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# Standing Committee on Transport, Infrastructure and Communities

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Chair: Mr. Vance Badawey





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• (1535)

[English]

**The Chair (Mr. Vance Badawey (Niagara Centre, Lib.)):** It's my pleasure to call this meeting to order and welcome all of you to meeting number 10 of the House of Commons Standing Committee on Transport, Infrastructure and Communities.

Today's meeting is taking place in a hybrid format, pursuant to the House order of September 23. The proceedings will be made available via the House of Commons website. Just so that you are aware, webcasts will always show the person speaking rather than the entire committee. To ensure an orderly meeting, I would like to outline a few rules as follow.

Members and witnesses may speak in the official language of their choice. Interpretation services are available for this meeting. You have the choice, at the bottom of your screen of the floor, or English or French. For members participating in person, proceed as you usually would when the whole committee is meeting in person in the committee room. Keep in mind the directives from the Board of Internal Economy regarding masking and health protocols. Before speaking, please wait until I recognize you by name. If you are on video conference, please click on the microphone icon to unmute yourself. For those in the room, your microphone will be controlled, as normal, by the proceedings and verification officer.

I remind you that all comments by members and witnesses should be addressed through the chair. When you are not speaking, your mike should be on mute. With regard to a speaking list, the committee clerk and I, as always, will do our best to maintain the order of speaking for all members, whether they be participating virtually or in person, albeit we do have the speakers list in front of us.

Pursuant to Standing Order 108(2), the committee today is meeting to continue its study of the impact of COVID-19 on the aviation sector.

I would like to welcome our witnesses here today. I have been told beforehand that there has been some agreement by the witnesses on the speaking order.

With us today we have from Air North, Mr. Joseph Sparling, president; from Air Passenger Rights, Mr. Gábor Lukács, president; from the Canadian Automobile Association, Ian Jack, vice-president, public affairs, and Jason Kerr, senior director, government relations; from Late Flight Claim Incorporated, Mr. Jacob Charbonneau, president and chief executive officer; from Options consommateurs, Sylvie De Bellefeuille, lawyer, budget and legal adviser;

and, from the Public Interest Advocacy Centre, John Lawford, executive director and general counsel.

To all of you, welcome. The order that I was given prior to the meeting, which you all agreed upon, I assume from the way it was communicated to me, will be Dr. Gábor Lukács from Air Passenger Rights first, followed by Sylvie, John, Ian, Joseph and Jacob.

With that, we'll start off with Dr. Lukács for five minutes.

The floor is yours.

**Dr. Gábor Lukács (President, Air Passenger Rights):** Mr. Chair and honourable members, thank you for the privilege of appearing here today.

Air Passenger Rights is Canada's independent, non-profit organization of volunteers devoted to empowering travellers. We accept no government or business funding, and we have no business interest in the travel industry. We speak for passengers, whom we help daily in their struggle to enforce their rights.

The last time we testified before this committee, we cautioned that the Canadian Transportation Agency had lost its independence and its consumer protection activities had been compromised. The COVID-19 pandemic has confirmed the magnitude of these anomalies.

Since March, we have witnessed an unprecedented assault on passengers' private property and the collapse of consumer protection in Canada. Airlines whose revenues were decimated by the pandemic have helped themselves to passengers' money. They have pocketed airfares paid in advance without providing any services in return. During the pandemic, airlines have perfected the scheme. They kept selling tickets, just to cancel flights at the last minute and keep passengers' money. For instance, between September 25 and October 31, Air Canada cancelled about 75% of its flights scheduled for November.

Let's look at the numbers: 3,870,000 affected passengers is a conservative estimate for the number of outstanding tickets on Canadian airlines as of September 30; about 2.3 million are Air Canada customers. Instead of protecting consumers, the Canadian Transportation Agency mounted a disinformation campaign on its Twitter and on its own website.

On March 25, the agency published its statement on vouchers. The statement told the public, without any basis or authority, that airlines don't have to refund cancelled flights but may provide IOUs instead. The agency's position can be summarized as follows.

First, it says that an airline can cancel a flight for reasons outside a carrier's control and keep passengers' money so long as the ticket was marked non-refundable. Second, the agency blames you, lawmakers, for ostensibly tying its hands and taking away its power to order airlines to refund passengers. These are pseudo-legal arguments that conflate a refund with compensation for inconvenience. Refund means the repayment of the price paid for services or goods. For example, if you order an item on the Internet but you don't get what you paid for, the seller must give you a refund. Airline tickets are no different.

In 2004, when the agency was still independent and impartial, it made a binding legal decision recognizing a passenger's right to a refund for flights cancelled by an airline, even if the reason is outside the carrier's control. The agency reaffirmed this principle in three subsequent decisions in 2013 and 2014, and coined it "a fundamental right of passengers". These legally binding decisions are based on statutes and regulations that are still in force today. There is no gap in the law on refunds. The Transportation Modernization Act imposed additional obligations on airlines to pay compensation for inconvenience for flight cancellations that are within the carrier's control, but it did not alter passengers' fundamental right to a refund. It is not the law that has changed but the agency's willingness to act independently and impartially and to enforce the law as written. The agency's misleading statement has caused significant harm to the public and to the entire travel industry.

Not only the airlines, but also travel agents, credit card issuers and even travel insurers used the agency's statement as an excuse to deprive passengers of refunds for flights that the airlines themselves cancelled. The agency's conduct has undermined consumers' confidence in the Canadian travel industry and the government to respect private property and protect consumer rights. The loss of confidence will slow the entire sector's recovery.

Our core values and respect for the rule of law cannot be swept aside just because a major Canadian industry may suffer financially. The law must always prevail.

