regulations on the number of delays and cancellations. Travellers who have experienced delays or cancellations should also be surveyed to determine whether they fully know their rights. We then need to ensure that people are aware of their rights.

During the recent delays on the tarmac, I was surprised to see that the crew members were not specifically trained on the airline's tariffs. Airline employees should be trained so that they are also familiar with the passengers' rights and able to share the information with them afterwards.

[English]

**The Chair:** Mr. Graham.

[Translation]

**Mr. David de Burgh Graham:** Mr. Charbonneau, I feel that many people would like to file complaints, but they do not know where to go. If everybody knew their rights, how many complaints do you think we would see on this screen?

**Ms. Meriem Amir (Legal Advisor, Flight Claim Canada):** Could you speak louder? I did not hear.

**Mr. David de Burgh Graham:** If everybody knew their rights, how many complaints would there be?

**Mr. Jacob Charbonneau:** There would probably be as many complaints as customers who have been affected by a situation that would require a complaint. However, if people were aware of their rights and there was a process in place, they would no longer have to file a complaint because recourse would be available to them.

That is the direction we want to see Bill C-49 move in. People need to be provided with tools so that they no longer need to file a complaint for compensation or settlement. Provisions need to be in place in advance to allow them to get compensation without having to file a complaint and always having to fight to get something.

[English]

**Mr. David de Burgh Graham:** You were talking a lot about the Montreal convention earlier. Are there any enforcement mechanisms in the Montreal convention itself?

**Dr. Gábor Lukács:** Is the question for me?

**Mr. David de Burgh Graham:** Yes. I know they can answer, but I'm asking you.

**Dr. Gábor Lukács:** The Montreal convention allows enforcement through the courts. It is also incorporated in the airlines' tariffs, so it is currently the option that offers the most tools for enforcement.

It does not carry penalties. It does not have specific enforcement mechanisms. What we do see in claims relating to the Montreal convention is that the passenger makes a claim for a delay in their flight and gets back an email from Air Canada, for example, thanking them for their email and saying, "Here's 25% off your next flight." They're completely ignoring the substance of the complaint.

Overall, the picture we see with both the Montreal convention and the tariff system is that the rules are written down there, but air-

lines are training their lower-level staff to ignore complaints of this nature and provide template answers that essentially are evasive.

**Mr. David de Burgh Graham:** On your chart that you've put up here, you say that the complaints have quadrupled over four years, but we can see fairly clearly that the complaints quadrupled this year. Can you speak to what caused a spike after many years of relative stability?

**Dr. Gábor Lukács:** The spike this year was caused by a massive campaign by the Canadian Transportation Agency, as I understand it, to draw attention to itself. However, unfortunately that massive campaign was not coupled with actual structural changes. Passengers are still being sent away without their complaints being resolved.

Just last year it happened that when CBC got on the story that a passenger was being sent away, then all of a sudden people from the agency were very apologetic. It got solved very quickly. However, I don't think Canadian passengers should be walking with a lawyer on their left and a journalist on their right to ensure their rights are respected.

• (1840)

**Mr. David de Burgh Graham:** That's fair.

You've indicated that you're not happy with the CTA itself. How would you restructure? How would you change it?

**Dr. Gábor Lukács:** To me, the CTA as an organization is beyond redemption. I would like to see the responsibilities partially transferred to Transport Canada in terms of the regulation-making powers, and then the enforcement and the consumer protection to a separate agency that has a single mandate of consumer protection and has stronger mechanisms in place to prevent conflict of interest and regulatory capture.

**Mr. David de Burgh Graham:** You talked about having filed I think 32 preventive complaints that succeeded.

**Dr. Gábor Lukács:** It was 26.

**Mr. David de Burgh Graham:** Twenty-six? Right. That's a good number for an individual. What were these complaints?

**Dr. Gábor Lukács:** These complaints were related to Air Canada's refusal, for example, to compensate passengers for damage to baggage when they rip off the handle or damage the wheels. More known issues are the liability of WestJet for baggage on domestic flights, which used to be \$250 and was raised to over \$1,800 as a result of my complaint, or the amount of denied boarding compensation payable by Air Canada, which was raised from \$100 to up to \$800, depending on the length of the delay, as a result of my complaint. There was a wide range of issues relating to matters that affect passengers in their daily dealings with airlines.

