

GOVERNMENT RESPONSES TO COMMITTEE RECOMMENDATIONS

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<p>1 – Regulate How Airlines Communicate Service Disruptions: That the Government of Canada consider updating the <i>Air Passenger Protection Regulations</i> (APPR) to ensure that airlines communicate service problems (for example (i.e.) flight delays, flight cancellations) in a detailed, timely and more transparent manner.</p>	<p>The Government supports this recommendation, and some elements may be addressed through existing regulatory activities.</p> <p>The creation of the APPR provided an important framework for passengers’ rights when air travel does not go as planned by also requiring air carriers to provide detailed and timely information to affected passengers in the case of flight disruptions, including delays and cancellations. Under the current regulations, air carriers must communicate the reason for the delay or the cancellation, the compensation to which the passenger may be entitled for the inconvenience, the standard of treatment for passengers (if any), and the recourse available against the air carrier, including their recourse to the Canadian Transportation Agency (Agency). In addition, the APPR outlines that air carriers must communicate with passengers when there are disruptions to scheduled flights in a detailed, timely, and transparent manner. In the case of a delay, the air carrier must communicate status updates to passengers every 30 minutes until a new departure time for the flight is set or alternate travel arrangements have been made for the affected passenger.</p> <p>The APPR are administrated and enforced by the Agency, which has enforcement tools available to it, namely cautionary notices or notices of violation setting administrative monetary penalties (AMPs) to enforce the provisions of the APPR, including those surrounding information which must be shared in the event of flight disruptions.</p> <p>The Government has also taken action to increase the Agency’s investigation and enforcement powers to help ensure compliance with the APPR. As part of the legislative amendments to the <i>Canada Transportation Act</i> (Act), which were introduced in the <i>Budget Implementation Act, 2023, No. 1</i> (BIA 2023), which received Royal Assent on June 22, 2023, changes have been made to broaden the powers of the Agency’s enforcement officers when verifying compliance or preventing non-compliance with any provision of the Act or of any regulation, order or direction made under the Act, including the APPR. Additional amendments will also allow the Agency to increase the maximum amount of AMPs applicable to the APPR for corporations and provide the Agency with the authority to enter into compliance agreements with air carriers.</p> <p>While the regulations already prescribe requirements with respect to clear and timely communication, the Agency could revisit the timeliness and detail of these requirements if deemed necessary during the upcoming regulatory</p>

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	process.
<p>2 – Categorization of Delays and Cancellations: That the Government of Canada review the process by which flight delays or cancellations may be categorized as within an air carrier’s control but required for safety purposes, and that it consider harmonizing the Act and the APPR with European regulatory schemes in this regard.</p>	<p>The Government supports this recommendation and action is ongoing.</p> <p>While the creation of the APPR provided an important framework for passengers’ rights when air travel does not go as planned, the Government recognizes that changes are required to simplify and strengthen the regulations surrounding compensation and standards of treatment when flights are delayed or cancelled.</p> <p>Amendments to the Act were introduced in BIA 2023 and received Royal Assent on June 22, 2023. Once an Order in Council is made, the Agency’s regulation-making authorities will be modified to remove the three broad categories of disruptions (within the air carrier’s control, outside the air carrier’s control and within the air carrier’s control but required for safety) and, instead, make compensation and standards of treatment mandatory for all disruptions, unless the disruption was caused by exceptional circumstances that would be specifically defined in regulations made by the Agency, in consultation with the Minister of Transport. During the regulatory process to update the APPR, consideration will be given to harmonize the regulations with those adopted in the European Union (E.U.).</p> <p>While the European approach has provisions that limit compensation in the face of extraordinary circumstances, the term was not defined in the regulation and has been subject to a series of challenges in the courts over various interpretations of the rules.</p> <p>To reduce the amount of ambiguity in the APPR regarding eligibility for compensation, the forementioned legislative amendments allow the Agency to develop a rigorous and precise list of exceptions that will be tailored to the Canadian marketplace, while considering the E.U. list of exceptional circumstances as a reference.</p>
<p>3 – Burden of Proof: That the Government of Canada amend the evidentiary requirements in determining a passenger’s eligibility for compensation, to ensure that the burden of proof falls upon the airline to demonstrate why compensation should not be awarded.</p>	<p>The Government supports this recommendation and action is ongoing.</p> <p>The Government agrees that Canada’s air passenger rights regime should be strengthened by presuming that compensation is payable to a passenger unless the air carrier can prove the contrary.</p> <p>Amendments to the Act introduced in BIA 2023, which will come into force on September 30, 2023, put the onus on the air carrier to demonstrate that compensation is not owed to a complainant.</p> <p>The Government is confident that this change in the legislation will simplify the complaint process for passengers since they often do not have access to the information</p>