• (1540)

**The Chair:** You have one minute left, Mr. Lukács.

**Dr. Gábor Lukács:** In the past months, we have seen lawless-displace order and regulatory capture displace good government. It may fall upon the courts to restore order. However, it is your mandate as elected representatives to restore good government and to put an end to the agency's running amok.

Declaratory legislation such as Bill C-249 is needed to restore public confidence and the rule of law.

Thank you.

**The Chair:** Thank you, Mr. Lukács. That was actually bang on. Good for you.

I'll now go to Ms. De Bellefeuille.

The floor is yours for five minutes.

[*Translation*]

**Ms. Sylvie De Bellefeuille (Lawyer, Budget and Legal Advisor, Option consommateurs):** Good afternoon, Mr. Chair. Good afternoon, ladies and gentlemen members of the committee. Thank you for giving us this opportunity today to share our observations with you.

I have been working as a lawyer at Option consommateurs for 10 years. Created in 1983, Option consommateurs is a non-profit association whose mission is to help consumers and defend their rights. As such, we receive thousands of legal information requests every year from people experiencing difficulties with merchants, including in the travel industry.

Furthermore, since the beginning of the pandemic, we have received a record number of calls and emails from consumers not only from Quebec, but also from elsewhere in Canada, asking us for information to get their plane tickets refunded.

This is the situation we want to talk to you about today. To us, the situation is very clear: Canadian consumers whose flights were cancelled because of the pandemic must be reimbursed.

Although the pandemic has been difficult for everyone—both consumers and merchants—its impact is not the suspension of applicable laws. The solution offered by most airlines, travel credits, is unacceptable and unfair.

We think it is high time for federal authorities to play their role and protect Canadian consumers.

Under the pretext of force majeure, airlines have assumed the right to keep clients' money without providing them the service they paid for. So far, both the Canadian Transportation Agency and the government have limited themselves to maintaining that the Air Passenger Protection Regulations do not oblige airlines to reimburse their clients for cancelled flights.

However, it is important to specify that those regulations are not exclusive or comprehensive in their provision of all the obligations airlines have. Other laws and regulations impose restrictive obligations and grant the authorities the power to take action.

For example, the Transportation Act and its relevant regulations give the CTA the power to get involved, especially when a tariff contains an unreasonable condition. Yet we are struggling to see how, in a law society, it could be considered reasonable for a business to impose a condition on consumers whereby it can keep their money without being obliged to provide them with the service they paid for.

However, there is more to this. Airline contracts are also subject to provincial laws. In Quebec, where we are the most familiar with the legislation, both the Quebec Civil Code and the Consumer Protection Act contain provisions that make it clear that airlines have the obligation to refund their clients for flights that had to be cancelled because of the pandemic.

We don't understand why the government is silent on this issue. Both the government and the CTA must enforce the laws and regulations and force airlines to refund their clients.

What is more, a declaratory bill—in other words, Bill C-249—was recently introduced in the House of Commons. That bill reiterates passengers' right to be reimbursed for flights that are cancelled for reasons beyond the control of the carrier.

The travel credits offered by airlines in no case constitute a valid solution in the current context, where households' financial health is being tested.

Since the beginning of the crisis, we have received hundreds of calls from consumers who are worried, disappointed and irritated about being unable to get their money back—often in the thousands of dollars—while they need it. We have actually launched a petition to force airlines to reimburse consumers. That petition has garnered 32,000 signatures.

We are being told that airlines are facing revenue losses owing to the pandemic. We don't doubt that. However, this pandemic has also hit industries other than the air transportation industry. It is not up to consumers to fund airline companies.

Many consumers are struggling to keep their heads above water. The measures implemented to help families have certainly been a great help, but they do not ensure the financial health of households over the long term. People need their money, and they need it now.

It is clear that consumers are being manipulated in this case. On the one hand, airlines are saying they cannot refund tickets without government assistance. On the other hand, the government says it is prepared to negotiate assistance, but assistance that would be conditional on consumers being reimbursed. During this time, nothing has been happening. It is high time for things to change.

Thank you.

• (1545)

[*English*]

**The Chair:** Good job. Thank you.

**Dr. Gábor Lukács:** Mr. Chair, we didn't receive any translation, unfortunately.

**The Chair:** Mr. Clerk, did you want to check on the translation?

**The Clerk of the Committee (Mr. Michael MacPherson):** Yes. We have IT reaching out to him right now.

**The Chair:** Great. Thank you, Mr. Lukács.

We're now going to move on to Mr. Lawford for five minutes. The floor is yours. Welcome.

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

Honourable members, my name is John Lawford. I'm the executive director and general counsel at the Public Interest Advocacy Centre, which is a non-profit and registered charity. We provide legal and research services on behalf of consumers, and in particular vulnerable consumers concerning important public services such as airlines, in a field we've been working for over 20 years.

PIAC has heard many complaints from consumers about the lack of cash refunds for flight cancellations due to COVID-19. Our message is that COVID-19 is an exceptional situation and passengers deserve cash refunds. Consumers and citizens feel, given the circumstances of an unprecedented global panic disrupting all domestic and international travel, and the economic precariousness caused by the pandemic, and larger personal monetary losses suffered by many travellers, that receiving vouchers or any other option besides refunds is inadequate and unacceptable. They are correct.

Consumers know the general rules for normal times. They know that when they purchase a non-refundable ticket that they will not be refunded if they, not the airline, cancel. They know most airlines' policies are to provide only a voucher good for one year if the airline cancels a flight. This buyer-beware situation is not loved, but it is understood.

The federal government has brought airline cancellation and refund practice more into line with consumer desires in normal times with the air passenger protection regulations. The APPRs are a very good thing, but they're too complex to describe here. As you heard from Mr. Streiner, they had not anticipated a global travel crisis on such a scale as now.