**Mr. David de Burgh Graham:** Thank you.

Mr. Gooch, I know you said you weren't closely involved in any way with the Ottawa airport, but the Air Transat incident is obviously one that's on our minds. You talked about the airport passenger care plan. What are the mechanics of an air passenger care program for an emergency like the one that happened in Ottawa?

**Mr. Daniel-Robert Gooch:** I'm not as familiar with the technical details, but it would be something that would be created by the airport authority in conjunction with the air carrier partners in that airport. Airports vary quite significantly from one part of the country to another in terms of complexity. Airports have plans for all kinds of contingencies, from security incidents, to safety incidents, to irregular operations. They try to think of the needs of travellers in that type of situation and to predict what might be needed. In some cases, it may be buses to get travellers off an aircraft, snacks and food that can be brought out, maybe cots, and that sort of thing, but it would vary. I'm not personally familiar with the details of that particular airport's plan.

**Mr. David de Burgh Graham:** Thank you.

**The Chair:** Mr. Yurdiga.

**Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC):** Thank you, Madam Chair, and thank you to the witnesses for presenting today.

My biggest concern right now is the northern communities, the isolated communities, where air travel is very expensive. They have a different reality from people in the south. My concern is that this piece of legislation we're studying right now is going to significantly impact the north, because a lot of times, regulations in the south make sense and make absolutely no sense in the north, because they are two different realities. Do you think there should be exceptions for northern communities and isolated communities, or do you think we should just suck it up, and maybe we won't have any industry in the north? My question is to anyone who wants to answer it, because it's multi-faceted.

[*Translation*]

**Mr. Jacob Charbonneau:** I would certainly like to answer.

When you set up a compensation system, you have to take into account the realities. If something is not attributable to the airline, there are reasons for that. There are also reasons for the contrary. That has to be taken into consideration when making regulations.

When an airline faces complications that are not caused by its own decisions, but by geography, those can clearly become exceptional circumstances and the airline may be exempted from providing compensation.

**Ms. Meriem Amir:** I can also add to the answer.

In the European Union, we see that many countries have very different geographical realities and climates. All sorts of airports are subject to very different circumstances. Yet they are all subject to the same regulations, which seems to work well.

As my colleague Mr. Charbonneau said, they are exempted only in extraordinary circumstances that arise through no fault of their own. So I do not see why, for the few flights to Canada's north, although I'm not an air transportation expert....

In my opinion, they are designed for the purpose, equipped differently, and have experienced pilots to deal with particular climate conditions. With the equipment and the experience, I think a two-hour delay would be the same as a delay in the south with equipment adapted to the specific temperature of the south. The regulations should simply include a fairly broad and clear framework, as is the case in the European Union.

I think the exemption for exceptional circumstances might be a good thing.

• (1845)

[*English*]

**Mr. David Yurdiga:** I'm just looking at the north. The only other country that experiences the same sort of climate that we have is Russia. We have Nunavut, and they're in a unique situation. People are in small, isolated communities and there are so many things outside of their control.

We have to remember that Canada is a very large country, and fuel delivery is a big issue that can be affected for various reasons. By saying that we'll make provisions, it means absolutely nothing if it is not in the legislation. Rules after the fact never happen. I think we have to be very cautious on how we move forward.

Also, I was looking at your chart up there, and it seems like complaints and enforcement go hand in hand—less enforcement, more complaints.

I don't know if the airline industry is getting worse or the enforcement is the problem. I do a lot of travelling and I haven't really experienced a lot of delays. There are delays, but I expect that, because airlines have situations out of their control.

I think we have to do a better job in enforcement. Also, with Bill C-49, we have to ensure that we make provisions for northern communities.

Enforcement has to go hand in hand. Do you think that changing the rules is going to make a difference if enforcement stays the way it is, or do you think that setting up rules and just moving on will make a difference?