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	<p>about what caused the delay or cancellation of the air carriers.</p>
<p>4 – New Definitions: That the Government of Canada add definitions of the terms “ticket,” “reservation” and “cancellation” to the <i>Act</i>.</p>	<p>The Government acknowledges this recommendation.</p> <p>The Government acknowledges the importance of clarifying the APPR.</p> <p>Understanding that the Act is broad legislation applying to all modes of transportation and provides the Agency with authority to make regulations with respect to air carriers’ obligations towards passengers, the Government recognizes that it would be most effective to define specific terms related to those obligations in the APPR, as opposed to the Act.</p> <p>The Government introduced legislative amendments to the Act through BIA 2023, which received Royal Assent on June 22, 2023. As part of these changes, the Agency’s regulations with respect to air carriers’ obligations towards passengers can be modified to enable it to amend and strengthen, in consultation with the Minister of Transport, the APPR to make them clearer and less complex for both travellers and air carriers. The aim is to ensure that travellers are fairly compensated in all cases where disruptions occur except where there are specifically defined exceptions in the regulations. Moreover, the Agency will also have the authority to regulate for the standard of treatment applicable when an exception applies, for requirements when baggage is delayed, and to prescribe refund requirements when there is a Government Travel Advisory issued.</p> <p>As the Agency now has the authority to revisit the APPR, in consultation with the Minister of Transport, the Agency could consider whether some definitions for specific terms should be included in the updated regulations to ensure clarity.</p>
<p>5 – Compensation Payment Method: That the Government of Canada amend the APPR to ensure that passengers have the right to receive compensation through the same payment method used to pay for the original ticket rather than a travel credit or alternative flight, especially if the alternative flight does not permit the original purpose of the trip to be fulfilled.</p>	<p>The Government acknowledges this recommendation, and some elements may be addressed through existing regulatory activities.</p> <p>The Government recognizes that when there is a flight cancellation or a lengthy delay that prevents an air carrier from ensuring that passengers complete their itinerary within a reasonable time, passengers should have the option to be refunded the price of the ticket to the same method of payment used to purchase the ticket. As such, additional refund requirements are now in force since September 8, 2022, which were introduced to close the gap identified during the COVID-19 pandemic – namely that air carriers were not required to provide refunds for cancellations that were not within their control.</p> <p>These amendments to the regulations require air carriers to</p>

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	<p>provide passengers with either a refund or rebooking when there is a flight cancellation or a lengthy delay, due to situations outside carriers’ control, including major weather events or a pandemic, that prevents carriers from ensuring that passengers complete their itinerary within a reasonable timeline, regardless of the type of ticket that was purchased. These refund requirements provide clarity around timing, cost coverage, method of payment, and deadlines to refund travellers.</p> <p>In terms of compensation following a flight disruption, the APPR already set out requirements for air carriers to offer compensation in monetary form — for example cash, cheque, or a deposit into the passenger’s bank account. Air carriers can also offer passengers other forms of compensation, such as vouchers or rebates, as long as monetary compensation is also offered as an option. When other forms of compensation are offered, they must have a higher value than the monetary compensation required, and they cannot expire.</p>
<p>6 – Service Standards for the Aviation Ecosystem: That the Government of Canada, in consultation with airlines, airport authorities, federal entities, and labour representatives, develop a clear and transparent service standards framework for all members of the aviation ecosystem, and that performance metrics be made easily available to the public.</p>	<p>The Government supports this recommendation, and some elements are being addressed through existing activities.</p> <p>The Government recognizes that the provision of air transportation services involves a complex network of service providers operating within an ecosystem to facilitate end-to-end transportation of passengers and cargo, and that issues with service delivery by one entity can have cascading effects across multiple operators.</p> <p>The Government also recognizes that security screening services provided by the Canadian Air Transport Security Authority, a Crown corporation listed in Part I of Schedule III of the <i>Financial Administration Act</i>, are funded through parliamentary appropriations to maintain certain service standards, and that there is an opportunity to work with air industry stakeholders and explore the establishment of service standards to other operators of the ecosystem.</p> <p>In June 2023, the Government introduced Bill C-52, which includes a proposed new Air Transportation Accountability Act. This outlines a range of measures, including regulation-making authorities to require service standards and reporting requirements on those standards for airport operators, air carriers, and other entities providing flight and flight-related services at an airport, to be defined in regulation. The proposed Bill C-52 is subject to the parliamentary review process, and subsequent regulatory development, public notice and consultation process per <i>Canada Gazette</i>.</p> <p>Additionally, per the new regulation-making authorities introduced in BIA 2023, and in line with the Standing Committee on Transport, Infrastructure and Communities</p>