Whether there should be a cash refund for all types of tickets, whether airlines or customers cancel the flight for such large-scale and system-wide shutdowns as COVID, and who bears the risk of paying for such a refund protection scheme are legitimate matters for debate. We think there should be some provision made, and we turn to that now.

One contingency plan that could be to have a compensation fund similar to the Ontario travel industry compensation fund. This fund is financed by registered travel agents and travel wholesalers in Ontario and administered by the Travel Industry Council of Ontario. It provides reimbursement for bankruptcy and insolvency of an Ontario registrant or an end-supplier airline or cruise line.

A similar compensation fund could be paid out of a small levy on all airline tickets, whether purchased directly from the airline on a website or through an online or in-person travel agent. It would require an administration and would likely result in a pass-through charge to consumers; but then, there would be a fund for a situation just like COVID.

Another method could be to introduce a formal legal mechanism that mandates that airlines must segregate funds that they receive from passengers for future flights and keep them separate until the passenger actually departs. This is simply keeping the consumer monies in trust until they travel, and it would equitably belong to the customer if travel were cancelled. Terms of this legal trust mechanism could limit it to payouts only in situations like the present, or be more generous.

Our understanding is that both solutions would be opposed by the industry.

However, even if we cannot protect consumers on this scale in the future, PIAC insists that for this crisis, it is only just and reasonable that all Canadians be fully refunded for having had travel cancelled or disrupted by COVID-19—and ignoring the niceties of refundable versus non-refundable or customer-initiated versus airline-initiated cancellation. We note that the transport minister appears to agree with us. Why? Because airlines are going to be bailed out with taxpayer money. The federal government must ensure that passengers get their refunds for flight cancellations because, otherwise, those taxpayers who did not get a refund will bail out airlines and be penalized twice.

• (1550)

**The Chair:** You have one minute, Mr. Lawford.

**Mr. John Lawford:** A huge advantage to such a refund “jubilee” is that cash refunds will simply and significantly reduce the huge backlog of complaints at the Canadian Transportation Agency. Unsurprisingly, the majority of complaints since March concern refunds.

Thank you very much, Mr. Chair. I look forward to any questions from the committee.

**The Chair:** Thank you, Mr. Lawford. Well done.

We'll now go on to Mr. Jack for five minutes. The floor is yours.

**Mr. Ian Jack (Vice-President, Public Affairs, Canadian Automobile Association):** Thank you, Mr. Chair. I doubt I'll get a gold star, but I'll try my best.

**Voices:** Oh, oh!

**Mr. Ian Jack:** Thank you very much to the committee for this invitation this afternoon. CAA was founded in 1913 to represent the interests of motorists originally, but the world has evolved since then and so have we. We have 6.5 million members today from coast to coast, and the services we offer them extend well beyond emergency roadside assistance. We're very proud to be named one of Canada's top two most trusted brands three years in a row by the Gustavson School of Business at the University of Victoria.

Today, we're also one of Canada's largest leisure travel agencies, through our store network and online.

[*Translation*]

That said, we are still a not-for-profit, member-driven organization that is, at its heart, an advocate for the Canadian traveller.

[*English*]

At CAA we don't sell business travel, so prior to the pandemic our travel specialists worked with average Canadian air passengers every day. When the pandemic hit, they worked tirelessly to bring home our members who were stranded overseas.

[*Translation*]

This understanding of the business allowed us to take a strong, informed position as the air passenger right regime was being established in Canada.

[*English*]

Unfortunately, the pandemic hit soon afterwards, and we saw that the regime, the APPR, was inadequate to protect consumers. That's because the regime carves out events beyond a carrier's control from any requirement to provide a refund. In retrospect, this was a huge mistake.

Since March, CAA has been pushing for access to refunds for Canadians left holding the bag when their flights got cancelled due to COVID-19. Thousands of Canadians were left with multi-thousand-dollar holes in their finances, through no fault of their own.

[*Translation*]

Essentially, they were forced to provide interest-free loans to the carriers at a time when they could least afford it.

[*English*]

We welcome the government's commitment to getting passengers their money back. We will be watching closely to make sure this commitment is honoured and that passengers can get cash refunds quickly. Keep in mind that thousands of people have been out of pocket already for six months or longer. For those who have been hard hit economically by the pandemic, this is especially unfair.

At the same time, we recognize that the carriers are struggling and that Canadians need them to survive. In many other jurisdictions governments have already stepped in to make sure their carriers remain viable, but also that passengers are not left to finance them.

• (1555)

[Translation]

We are pleased the government of Canada has finally agreed to do the same thing.

[English]

While some carriers have refunded some fares, the vast majority of travellers affected by COVID cancellations have not received a penny. This patchwork, in which the wealthy and business travellers who can afford refundable tickets get better treatment than do average citizens, is exactly what the APPR was supposed to end.

CAA urges the federal government to ensure that refunds are made available in a timely fashion. COVID-19 has brought significant financial hardship upon average Canadian families, and it is only fair that they can get cash refunds if they want them.

[Translation]

We must remember that these flights were cancelled through no fault of the passenger.

[English]

We urge this committee to focus not just on rectifying this past injustice, however, but also on making sure it never happens again. This is for the benefit not only of passengers but of the economy as well. Getting Canadians back on planes in large numbers depends on health measures, absolutely, but also on consumer confidence about their purchase. What average Canadian would voluntarily spend thousands of dollars on tickets for their family today knowing they might forfeit all their money if there is another unpredictable lockdown at home or at their destination? The government should ensure that in the future, flights cancelled due to government health warnings or shutdowns are automatically refundable.