**Dr. Gábor Lukács:** With respect to northern communities, part and parcel of the problem is lack of sufficient competition. However, even as Bill C-49 reads currently with respect to the challenges for the industry, the delays they experience in the north are often caused by not simply "circumstances beyond the airlines' control", but purely weather.

In Canada, no person would want to hold an airline responsible for a genuine weather issue. That is a no-brainer. I'm not advocating for holding airlines responsible for what is genuinely weather. The trouble is that airlines often abuse the claims for weather. A claim that a flight from Toronto to Halifax was cancelled due to weather when the weather was happening in Vancouver is unacceptable.

Insofar as enforcement is concerned, the greatest problem is that many of those enforcement actions are discretionary. They are up to someone to decide whether they will or will not take enforcement action, and that has changed....

To be clear, I'm not proposing to punish airlines for delays. What I am proposing is that if a flight is delayed and an amount of compensation is owed, even if it's a small amount, if that amount of compensation is not paid out, then there should be a hefty penalty. The penalty should be attached to not complying with the rules, not the delay itself.

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

Mr. Yurdiga, your time is up. Thank you for participating today.

Mr. Hardie.

**Mr. Ken Hardie:** Thank you, Madam Chair.

Mr. Charbonneau, how do you get paid? Do you work on a contingent basis for the files you take on?

• (1850)

[*Translation*]

**Mr. Jacob Charbonneau:** Actually, we provide a service that is risk-free for customers, and we work entirely on commission. If we don't win the case, we do not claim anything from the customer, but if we do, we keep a percentage of the compensation.

[*English*]

**Mr. Ken Hardie:** In Canada, that percentage or contingency fee could be as high as 33% of the award.

[*Translation*]

**Mr. Jacob Charbonneau:** In our case, it's 25%.

[*English*]

**Mr. Ken Hardie:** Twenty-five per cent.

Mr. Lukács, you've also undertaken action on behalf of some clients. Do you charge a fee?

**Dr. Gábor Lukács:** Absolutely not. Our activities are completely pro bono.

Actually, our website has even been set up purely from donations received from the community.

**Mr. Ken Hardie:** Mr. Charbonneau, I apologize for asking Mr. Lukács that question.

**Mr. Jacob Charbonneau:** He has to make a living.

**Mr. Ken Hardie:** Yes.

We have an interesting situation. Our previous panels indicated that the profit margin per passenger is very low. In fact, you made the comment that passengers are treated as a commodity, and in a sense I guess they are, because the airlines deal on a volume basis.

Gone are the days when only the elite would fly, and therefore everything was crystal and silverware. On the one hand, we have a migration to opening up air travel to more people, but on the other, there seems to have been a trade-off.

One of the principles they've been trying to weave through this bill, Bill C-49, is the principle of balance. What does reflect a balance?

Mr. Lukács, with respect, you sound a little bloodthirsty. But at the same time, obviously we have had some outrageous incidents, so what does the balance really look like?

Mr. Charbonneau, I'll ask you.

[*Translation*]

**Mr. Jacob Charbonneau:** It means striking a balance by providing a service that allows passengers not to feel that they are taken hostage. With respect to the events in the past few months, we are very concerned that the passengers felt like they were being held hostage. They had little recourse, little information, and were left to their own devices. We want rules to be established to allow for compensation, but also to ensure that companies have to adjust and take better care of their customers. They will have to make sure there are fewer and fewer delays and cancellations, and, when they do happen—which they will, because of all sorts of circumstances—the customers will be adequately taken care of.

Right now, there is some general grumbling and that is why bills are introduced. More and more people are dissatisfied with the system. The idea is to find ways to support passengers when they are faced with problems.

[*English*]

**Mr. Ken Hardie:** You would want to be cautious. If you're advocating, for instance, for higher penalties, you have a material interest in those higher penalties. If it were discovered that you were chasing people, looking for clients, that's called champerty, and there are some problems with that.