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	<p>(the Committee)’s recommendation, the Government will engage with airports and air carriers on the development of regulations respecting the sharing and reporting of performance data. This engagement will be in order to reduce delays and cancellations and improve the coordination and efficiency of our national transportation system.</p> <p>The Government will continue to work closely with stakeholders to determine how best to evaluate the performance of airports, air carriers, and other entities providing flight-related services within the ecosystem. This may include collecting and analyzing data on delays, cancellations, security screening, baggage handling, and other factors that affect the passenger experience.</p>
<p>7 – Temporary Loss of Baggage: That the Government of Canada act swiftly to address the issues raised by the Federal Court of Appeal with regard to Section 23(2) of the APPR and ensure that the protections afforded to passengers in relation to the temporary loss of baggage by that section are maintained in both the short and long term.</p>	<p>The Government supports this recommendation.</p> <p>The Government agrees that there is an opportunity to strengthen protection for air passengers when their baggage is delayed or temporarily lost.</p> <p>The amendments to the Act introduced in 2018 allowed the Agency to regulate lost or damaged baggage. The resulting baggage provisions in APPR extended the conditions of the <i>Convention for the Unification of Certain Rules for International Carriage by Air</i> (Montreal Convention), which sets, among other things, the maximum liability for lost, damaged and delayed baggage for international travel, with the result that air carriers are currently required to provide compensation to passengers on both international and domestic flights when baggage is lost or damaged. Air carriers are also required to provide compensation for delayed baggage on international flights by provisions of the Montreal Convention. In addition, the APPR currently require air carriers to compensate passengers for baggage fees paid on international and domestic flights.</p> <p>The Federal Court of Appeal in <i>IATA v. Attorney General</i> declared that the existing provisions of the APPR dealing with “temporary loss of baggage” (delayed baggage) (international and domestic) were of no force and effect since they exceeded the regulation making authority of the Agency.</p> <p>In line with this recommendation, the Government has taken action with legislative amendments introduced in BIA 2023, which received Royal Assent on June 22, 2023, which means that the “temporary loss” provisions in the APPR are now operational.</p>
<p>8 – Investigating Wrongful Donation of Baggage: That the Agency investigate the airline practice of donating passenger</p>	<p>The Government acknowledges this recommendation.</p> <p>The Government recognizes that recent events surrounding the donation of a passengers’ lost baggage to a charity organization by a Canadian air carrier has raised concerns</p>

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<p>luggage, deemed to be lost, in order to inform future policy.</p>	<p>over the practice and highlighted potential areas of improvements in the use of baggage tracking technology by air carriers.</p> <p>The Government understands the importance of passengers' luggage being returned to them in a careful and timely manner and the APPR include requirements to ensure passengers are treated fairly when their baggage is delayed, lost, or damaged. Those requirements have been established with careful consideration of the Montreal Convention, which has been ratified by Canada, and sets out among other things, the maximum liability for lost, damaged and delayed baggage for international travel by application of the <i>Carriage by Air Act</i>.</p> <p>Under Canada's current air passenger rights regime, if a passenger's baggage is delayed for more than 21 days, the baggage is considered lost, and the passenger is entitled to compensation in line with the amount set out in the Montreal Convention.</p> <p>The practice in the air industry with respect to baggage that is considered lost after 21 days of being delayed or missing, and for which compensation has been provided, is currently not regulated in Canada, and could be investigated further to inform future policy. The donating of lost and unclaimed baggage after an extensive period is practiced in Canada and other international jurisdictions including the United States and the E.U.</p> <p>Moreover, the Agency has a compliance monitoring and enforcement program in place to help ensure compliance by regulated entities with regards to the APPR. The Government recognizes that the Agency has at their disposal multiple enforcement tools, namely cautionary notices or notice of violation setting AMPs, which could be employed when the Agency believes that a regulated entity has committed a violation of the APPR.</p> <p>In addition, the Government is also taking action to increase the Agency's investigation and enforcement powers to help ensure compliance with the APPR. Amendments to the Act have been introduced in BIA 2023 to broaden the powers of the Agency's enforcement officers when verifying compliance or preventing non-compliance with any provision of the Act or of any regulation, order or direction made under the Act, including the APPR. However, as an independent quasi-judicial tribunal and regulator, it will remain up to the Agency to make use of enforcement tools available to them, when they deem necessary, based on their own compliance and enforcement policies. Moreover, the Agency also has the express power under the Act to initiate, on its own motion, investigations if it suspects that an air carrier is in violation of requirements under the APPR.</p>