As mentioned, we're also a travel agency, and we know that travel agents should not lose out on commissions owed to them. Agents did their work, and in many cases the carriers have been holding their money since the spring. Consumers should be made whole, but we feel the government has responsibility to agents as well.

Finally, let me briefly outline CAA's other priorities for air passenger rights, which we urge you to consider. While the pandemic revealed a major shortcoming that should be fixed, it remains a fact that the APPR brought Canada its first industry-wide code of conduct for airlines.

[Translation]

Let us point out that the United States and the European Union already had similar regimes for a decade or more.

[English]

The regulations came into full force only in mid-December of last year. In the first three months, prior to the pandemic, 11,000 complaints were filed. While the lack of air travel performance data leaves us flying blind, we believe it's still too early to fully grade the regime. Most of the complaints filed haven't even been addressed. We need to let the APPR run for a further period and then grade it. We do not believe it needs to be reopened at this time, other than to address the COVID-19 refund situation.

Our other issues include the real cost of air travel to middle-class Canadians including, for example, airport fees and à la carte pricing; making sure the government lives up to its commitment to provide public air travel performance data in a useful and timely fashion; making sure the CTA has adequate resources to enforce the APPR; and CATSA reform so passengers can move more efficiently through security.

**The Chair:** You have one minute, Mr. Jack.

[Translation]

**Mr. Ian Jack:** Honourable members of the committee, thank you for your time.

[English]

Thank you very much, sir.

**The Chair:** Thank you, Mr. Jack. I'm happy to inform you that you received your gold star. Well done.

**Mr. Ian Jack:** My work here is done.

**The Chair:** Oh, oh!

Mr. Kerr, do you have any comments? I know that you're here with Mr. Jack.

**Mr. Jason Kerr (Senior Director, Government Relations, Canadian Automobile Association):** Thank you, Mr. Chair. I have nothing to add at this point in time. Thank you very much.

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

We're now going to Mr. Sparling.

Mr. Sparling, you have five minutes. Welcome.

**Mr. Joseph Sparling (President, Air North):** Thank you for giving me the opportunity to speak with you today.

Air North, Yukon's airline, has been in business for 43 years. We are based in Whitehorse, and we currently provide gateway jet service from our Whitehorse hub to Vancouver, Kelowna, and Victoria, and regional turboprop service to Dawson City, Old Crow, and Inuvik.

We are 100% Yukon owned and our shareholders include more than 1,500 local Yukoners, including the Vuntut Gwitchin First Nation, which holds a 49% interest. With more than 200 Yukon and northern employees, we are one of the largest private sector employers in Yukon.

My purpose in today's discussion is to provide the committee with a northern airline perspective on how the government might best help Canadian airlines to return to financial stability while minimizing the burden on taxpayers. In the longer term, airlines will return to sustainability when people start to travel again. In the short term, governments have stepped up with financial assistance, for which this airline is most thankful. In the medium term, which is likely to be years rather than months, if governments choose to continue to provide assistance, then we believe that the burden on taxpayers could be minimized by attaching strategic conditions to financial aid. The logic behind this is simply that much of the aid dollars to date have effectively funded excess capacity or empty seats, with the result being that the aid has been somewhat ineffective in stemming record industry losses.

Taxpayers shouldn't be paying airlines to burn jet fuel and wear out airplanes flying empty seats around. We believe it would be far more productive to use subsidy efforts to help all airlines undergo a very necessary temporary contraction so as to ensure that they can operate sustainably with reduced traffic and flying volumes while maintaining essential services and affordable pricing.

The government's commitment to support air service to regional communities underscores the need to support regional airlines. There are currently 23 air carriers in Canada providing service to 189 communities. Only 57 of these communities are served by Air Canada or WestJet, and 131 have a population of less than 10,000. Only 49 are served by more than one airline.

In the Yukon market, we compete with both mainline carriers, one of them seasonally on our gateway routes.

During the course of the pandemic, the resultant excess capacity has doubled the subsidy required to support our essential services.

Mainline carriers only do part of the job in the north, because they don't fly to any regional communities. This is akin to skimming the cream off the top and leaving the milk to go sour. To protect essential services to, from and within the north, we've asked the government to temporarily limit mainline carrier capacity in northern gateway markets. We've also asked the government to make interline agreements mandatory for all Canadian air carriers.

Mandatory interline agreements would help to level the playing field between large mainline air carriers and small regional carriers and would protect consumers and increase competition by making mainline route networks and wholesale pricing available to consumers in regional communities. Co-operation among suppliers is a feature of national policy in both the rail and the telecommunications sectors. In this environment it makes sense for airlines as well.

You may raise your eyebrows at a proposal to temporarily limit competition, but remember, it was not that long ago that limiting competition was the norm. The Canadian airline industry was not deregulated until 1987, and the north was not deregulated until 1996. In 1977, when we started our business, if we wanted to fly between Whitehorse and Vancouver, we would have been required to demonstrate public convenience and necessity to the Canadian transport committee, and our application would likely have been denied because, at that time, the market was only producing about

300 passengers per day, which was enough to support Canadian Pacific's two daily milk run flights to Whitehorse.

With our recent border lockdown, the Yukon market is currently producing only 104 daily passengers, yet there are three daily non-stop flights to Vancouver in the market. The U.S. provides subsidy for thin airline routes through its essential air services program, but only one carrier is subsidized on any route. In Canada, we are currently subsidizing competing carriers on several routes, and in the Yukon, taxpayers are effectively subsidizing three air carriers to fly the same route.

• (1600)

**The Chair:** You have one minute, Mr. Sparling.

**Mr. Joseph Sparling:** Competition is important, but it's only one factor in keeping airfares low. Airline costs are a much larger influencer on price. In that respect, the numbers don't lie. The cost of flying a passenger on a 50%-full flight is exactly 50% more than on a 75%-full flight, so it's much more important to get capacity right.