Mr. Gooch, is it recognized that the airports themselves also should have some accountability for the passenger experience, particularly when delays aren't a result of a force of nature or whatever but the ramp people don't show up on time and the airline is stuck out on the tarmac? That's not the airplane's fault. I don't see anything anywhere that suggests the airport authority itself would owe some compensation to the passenger.

**Mr. Daniel-Robert Gooch:** As I said earlier, the interaction at an airport is quite complex. There are many different parties involved, and it's not always visible where the issue is. The ramp employee you spoke about actually is usually an airline employee. There's a lot of misunderstanding about who does what at an airport.

I know that travellers want people to take responsibility. Certainly, airports strive to take responsibility for the experience passengers receive at their airport.

If someone comes up to me and yells at me for my lawn being too long and tells me that the lawn is really long and I need to mow that lawn, I look at the lawn and I see it's really long and it really needs to be mowed. But if my house is the one down the street, there's only so much I can do to help that guy get his lawn mowed.

It's not a great analogy.

There are many different players in an incident. Even in some of the biggest ones, it's hard to know who's at fault. Take a tarmac employee, for example—

• (1855)

**Mr. Ken Hardie:** If I could, I think what we're dealing with here, then, is that.... The lines of accountability aren't terribly clear, because it is such a complex situation.

With respect to incidents that happen, those weird ones, the ones that hit the news, is there a process by which the airport authorities and the airlines collaborate on contingency plans, or at the very least, somebody knows who has the lead on this thing?

**Mr. Daniel-Robert Gooch:** Yes. That's an ongoing thing. That happens all the time. When there are major incidents, everybody gets together and asks what they did wrong here, how they dropped the ball, and how they could do this better. And it happens not just—

**Mr. Ken Hardie:** I'm not talking about after the fact; I'm talking about when the you-know-what hits the fan.

**Mr. Daniel-Robert Gooch:** That's what I'm talking about as well.

**Mr. Ken Hardie:** Is there a situation room where all of the players come in and say, "Here's what's happening right now. What are we going to do?"

**Mr. Daniel-Robert Gooch:** There are. Each airport is set up differently, but there are situation rooms. Some of these things happen very quickly, and when situations like this occur, it's a mess and everybody is just trying to do their best job. They're trying to get the travellers to where they're going safely, securely, and to get together afterwards to help ensure that it doesn't happen again. When they are really big incidents that are high profile, of course they get together after the fact and say, "Okay what did we do wrong; how can we do this better?" They don't just share it amongst themselves; they share it with each other. We talk about it at conferences.

**Mr. Ken Hardie:** I do understand that, but I—

**The Chair:** Thank you very much. I'm sorry, but you're over your time limit.

We'll go on to Mr. Godin.

[*Translation*]

**Mr. Joël Godin:** Thank you, Madam Chair.

I want to begin by thanking you for being part of this. You work on a daily basis in this wonderful world of air transportation, especially with passengers. You provide us with tools that allow us to

do our jobs well. Thank you for being here despite the rather late hour.

My first question is for the representative from Flight Claim Canada.

You are saying that the information for passengers is inadequate. Your goal is to ensure that the information is more detailed, transparent, clear and unequivocal. That's what you said in your presentation.

My question is very direct: do you think Bill C-49 meets those objectives?

**Mr. Jacob Charbonneau:** Not in its current form. The criteria must be much clearer. That is why I said that the people making the regulations must be given clear criteria.

**Mr. Joël Godin:** As I understand it, the bill in its current form does not meet your objectives.

Do you think it might eventually get there?

**Mr. Jacob Charbonneau:** Yes. I think that if some, if not all, of the 15 proposals that we have put forward in the brief are implemented, they will include and protect Canadian passengers as much as, if not more than, what is being done internationally.

**Mr. Joël Godin:** Let me continue along the same lines. You have mentioned Europe and its regulations many times. I gather that you think European passengers are better protected and supported, and that the airlines are more responsible and respectful toward their passengers.

Why do you think the government is not drawing inspiration from the European regulations?

**Mr. Jacob Charbonneau:** I actually think that we are reaching a solution, and we have to ensure that it is fair, and therefore as generous as what Europe has to offer. This solution must also be humane, taking passengers into account.