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<p>9 – Data Sharing: That the Government of Canada develop requirements for airlines to collect and make publicly available data on their internal complaint mechanisms, including the number, nature, and outcome of complaints and requests for compensation.</p>	<p>The Government supports this recommendation and action is ongoing.</p> <p>The Government agrees that air carriers could help improve passengers’ experience in the complaint process by increasing their transparency with respect to the nature and outcome of air travel complaints they handle internally.</p> <p>As amendments to the Act introduced in BIA 2023 have received Royal Assent, the Minister of Transport has the authority to develop regulations mandating air carriers to publish performance data on their own websites, which could also include information pertaining to complaints resolved internally.</p> <p>Furthermore, by virtue of additional legislative amendments to the Act introduced in BIA 2023, the Agency will contribute to transparency through publishing a summary of the decision and nature of each case that is resolved by a complaint resolution officer under the new process for resolving air travel complaints as well as including general information about complaints in its annual reports.</p>
<p>10 – Review of the Agency: That the Government of Canada review the role of the Agency within the current enforcement model for the APPR and that, in doing so, it considers the examples of administrative complaints agencies such as the Commission for Complaints for Telecom-television Services and the Ombudsman for Banking Services and Investments.</p>	<p>The Government supports this recommendation and action is ongoing.</p> <p>Currently, the Agency has at their disposal a variety of tools to verify the compliance of regulated parties to the APPR, and pursue enforcement activities for non-compliance, including issuing cautionary notices or notices of violation with AMPs. As of June 2023, the Agency has issued 90 cautionary notices, and 48 notices of violation with AMPs totalling \$712,560 relating to the APPR since the coming into force of the regulations in 2019. Since January 2022, the Agency has issued 37 notices of violation with AMPs which total \$626,610 to 20 different carriers relating to the APPR. While several enforcement tools have been actioned for non-compliance to the APPR since its inception, the Government recognizes that enhancements to the Agency’s enforcement powers are required to enable the Agency to better hold parties accountable to applicable regulations such as the APPR.</p> <p>The legislative amendments to the Act that were introduced in BIA 2023, which received Royal Assent on June 22, 2023, allow the Agency to increase the maximum AMPs that may be issued for APPR related violations from \$25,000 to \$250,000 for corporations. Additional legislative amendments also broaden the Agency’s enforcement powers by providing it with the authority to enter into compliance agreements with air carriers, which involve strict timelines to become compliant and steeper fines if the timelines are not met. Compliance agreements are expected to be a powerful tool allowing the Agency to enter into a binding agreement in which the carrier commits to future</p>

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	<p>compliance.</p> <p>The purpose of an AMP is to ensure that air carriers comply with the regulations and avoid situations in which Canadians are inconvenienced when they travel by air. Compliance agreements are a tool intended to bring regulated parties into compliance with requirements as quickly as possible. Through these recent legislative amendments, the Government has ensured the Agency will have sufficient tools available to it to help ensure air carriers comply with their obligations under the APPR. As an independent quasi-judicial tribunal and regulator, it is up to the Agency to make use of enforcement tools available to them, when they deem necessary, based on their own compliance and enforcement policies.</p> <p>In addition, the Government has taken into consideration best practices from other tribunals/agencies, which are handling high volumes of claims, such as the Commission for Complaints for Telecom-television Services, the Ombudsman for Banking Services and Investments, and the Immigration and Refugee Board of Canada and introduced a new process for resolving air travel complaints in BIA 2023, which has received Royal Assent. As a result, the current adjudication-based complaints process at the Agency will be replaced on September 30, 2023, with a streamlined process whereby complaint resolution officers would make binding decisions, in the event that mediation was unsuccessful, based on the information before them, including information obtained during the mediation process.</p> <p>Clear timelines and a less onerous process will help ensure that decisions occur more rapidly. The recent amendments also involve a mechanism by which air carriers would pay a fee for eligible complaints brought against them at the Agency. As such, air carriers will have a greater incentive to resolve complaints to the consumer's satisfaction internally, which should reduce the number of complaints filed with the Agency.</p>
<p>11 – A simpler Complaints Process for Air Travelers: That the Government of Canada reform the APPR complaints process to make it more simple for consumers to understand and exercise their rights, and in a manner that will lead more quickly to enforceable decisions by the Agency when appropriate.</p>	<p>The Government supports this recommendation and action is ongoing.</p> <p>The Government acknowledges that in recent years, the Agency has faced an exponential growth in disputes relating to air travel complaints that deal with the application of the APPR and that the current dispute resolution process is complex and resource intensive.</p> <p>When an air carrier and a passenger are unable to resolve a complaint themselves, the next step is to bring the matter before the Agency. Under the existing process, a passenger who files an air travel complaint with the Agency may go through three steps of dispute resolution process to have</p>