In closing, there has been much discussion about financial aid for airlines and about competition and service to regional communities, but the numbers really tell the story. The industry is in trouble and in need of more help. The data show that the impact of industry aid may be optimized with minimal impact on taxpayers while protecting regional communities and consumers if appropriate policies and associated conditions are used to leverage aid dollars.

Thank you.

**The Chair:** Thank you, Mr. Sparling. Well done.

Mr. Charbonneau, welcome. You have the floor for five minutes.

[Translation]

**Mr. Jacob Charbonneau (President and Chief Executive Officer, Late Flight Claim Canada Inc.):** Thank you, Mr. Chair.

I first want to thank the committee for inviting me to make a presentation.

Late Flight Claim is a business that helps airline passengers obtain—simply, quickly and without risk—financial compensation or a refund after a flight has been cancelled or is late.

Last time I had an opportunity to appear before a House of Commons committee was during the study on Bill C-49, aiming to implement a protection regime for airline passengers. We then critically assessed that bill's shortcomings. We raised the fact that a number of points benefited and protected airline companies more than consumers. The complexity of that piece of legislation and its regulations would open the door to a number of interpretations and encourage airline companies' refusal to provide compensation or a refund, although we had been promised a simple regime that would be ahead of various international programs.

The current crisis is unprecedented and has heavily impacted the aviation and tourism industry. It has highlighted the shortcomings of the current protection regime, the processes, the control measures and the organizations in charge of its proper operation.

The government and the Canada Transportation Agency have been slow in taking steps to protect consumers. Very early at the beginning of the crisis, the European Commission and the U.S. Department of Transportation stated that air carriers must reimburse consumers for unused flight portions. Not only was this not the case in Canada, but the CTA even encouraged consumers to settle for future travel credits and mentioned they should respect the fare rules in place.

In addition, while other countries were implementing clear directives forcing airlines to refund unused portions of tickets purchased, "the CTA quickly took [temporary] steps to address the significant impacts on the airline industry". One of the things the agency did was apply a temporary exemption on the obligation to provide compensations or to provide new protection for passengers through other airlines.

The CTA additionally gave carriers a deadline extension to respond to passengers' compensation claims. Airline companies had until October 28, 2020, to respond to all compensation claims that had been backlogged since March 25, 2020, or that had been submitted between March 25 and September 29, 2020. That represents nearly a 700% extension of the deadlines.

The agency ordered that the processing of all requests for dispute resolution before the agency concerning airlines be suspended until June 30, 2020, including all requests received under the formal dispute settlement during the suspension period.

So the agency hurried up to implement measures to protect airline companies to the detriment of consumers. One has to wonder what the Canada Transportation Agency's role is and who benefits from it.

During his presentation, Mr. McNaney, from the National Airlines Council of Canada, mentioned that foreign companies that received support were starting to take parts of the market. However, Air Canada, which was in a good position in terms of cash flow at the beginning of the crisis and which has gained several billion dollars in cash flow since, in addition to the billions of dollars in non-refunded tickets, is probably better positioned than others to face this crisis, proportionally speaking.

Moreover, I am astounded when I see a company, on the one hand, asking for public assistance to survive and, on the other hand,

offering a gold plated pension of several million dollars to its outgoing president.

And what if this was not just a matter of finances? Would it not be connected to the fact that clients are better protected and helped by different entities?

As you know, travellers expect a certain level of service, and I am not talking about a five-course meal served on board with nice plates. They just want to be able to talk to someone when they have a problem or to be reimbursed when services are not provided. Unfortunately, all too often, certain Canadian carriers have neglected their duty in both cases. The same goes for organizations in charge of regulating and protecting consumers. The situation was already noticeable well before this crisis began.

The longer we wait, the more consumers lose out, as do all other players in the value chain. This situation that has persisted puts undue pressure on service providers such as travel agencies and agents, insurance providers, as well as credit card companies. They should not have been paying for the lack of clear guidelines and airlines' inability to meet their commitment.

In closing, I would like to remind the committee of the fact that, before this crisis, when the airline industry was at its peak and had record sales and profits, a number of situations showed that short-term profit superseded services provided to consumers, who were all too often taken hostage through decisions related to business operations.

What will happen now, following cost and staff cuts, and with the two airlines about to be merged, which will result in less healthy market competition, which is already restricted in Canada, in addition to increasing a number of risk factors?

I have heard various stakeholders mention, at different meetings of this committee, to what extent the airline industry is Canada's economic backbone. Must we hit a wall to realize what consequences our decisions have, thereby jeopardizing an entire industry?

Thank you.

• (1605)

[*English*]

**The Chair:** Thank you, Mr. Charbonneau. Well done. Great job.

We now have a speakers list. We'll start off with the Conservatives, Ms. Kusie, followed by Mr. El-Khoury from the Liberals, Mr. Barsalou-Duval from the Bloc, and Mr. Bachrach from the NDP, all for six minutes each.

Ms. Kusie, the floor is yours.

**Mrs. Stephanie Kusie (Calgary Midnapore, CPC):** Thank you very much, Mr. Chair.

I'll start off with you, Dr. Lukács. Why do you think the Canadian Transportation Agency allowed vouchers in place of refunds to Canadians?

**Dr. Gábor Lukács:** That is a question that one should be looking into further. Surely, passengers did not ask for it. That measure benefits airlines and stonewalls passengers. That is one more reason it would be so important for this committee to review in detail all the correspondence that happened between the Canadian Transportation Agency, the government and the airlines.