**Mr. Joël Godin:** You say that the European regulations are being taken into account. Could you tell me what evidence you have that the current government has considered the European regulations in drafting Bill C-49?

**Mr. Jacob Charbonneau:** Well, a compensation system and the systems in place are mentioned, but in reference to the European regulations. However, we are working on the legislation now. So we will have to compare the regulations stemming from the act to see whether or not they are comparable. We personally want the regulations to ensure that all passengers are treated equally.

**Mr. Joël Godin:** Thank you.



• (1900)

**Ms. Meriem Amir:** I would like to add something if I may. I think the general principles are somewhat similar to those of the European regulations. I do not recall exactly which clause of the bill it is, but it talks about minimum compensation and the right of passengers to be informed. That follows the European principle almost to the letter, as it establishes a minimum and even a notice that each airline must provide in the event of cancellation or delay.

I think we are there, and the principles are there. A number of things are addressed. I think the only difference is that the criteria are clear in the European regulations, whereas they are still a little fuzzy here.

**Mr. Joël Godin:** As I understand it, you think the criteria are not clear and, in order to make them clear, we should define our objective more clearly within the regulations.

Since time flies, I now have a question for the representative from Air Passenger Rights.

You said that the Canadian Transportation Agency is not effective. Today, we have been told quite the contrary, namely that the Agency is effective and that it also enforces the legislation. I wonder who is telling the truth. Could you tell me what makes you say that the Canadian Transportation Agency is not effective?

[English]

**Dr. Gábor Lukács:** With respect to the Canadian Transportation Agency, this is a question of fact shown by the statistics and shown by the number of decisions and nature of decisions issued by the Canadian Transportation Agency. When you have a regulator that claims to have expertise in the airline industry, which accepts that a jumbo jet can be fully boarded by over 200 passengers in five or 10 minutes, then you know something is really wrong at that body. And these are some of the nature of the decisions that I have seen coming out.

**The Chair:** Sorry, the time is up.

Go ahead, Mr. Aubin.

[Translation]

**Mr. Robert Aubin:** Thank you, Madam Chair.

Ms. Amir, when I last spoke, you wanted to add something, but I ran out of time. If you remember what you wanted to say, please go ahead.

**Ms. Meriem Amir:** I have a good memory, I remember.

You had asked whether airlines sometimes pass the buck to airports. It has happened. My colleague Mr. Charbonneau did not remember, but having filed a number of complaints myself and having been front and centre, I remember a clear example involving Vueling Airlines, whose head office is in Barcelona. The company, subject to European regulations, had a three-hour delay. However, it invoked section 3 on compensation, saying that it was not at fault and passing the buck to the airport whose check-in system was down.

Finally, the conclusion was that the circumstances were not extraordinary, since that was part of Vueling's activities, and the company was used to working with airports and check-in systems.

Once again, the extent of the liability is not clear. Is Vueling fully responsible or does half of the responsibility fall on the airport? That's not clear at all. Earlier, I heard comments to that effect, and perhaps the extent of responsibility should be clarified.

**Mr. Robert Aubin:** Thank you. Clearly, you are showing us that Canadians have rights of which they are not aware and that you make sure they are respected.

In the industry, which is not governed by a charter right now, are there huge differences in the compensation to passengers?

**Mr. Jacob Charbonneau:** Are you referring to those that are not subject to—

**Mr. Robert Aubin:** No, I would like to know whether, for the same problem, such as lost luggage, there are big differences in compensation from company to company.

**Mr. Jacob Charbonneau:** Yes, indeed, under the Montreal Convention, which provides for compensation, in particular for luggage or for personal or financial losses, there are very big differences. People often have to fight in small claims court, and ultimately a judge will determine the compensation to be awarded to the customer.

Often, the time and effort required to settle everything is not worth the amount claimed initially for the time wasted because of the delay, flight cancellation, or lost luggage.