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	<p>their air travel complaint resolved (i.e., facilitation, mediation, adjudication), each of which could be managed by a different officer (i.e., multiple hands).</p> <p>The Government has introduced legislative amendments to the Act, which were endorsed in BIA 2023, and received Royal Assent on June 22, 2023, to streamline the way the Agency manages these complaints and ensure that passenger complaints are getting addressed as quickly as possible. The new process, which will come into force on September 30, 2023, will require the Agency to begin resolving complaints through the new process, which involves a single complaint resolution officer commencing the mediation and issuing a decision following mediation if there has not been agreed upon resolution, for eligible complaints only. In addition, clear timelines and a less onerous process would ensure that decisions occur more rapidly.</p> <p>The new process will also involve a mechanism by which air carriers would pay a fee for eligible complaints brought against them at the Agency. As such, air carriers have a greater incentive to resolve complaints to the consumer's satisfaction internally, which should reduce the number of complaints filed with the Agency.</p>
<p>12 – Costs of Processing APPR Complaints: That the Government of Canada require the costs for investigating and resolving APPR complaints be borne by the airlines in cases where the Agency reverses the airline's decision, as a way to incentivize better customer service and fewer complaints.</p>	<p>The Government supports this recommendation and action is ongoing.</p> <p>The Government agrees with requiring the costs for investigating and resolving APPR complaints be borne by the air carriers for any eligible complaints, as a way to incentivize better customer service and fewer complaints.</p> <p>Legislative amendments to the Act were introduced to broaden the authority of the Agency to set fees and charges, in consultation with the Minister of Transport, to recover its costs for its various responsibilities in relation to the administration or enforcement of any provision of the Act or the regulations whose administration or enforcement is the responsibility of the Agency.</p> <p>The recent amendments to the Act also allow the Agency to establish fees or charges for the purpose of recovering all or a portion of the costs that the Agency determines to be related to the process of dealing with eligible complaints under the new process for resolving air travel complaints.</p>
<p>13 – Application of Agency Rulings to all Affected Passengers: That the Government of Canada update the APPR regime so that when the Agency determines that a customer's rights under the</p>	<p>The Government acknowledges this recommendation and action is ongoing.</p> <p>The Government recognizes that passengers should be fairly compensated in a reasonable timeline when compensation is due. Canada's system for passengers to access compensation when they feel they have been mistreated by an air carrier remains complaint-driven, which is in line with</p>

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<p>APPR have been violated, passengers on the same flight should be informed of the decision and provided an option to seek equivalent reimbursement/compensation if there are reasonable grounds to think they may have been affected by the same issue (i.e. A flight delay or cancellation).</p>	<p>other jurisdictions, like the E.U.</p> <p>The Government has introduced legislative amendments to the Act, which were endorsed in BIA 2023, and received Royal Assent on June 22, 2023, to overhaul the current three-stage dispute resolution process of air travel complaints at the Agency, which includes an adjudication process by Governor in Council (GiC)-appointed members, to replace it with a simplified complaint resolution process conducted by complaint resolution officers (mainly Agency staff).</p> <p>As part of the new process for resolving air travel complaints, which will come into force on September 30, 2023, the Agency will be required to publish certain information, including the flight number and the date, as well as the reason of the flight disruption and whether or not a compensation was awarded, for each decision issued by a complaint resolution officer. The Government will expect the Agency to make public that the amount of compensation owed, as this amount would be publicly available in the carriers' tariffs in any event. This summary of each decision will provide information to other passengers on that same flight as to whether compensation was awarded as a result of a disruption, and complaint resolution officers must consider that decision when deciding on subsequent complaints.</p> <p>While all affected passengers involved in the same disruption will not be contacted to seek compensation directly after each decision is issued, the Government recognizes that through proposed amendments, passengers facing similar situations would be more informed and therefore seek compensation themselves based on published decisions that could apply to them.</p>
<p>14 – Greater use of Existing Agency Authorities to Extend Rulings to All Affected Passengers: That the Government of Canada provide policy direction to the Agency to make it a standard practice to use their authorities, under section 67.4 of the Act and subsection 113.1(3) of the Air transportation Regulations to group complaints for passengers on the same flight, in order to expedite rulings, and ensure consistency.</p>	<p>The Government acknowledges this recommendation.</p> <p>Canada's system for passengers to access compensation when they feel they have been mistreated by an air carrier remains complaint-driven, which is in line with other jurisdictions, like the E.U.</p> <p>Currently, section 67.4 of the Act permits the Agency to apply decisions respecting a complaint to some or all passengers of the same flight. Based on the amendments to the Act, which were introduced in BIA 2023, that provision will be removed since decisions pertaining to air travel complaints will be issued by complaint resolution officers, as opposed to GiC-appointed members.</p> <p>However, under the new process for resolving air travel complaints, the Agency will be obligated to publish certain information for each decision made by a complaint resolution officer, including the flight number and the date,</p>