• (1610)

**Mrs. Stephanie Kusie:** Okay.

I'll state very clearly that the position of the Conservative Party has been that passenger refunds should be tied to some type of plan for the airline sector. Why do you think the government has been so very slow to address this entire comprehensive issue of a plan for the airline sector, which in our opinion would allow passengers to be refunded in total? I recognize you want to see the law enforced, but why do you think the government has been so slow to respond to this global issue, to allow the food chain of payments, if you will, down the line?

Why have they been so slow to respond, Dr. Lukács?

**The Chair:** Mr. Lukács.

**Dr. Gábor Lukács:** I don't want to speculate about those reasons. Our position is that the airlines have to issue those refunds. When you look at the actual facts—at the balance sheets, for example, for Air Canada, which does have public financial data—they would have had the money to refund passengers. Those airlines may need some support down the line, but there is no sign that the airlines are on the brink of bankruptcy.

If the airlines are in the position of being unable to issue refunds, as opposed to unwilling, there are proper procedures in this country for dealing with that. There is the BIA, the Bankruptcy and Insolvency Act. There is the CCAA, the Companies' Creditors Arrangement Act, often called "bankruptcy protection". None of the airlines in question has applied for any of those instruments. It indicates that they are solvent. They do have the money. They just don't want to pay.

**The Chair:** Ms. Kusie.

**Mrs. Stephanie Kusie:** Thank you, Dr. Lukács.

Mr. Lawford, you mentioned something that I think is of great significance going forward, through the pandemic and beyond, as we look to the vaccine. That's the loss of confidence in the travelling Canadian public. Usually, I would say, we attribute this loss to the health and safety risks the public currently associates with flying. You related it to the lack of refunds. You made a very good point, that tens of thousands of Canadians have invested lots of money in purchasing tickets. This has created a loss of confidence within them for future travel.

Can you expand upon that, please? If the government doesn't act to provide a global plan allowing for passengers to be reimbursed, can you expand upon the loss of confidence we'll see in the travelling public as a result of their uncertainty in receiving a refund, should they book a flight?

**The Chair:** Mr. Lawford.

**Mr. John Lawford:** The return to normality, once the pandemic is controlled, will be slower if consumers believe that in similar sit-

uations, totally outside their control, they will lose money. The thing about a service such as airlines is that the value of it often fades or is actually impossible to capitalize on. I'm thinking of older travellers, people who have a once-in-a-lifetime opportunity to see family members in other countries who are nearing the end of their lives and this sort of thing. Those are not replaceable. If you have people hesitating to take those flights, they just won't do it anymore and the recovery will be slower. That's our main concern around that.

As well, the legal regime is very uncertain, as Dr. Lukács pointed out. That should be tightened. At the moment, honestly, we cannot advise Canadians that the rules are clear—i.e., that in this case this will happen, and that in that case that will happen. That's a difficult position for us to be in, because we can't tell folks what to expect right from the start.

**Mrs. Stephanie Kusie:** Mr. Sparling, in the Speech from the Throne, we saw the announcement about airlines, specifically relative to the north, and it re-announced in last week's fall economic statement.

Is the funding provided by the government enough? Has the government been receptive at all to your idea of interline agreements?

**Mr. Joseph Sparling:** To answer your first question, whether the funding is enough, we don't know where the bottom will be. However, as I have observed, with associated conditions tied to the funding, it would certainly be enough. We're comfortable that we could operate with less financial relief if we could get more people on our airplanes. We could do that if there were some steps taken to rationalize capacity in our market.

Please refresh my memory regarding your second question.

• (1615)

**Mrs. Stephanie Kusie:** Has the government been receptive to interline agreements?

**Mr. Joseph Sparling:** There's not been a lot of attraction so far, but we're working on it. It's one of those things I expressed in my remarks: the notion of market intervention is not one that first comes to mind for the government, and it's probably not one that its hearing from everybody. To me, it just makes sense, so we're going to keep on with the same message.

**The Chair:** Thank you, Mrs. Kusie, and thank you, gentlemen.

[*Translation*]

**Mrs. Stephanie Kusie:** I thank the witnesses.

Thank you, Mr. Chair.

[*English*]

**The Chair:** Mr. El-Khoury, the floor is yours, for six minutes.

[*Translation*]

**Mr. Fayçal El-Khoury (Laval—Les Îles, Lib.):** Thank you, Mr. Chair.

I thank the witnesses. We really appreciate their presence.

This is a fairly delicate situation. On the one hand, people who purchase tickets have the right to be reimbursed. On the other hand, it is important to support the airline sector, so that carriers can retain and protect their employees. That is actually an absolute priority for me and for most people.

We don't know how long this pandemic, during which emergency levels are increasing on a daily basis, may last.

My first question is for Ms. De Bellefeuille.

Ms. De Bellefeuille, if airline companies went bankrupt, their assets would likely be liquidated and the product would go to their creditors, be they banks, suppliers or others.

According to you, where would passengers rank in the state of the collocation? Would there be enough money to pay them, after preferential creditors got their share?

I would like to hear your thoughts on that.

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

I'm not familiar with every airline company's financial statements. However, as far as I understand the Bankruptcy and Insolvency Act, if an airline company went bankrupt, passengers would unfortunately probably be among the last creditors to be paid. Therefore, the chances of recovery would be very slim. If airline companies are insolvent, by definition, they don't have enough money.

**Mr. Fayçal El-Khoury:** So, if airline companies were given an opportunity to protect their rights and there was a possibility for ticket buyers to be reimbursed at the end, what do you think about that?

**Ms. Sylvie De Bellefeuille:** I'm not sure I understand your question.

**Mr. Fayçal El-Khoury:** I will repeat my question, Ms. De Bellefeuille.

If we were to support our airlines, they would have an opportunity to continue with their activities and preserve jobs, while there would be a chance of ticket buyers being reimbursed. What do you think about that?