**Mr. Robert Aubin:** When you are involved, do you go to small claims court?

**Mr. Jacob Charbonneau:** No, we apply the criteria that are defined. So there's not a wide gap because all instances are listed. European compensation for a flight delayed more than four hours for a distance of more than 3,500 km will always be in the amount of 600 euros.

• (1905)

**Mr. Robert Aubin:** Let's talk about a flight operated by a joint venture because there is no direct flight. For instance, if I were travelling from Montreal to Brussels and from Brussels to another city, should I have to deal with each airline or only the one from which I bought my ticket?

**Mr. Jacob Charbonneau:** Actually, when it comes to joint ventures and the flight is operated by another company, the airline will pass the buck to the other company.

For the rest, it depends. Do all the segments have the same reservation number or not? Where did the glitch occur? For example, was it a European or Canadian connecting flight? That will affect the legal aspects.

**Mr. Robert Aubin:** In your view, should Bill C-49 solve the problem by determining that the company from which the person buys the ticket is responsible for that person?

**Mr. Jacob Charbonneau:** Personally, I think so.

[English]

**The Chair:** All right. We've completed our first round. Does anyone have a question that they have not been able to get sufficient answers to, on either side of the table?

Mr. Sikand has indicated he had a question. Is it one question?

**Mr. Gagan Sikand:** It was various questions, but I think they've all been answered.

**The Chair:** They've all been answered.

Go ahead, Mr. Fraser.

**Mr. Sean Fraser:** I have just one question to wrap up, and perhaps it's a good time to say thank you to our witnesses and to my colleagues on both sides of the table. This has been a valuable and interesting few days, and I really do appreciate everyone's work and look forward to our further deliberations.

Dr. Lukács, chief amongst your complaints seems to be the fact, in essence, that a lot of people are experiencing irritants and not having a remedy, if I can say there's one overarching theme. Do you think Bill C-49, particularly the requirement that would have airlines adopt clear and concise descriptions of how someone can enforce remedies, is going to improve the situation over the status quo?

**Dr. Gábor Lukács:** Unfortunately not.

The way I would articulate it is that Bill C-49 is going to double the amount of compensation that passengers are not going to receive.

**Voices:** Oh, oh!

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

Mr. Chong.

**Hon. Michael Chong:** Thank you, Madam Chair.

Just to clarify, so I can plan out my week, we're going to meet next week on Tuesday for future committee business. How much time should we budget for that? Are we meeting for an hour or two hours? Are we going to book two hours?

**The Chair:** Well, you can book two hours. Hopefully, we'll be finished in 15 minutes. That would be the preferable, but it might take a little longer than that.

**Hon. Michael Chong:** That's great.

I have another question. This is the first time I've been on committee in this Parliament, so I don't know what the practice is for committee business. I know that when I first started as a parliamentarian 13 years ago nothing was in camera except for the discussion of potential witnesses, in order to ensure that nobody besmirched the reputation of a witness. In the last Parliament, I think all committee business was in camera for most of the committees. What are we going to do next Tuesday?

**The Chair:** Why don't you answer that as the clerk, officially?

Technically, you're automatically in camera, but it's up to the committee. It depends on the issues we're dealing with. Quite often, we try to do things in public. Otherwise it's in camera, but it's totally up to the committee as to how they decide to do it.

**Hon. Michael Chong:** Thank you for clarifying that.

**The Chair:** You're welcome.

Mr. Badawey.

**Mr. Vance Badawey:** Thank you, Madam Chair.

By the way, Michael, welcome. It's great to have you on board.

The rule of thumb is that we try to stay in public session and stay out of in camera, but there is obviously a lot of sensitivity. When it's a negotiation or an issue of sensitivity that can affect an individual, or things of that nature, we'll go into closed session, but it's very rare. From our side, and even your side, I know that in the past we've always preferred to stay in open session.

**The Chair:** To our witnesses, thank you so much. You should feel good. We managed to get pretty much all of the witnesses who wanted to appear before us to appear, and that included the four of you. Thank you very much for the information today.

We will now adjourn the meeting. That's the end of four days. I have to say thank you to all our support staff, our clerk and everyone, and to our members.







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