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	<p>as well as the reason of the flight disruption and whether or not a compensation was awarded. Using this increased transparency, other passengers will be able to rely on this published information to claim compensation.</p> <p>In terms of consistency, the recent legislative changes will also allow the Agency to develop binding interpretive guidelines to assist the complaint resolution officer in carrying out the new complaint resolution process including the rules of procedure to follow, and provide guidance on how the APPR or other tariff matters are to be applied, which would be binding on complaint resolution officers and ensure consistency. Moreover, complaint resolution officers would be required to consider any earlier decision about a specific flight disruption to maintain consistency in the application of decisions on other passenger complaints.</p>
<p>15 – More Efficient Compensation Claims Processing: That the Government of Canada develop a system by which airlines automatically, and without passenger request, offer compensation to all passengers affected by a flight delay, cancellation, or denial of boarding, when circumstances fall within normal airline operations.</p>	<p>The Government acknowledges this recommendation.</p> <p>The Government recognizes that passengers should be fairly compensated in a reasonable timeline when compensation is due. Canada’s system for passengers to access compensation when they feel they have been mistreated by an air carrier remains complaint-driven, which is in line with other jurisdictions, like the E.U.</p> <p>Requiring air carriers to provide compensation without a complaint would negatively impact the competitiveness of Canadian air carriers internationally, while significantly increasing costs to air carriers and the administrative burden. Furthermore, such a system would not result in the fairest outcome for individual passengers because not all the passengers on a given flight are impacted in the same manner by a disruption. For example, a connecting passenger may make it to their final destination without a delay while the others may have experienced delays of different lengths upon arrival at their final destination.</p> <p>Understanding the importance of fair and timely compensation, the Government is taking action to ensure passengers can easily access compensation when it is due within a short timeline. The legislative amendments introduced in BIA 2023, which received Royal Assent on June 22, 2023, will require airlines to establish a process to deal with passenger complaints within 30 days of receiving them. In addition, the recent amendments include provisions requiring the Agency to publish certain information for each decision issued by the Agency’s complaint resolution officers. The information published will include the flight number and the date, as well as the reason of the flight disruption and whether compensation was ordered, so passengers can easily see whether compensation was awarded for their flight.</p>
<p>16 – Increase Public</p>	<p>The Government supports this recommendation, and</p>

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<p>Awareness of APPR Rights: That the Government of Canada work to increase public awareness of passenger rights by strengthening requirements for airlines to clearly inform passengers of their rights under the APPR in simple language and in a manner that is easily accessible for all passengers (i.e. Through a link to the Agency website on electronic tickets, airline websites, signage and literature at airports, on-board announcements, etc.) and that the Government regularly measure public awareness of APPR rights among travelers to gauge the effectiveness of its work.</p>	<p>action is ongoing.</p> <p>The Government recognizes the importance of ensuring passengers are aware of their rights when they are travelling by air to, from, and within Canada.</p> <p>The creation of the APPR provided an important framework for passengers' rights and already contains provisions which require carriers to publish a notice of passenger's rights on all digital platforms that the carrier uses to sell tickets, on all documents on which the passenger's itinerary appears, and at the check-in desk, self-service machines and boarding gate. This notice must consist of the text prescribed in the regulations, which clearly states that, if a passenger experiences a delay for two hours or more, a cancellation, or a denial of boarding, they may be entitled to a standard of treatment and compensation under the APPR. A hyperlink to the APPR is provided and passengers are encouraged to contact the air carrier or visit the Agency's website.</p> <p>While the Agency could revisit the requirements for informing passengers of their rights under the APPR to ensure the strength and clarity of these requirements, the Agency also has tools available to investigate air carriers' compliance with the existing regulations and enforce the regulations when air carriers are not compliant.</p> <p>The Government supports the recommendation to regularly measure public awareness of the APPR rights among passengers and will continue to consider further actions in line with this recommendation. Once the amendments to the APPR come into force, there will be an opportunity for the Government to revisit the communication strategy to inform and educate Canadians about the changes to the APPR and what these changes would mean for their rights as air passengers, as well as to potentially identify mechanisms to measure public awareness.</p>
<p>17 – Ministerial Direction: That the Minister of Transport consider making greater use of the provisions under sections 49 and 43 of the Act to direct the Agency to adopt the recommendations of the Committee's report related to the implementation of the APPR.</p>	<p>The Government acknowledges this recommendation.</p> <p>The Government recognizes that there are provisions of the Act available to the Minister of Transport which enable the Minister of Transport to guide the Agency in certain ways when guidance is necessary.</p> <p>Section 49 of the Act gives the Minister of Transport the power to direct the Agency to inquire into any matter or thing concerning transportation to which the legislative authority of Parliament extends and report the findings on the inquiry to the Minister of Transport as and when the Minister of Transport may require. However, such an inquiry would be analytical in nature and would not result in any corrective action. As such, this section would not grant the Minister of Transport the power to direct the Agency to</p>