**Ms. Sylvie De Bellefeuille:** I have absolutely nothing against the idea of the government financially supporting airlines if they need that support, provided that money would not be given to them willy-nilly. If certain airline companies do need the government's financial support, it is the government's prerogative to examine their file and give them the necessary money. This is, after all, an unprecedented situation.

We understand that this is difficult for everyone, including businesses, but many consumers are also struggling mightily and need their money. We are not talking about \$20 here; plane tickets cost hundreds of dollars, even thousands of dollars. People need their money.

**Mr. Fayçal El-Khoury:** If the airlines, despite the critical situation and the potential impact on their cash flow, had decided to provide refunds, wouldn't that have simply put us in the position we're in today more quickly? Right now, the companies are asking taxpayers for millions of dollars in loan guarantees and other conditions. Is it fair to say that we were inevitably going to end up at the same point anyway, so it wasn't worth provoking customer anger to that extent?

• (1620)

**Ms. Sylvie De Bellefeuille:** As I was saying, the fact of helping airlines in itself isn't a problem if the government wants to go in that direction.

As Mr. Lawford indicated earlier, it's consumer trust that's being put to the test. As for travel credits, people may not be able to use them, so there are no guarantees for consumers. We don't think travel credits are an acceptable solution if people don't have the opportunity to travel. At the very least, people should have a choice: if they don't want these travel credits, they should be able to get a refund.

**Mr. Fayçal El-Khoury:** But is a retrospective analysis of the situation being abused? The airlines couldn't have known from the outset how long this crisis would last. Nor could they have known for sure whether the federal government would support them or how much.

**Ms. Sylvie De Bellefeuille:** You're talking about abuse. No one knows how long the pandemic will last. In this regard, I think any crystal ball has the same probability of giving the right answer.

I know it's not easy for the airlines. They also don't have a guarantee from governments as to the assistance that will be available to them. I understand that. However, we couldn't say that the airlines haven't received any assistance because they've already benefited from wage subsidies. Is this assistance sufficient or not? That will be determined by market forces.

All in all, other companies have experienced financial difficulties and still had to reimburse their customers, so I don't see why it would be any different for airlines.

[*English*]

**The Chair:** Thank you, Madame De Bellefeuille and Mr. El-Khoury.

Mr. Barsalou-Duval, the floor is yours for six minutes.

[*Translation*]

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

My first question is for you, Ms. Bellefeuille. Earlier, in your opening remarks, you referred to the obligation under the Quebec civil code to refund any service that hasn't been rendered. Theoretically, airlines should have refunded their customers.

However, the Minister of Transport and the Canadian Transportation Agency decided instead to endorse a travel credit policy. In doing so, they have endorsed a violation of the Quebec civil code.

Do you agree with us? Do you think it's the responsibility of a federal minister and agencies to encourage companies to break the law?

**Ms. Sylvie De Bellefeuille:** Since the Quebec civil code isn't a criminal code, the word "offence" is problematic for me.

What is certain, however, is that the civil code includes provisions for acts of God: even in cases of an act of God, the company must reimburse any sum paid for a service that could not be rendered. In other words, an act of God should not be an excuse for unjustified enrichment.

Other provisions of the civil code deal with the issue of contracts of adhesion, which cannot be negotiated. Even if someone signs a contract providing that there will be no refund, I find it difficult to conceive that it would not be abusive for a business to believe that it can get away with this money without rendering any service.

**Mr. Xavier Barsalou-Duval:** Do you find it normal that the position of the Minister of Transport and the Canadian Transportation Agency goes against the civil code?

**Ms. Sylvie De Bellefeuille:** Above all, I find it disappointing.

I understand that the Canadian Transportation Agency and the federal government may say that it isn't their responsibility to enforce provincial law. To a certain extent, they are right. However, that doesn't mean that provincial law should be completely set aside when it applies. I think it would probably have been more appropriate to say here that, in addition to federal rules, there are other obligations to which federally regulated businesses are subject, including consumer protection.

• (1625)

**Mr. Xavier Barsalou-Duval:** Thank you. Your answer provides some interesting clarifications. Provincial laws must be respected as much as federal laws, and it's the responsibility of elected officials to encourage companies to respect these laws.

You also talked about travel credits. People are being offered travel credits instead of a refund.

Could you explain the distinction between the two options? Why are travel credits not a sufficient or acceptable solution?

**Ms. Sylvie De Bellefeuille:** To take advantage of travel credits, people will have to take a new trip, but it's important to remember that in some cases, as Mr. Lawford mentioned, the opportunity for the trip won't arise again in the future. People may travel on special or specific occasions that won't exist anymore once the pandemic is over. We still don't know when it will be safe for people to travel. It may take another year or two. Even if vaccines are coming to Canada, we don't know for sure how they will be distributed. We

know even less how it will be distributed in countries where people want to travel.

The other problem is that travel credits don't guarantee prices. It's possible that, later on, the travel credits may not be enough to make the trip that was originally planned. Airlines may charge people extra if they want to take the same trip.

Also, as I mentioned, many people experienced significant financial losses during the pandemic and struggled to make ends meet. Some people have experienced drops in income. Not everyone had access to the various government assistance measures because they weren't eligible. In this context, it is very likely that a large number of travellers won't be able to afford to travel in the near future.

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

A few weeks ago, in Parliament, I introduced Bill C-249, which stresses the obligation of airlines to reimburse passengers when the airlines don't render the service the passengers have paid for.

Would you say it would be good if the House of Commons passed this bill?