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	<p>adopt the recommendations of the Report.</p> <p>Section 43 of the Act gives the GiC the power to, at the request of the Agency or of the GiC’s own motion, issue policy directions to the Agency concerning any matter that comes within the jurisdiction of the Agency and every such direction shall be carried out by the Agency. However, the policy direction shall not affect a matter that is before the Agency on the date of the direction and that relates to a particular person. Furthermore, as previously noted, recognizing that many of the recommendations are being addressed directly through legislative and regulatory changes, a policy direction is not deemed necessary at this point.</p> <p>In the past, the Minister of Transport has employed the existing authority under subsection 86.11(2) of the Act to direct the Agency to make regulations with respect to tarmac delays of three hours or less and refund requirements for flight cancellations and lengthy delays. The Minister of Transport would not hesitate to use this authority should there be a need in the future. That said, since many of the recommendations presented in the report are already being addressed by new or ongoing actions, the Government does not feel it is necessary to direct the Agency at this time.</p>
<p>18 – Complaint Transparency: That the Agency develop practices to maintain, and make publicly available, anonymized data of the outcomes of all complaints made to the Agency, including those resolved informally.</p>	<p>The Government acknowledges this recommendation, and action is ongoing.</p> <p>The Government has introduced a new process for resolving air travel complaints in BIA 2023, which will come into force on September 30, 2023. The current adjudication-based complaints process will be changed to a new process whereby complaint resolution officers would make binding decisions, in the event that mediation was unsuccessful, based on the information before them, including information obtained during the mediation process. The new complaint resolution process will generally be confidential, as is typical for a mediation process, although information that is relevant to the complaint can be made public upon agreement of the parties.</p> <p>The Government recognizes that confidentiality is a key element to any mediation process to encourage frank, open discussion and the early settlement of disputes. The new process has been designed to maintain the current obligation for both complainants and respondents to hold confidential the information shared during the mediation process as they would not fear information being used against them in the future.</p> <p>Under the current process for resolving air travel complaints, mediation is private, and the Agency does not publish any information on the outcome. Only with respect</p>

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	<p>to complaints that are adjudicated by the GiC-appointed members does the Agency publish a decision with reasons.</p> <p>The new process introduced in BIA 2023 strikes a reasonable balance between the timely and efficient resolution of air passenger complaints, on the one hand, and public accountability and openness, on the other hand. In the new complaint resolution framework, mediation may occur up until the point where a complaint resolution officer issues a decision, so there is no additional dispute resolution step that would accommodate “open proceedings”.</p> <p>Moreover, additional amendments introduced in BIA 2023 require the Agency to publish for each decision made by a complaint resolution officer certain information, including the flight number and the date, as well as the reason for the flight disruption and whether or not a compensation was awarded. In these cases, it will be expected that the Agency will make public the amount of compensation owed, as this amount would be publicly available in the carriers’ tariffs in any event. Using this increased transparency, other passengers will be able to rely on this published information to claim compensation.</p> <p>In cases where the mediation was unsuccessful and it was determined that the complexity of the case required the assignment of Agency GiC-appointed members as complaint resolution officers, the order made by a panel of two or more Agency members would be public in their entirety. This is subject to the exception that at the Agency’s discretion and upon the request of a complainant or air carrier, any part of an order made by a panel of two or more Agency members could be kept confidential, other than information that must be included in the summaries of orders made by a single complaint resolution officer.</p> <p>Furthermore, by virtue of additional legislative amendments to the Act introduced in BIA 2023, the Agency will also contribute to transparency by providing general information about complaints in its annual reports, including number and nature of the complaints filed under the new process for resolving air travel complaints, names of the carriers against whom the complaints were made, number of complaints for which an order was made, and systemic trends observed.</p>
<p>19 – Agency Backlog: The Committee expresses its disappointment with regard to the large and growing backlog of passenger complaints and urges the application of new strategies to resolve existing complaints in a timely way.</p>	<p>The Government supports this recommendation and action is ongoing.</p> <p>The Government recognizes that the growing backlog of complaints with the Agency is concerning, and that change is needed.</p> <p>The backlog is largely attributed to the volume of incoming complaints, in part because the regime has been tested by</p>

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	<p>extraordinary circumstances that occurred as a result of the COVID-19 pandemic, including a sudden rapid recovery of demand, as well as a few severe weather events. In addition, the ambiguity in the framework led to air carriers taking a broad interpretation of the circumstances where compensation is not owed to passengers, which has led to a significant and growing backlog of complaints.</p> <p>The Government announced in March 2023, \$75.9 million in additional funding for the Agency over three years, starting in 2023-24, to ensure the Agency has the resources to increase its complaint processing capacity, increase its compliance and enforcement capacity, and develop a cost recovery regime, enabling the Agency to efficiently deliver on its mandate for Canadians. The new funding will make it possible to hire more employees to deal with complaints and to modernize and improve its Information Management/Information Technologies (IM/IT) systems to allow it to better manage the influx of air and accessibility complaints.</p> <p>That said, the current process for resolving air travel complaints is complex and resource intensive. The Government agrees that a new strategy for resolving complaints would be beneficial for ensuring passengers receive more timely decisions.</p> <p>Under the existing resolution process, a passenger who files an air travel complaint with the Agency may go through three-stages of dispute resolution (i.e., facilitation, mediation, adjudication), each of which could be managed by a different officer.</p> <p>Therefore, in addition to the announced funding, the Government has introduced legislative amendments to the Act through BIA 2023, which received Royal Assent on June 22, 2023, to streamline the way the Agency manages these complaints, for both new complaints and for complaints that have been received but no pleadings have been opened. The new process, which will come into force on September 30, 2023, will overhaul the current three-stage dispute resolution process overseen and approved by GiC-appointed members to a simplified complaint resolution process completed by complaint resolution officers (mainly Agency staff).</p> <p>This new process will involve a complaint resolution officer commencing the mediation and issuing a decision following mediation if there has not been an agreed upon resolution, for eligible complaints. In addition, clear timelines and a less onerous process will help ensure that decisions occur more rapidly. These changes also involve a mechanism by which carriers will pay a fee for eligible complaints brought against them at the Agency. As such, air carriers have a greater incentive to resolve complaints to the consumer's</p>

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	<p>satisfaction internally, which will reduce the number of complaints filed with the Agency.</p> <p>The new system will therefore help to reduce the volume of complaints to the Agency, and result in faster processing of complaints filed.</p>
<p>20 – Imposition of Financial Penalties: That the Government of Canada both raise the maximum and set mandatory administrative monetary penalties for violations of the APPR, so that the cost of violating the regulations is higher than the costs of abiding by them.</p>	<p>The Government supports this recommendation and action is ongoing.</p> <p>The Government agrees that enforcing air carriers’ compliance is an important element of the APPR, which is undertaken by the Agency.</p> <p>While the current maximum AMPs can range from \$5,000 to \$25,000 for each violation of the APPR, legislative amendments introduced in BIA 2023 allow the Agency to increase the maximum amount applicable to the APPR to \$250,000 for corporations. In addition, the Agency has been provided with the authority to enter into compliance agreements with air carriers, which involve strict timelines to become compliant and steeper fines if the timelines are not met.</p> <p>The purpose of AMPs and compliance agreements are the same – to ensure that air carriers comply with the regulations and avoid situations in which Canadians are inconvenienced when they travel by air. Through these recent amendments to the Act, the Government has provided the Agency with tools to help ensure air carriers comply with their obligations under the APPR.</p>
<p>21 – Maximum Fines: That the Government of Canada amend the APPR, to reduce the threshold at which a small carrier is considered to be a large carrier.</p>	<p>The Government acknowledges this recommendation and further consideration is required.</p> <p>It is important to hold all air carriers, whether they are large or small, to certain standards to protect passengers throughout the air travel journey. One of the primary challenges with passenger rights regimes in the air sector is finding a balance between protecting passengers and cultivating an air sector with many competitors, which reduces ticket prices for passengers.</p> <p>Due to Canada’s vast and sparsely distributed population, entering the market as a small or low-cost carrier is especially challenging because there are high fixed and marginal costs to transporting relatively few people over relatively long distances. With costs already high for these small and low-cost air carriers, there is a high risk of rendering the business model inviable if the cost of passenger compensation claims becomes too onerous.</p> <p>While the Agency could revisit the threshold at which a small carrier is considered to be a large carrier during the upcoming regulatory process, the current threshold has been established to continue to support the growth of</p>

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	<p>smaller and low-cost air carriers and limit the impact on air carriers in remote regions of Canada, including the North. Additionally, during COVID-19, some air carriers ceased or reduced operations for many months due to travel restrictions, ultimately leading to their reclassification from a large carrier to a small carrier. Since then, the projections of air travel recovery would suggest that a similar reclassification from small carrier to large carrier is imminent for some carriers.</p>