**Ms. Sylvie De Bellefeuille:** Absolutely.

It must be said that the bill reiterates an existing right. In our view, federal acts and regulations already provide tools that would allow consumers to access a refund. Clearly, some parties are taking a narrower interpretation. So it's a good thing to reiterate this right through the legislation that has been introduced.

**Mr. Xavier Barsalou-Duval:** Right.

[English]

**The Chair:** You have 30 seconds.

[Translation]

**Mr. Xavier Barsalou-Duval:** I have one last question for you. I don't know if you'll have time to answer it in full.

We have referred a lot to a kind of discrimination between refundable and non-refundable tickets. It's as if, in the case of a service that isn't offered, people who have purchased non-refundable tickets don't deserve a refund.

What can you tell us about this?

**Ms. Sylvie De Bellefeuille:** A distinction must be made between the situation where the consumer chose not to travel and the situation where the company didn't provide the service. It's one thing for the ticket not to be refunded after the consumer changed their mind. That's not what's happening here. It's really the carriers that didn't provide the service that people paid for, and that's what's unacceptable.

[English]

**The Chair:** Thank you, Mr. Barsalou-Duval, and Madame De Bellefeuille.

We're now going to move to the NDP.

Mr. Bachrach, the floor is yours for six minutes.

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

Thank you to our witnesses for appearing today.

Mr. Lukács, why should airline passengers be concerned about the March 25 statement on vouchers? Is it a typical practice for the CTA to issue such statements?

**Dr. Gábor Lukács:** Mr. Chair, the March 25 statement issued by the agency misleads the public about their rights. A quasi-judicial body does not speak through public statements; it speaks through its decisions. The issuing of some general, broad policy guides, interpretation guides about new regulations may happen, but about a matter that is contested, a matter that is already before the body or very likely to come before the body in a very short time, is entirely unacceptable. I'm sure you realize that no court in Canada would speak through such public statements. Judges, decision-makers, people who act in a quasi-judicial capacity speak through their decisions.

• (1630)

**Mr. Taylor Bachrach:** Mr. Lukács, why do you think the CTA issued the statement on vouchers?

**Dr. Gábor Lukács:** That's a question we would very much like to know the answer to.

Certainly, passengers did not ask for it. The statement on vouchers is beneficial to airlines and harms passengers. We would very much like to see the documents, the correspondence and the internal memos that led to that statement, including emails within the agency, emails between the agency and the airlines, and between the agency and other branches of the government.

**Mr. Taylor Bachrach:** Mr. Streiner, the chair of the CTA, appeared at our committee. I know that you watched his testimony. I asked him a question about the air transportation regulations and his interpretation of their implications for refunds in situations outside the airlines' control, particularly section 122 of the regulations, which states that "Every tariff shall contain...the terms and conditions of carriage, clearly stating the air carrier's policy in respect of at least the following matters". Then it lists "refunds for services purchased but not used".

I know that you are familiar with this passage, but it clearly indicates that it must be either within the air carrier's control or otherwise.

His response was essentially that these regulations state that the tariff shall address those issues, but that refunds are not necessarily required. I assume that you have a different interpretation. Could you share why you disagree with him?

**Dr. Gábor Lukács:** Mr. Chair, the regulations have to be read as a whole. Section 122 of the air transportation regulations is not a stand-alone provision. It has to be read in conjunction with section

111, which also requires terms and conditions to be just and reasonable.

In the past 60 years, the Canadian Transportation Agency confirmed correctly that those provisions that require provisions about refunds in the tariff have to be read in conjunction with the requirements that those provisions be reasonable. "Reasonable" here means requiring airlines to, at the very least, refund passengers for flights that were cancelled, regardless of the reason for the cancellation. To have a provision about refunds for any reason, but then those provisions say, "no refunds", would defeat the purpose of the law. It would not make any sense.

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

We also heard from Mr. Streiner about the fact that, in his opinion, the gaps in the air passenger protection regulations that the pandemic has exposed were not anticipated in advance and could not have been foreseen. We've heard similar testimony from other witnesses.

Do you think this is a fair assessment?

**Dr. Gábor Lukács:** It is not a fair assessment at all.

First of all, when it comes to the issue of refunds, there are no gaps. The APPR is indeed poorly drafted, but it is not a complete code. For example, the APPR does not say that passengers are entitled to a seat in the cabin, but the APPR's silence does not mean the airline can transport passengers in the cargo bay. The situation is similar with respect to refunds.

With respect to this specific issue, it is simply not well drafted. The fundamental right of passengers to a refund should have been incorporated in the APPR for simple clarity purposes, which would have spared the public this issue. We cautioned the agency about it in our 52-page report. We cautioned the agency about it during our consultation. Unfortunately, the agency did not listen. The government did not listen.

**Mr. Taylor Bachrach:** Mr. Lukács, when Minister Garneau appeared before the committee, he expressed concerns about the financial difficulties faced by the major airlines. His concern, specifically—and we've heard similar concerns from Mr. El-Khoury—was that if the government were to force the airlines to provide the refunds, certain airlines that are facing financial difficulties might go bankrupt.

Is this really a fair assessment of the airlines' ability to pay these refunds? What have you learned in your research?

**Dr. Gábor Lukács:** Based on the publicly available information, that is not a fair assessment. With respect to Air Canada, which has public financial data, that would not be true. The best evidence of the serious doubts about the veracity of those statements is that none of the airlines have filed for any kind of bankruptcy protection or insolvency, or any kind of proceeding that would signal that they are in financial distress.

Even if they were in financial distress, it does not mean that they can pick and choose which creditors they are paying first. Passengers' money and airfares paid in advance is often money held in trust. Quite possibly those would be secured creditors, or other rules may apply to their rights that they may precede other creditors.

That is what bankruptcy courts are for—to make sure that those decisions are made fairly. If there is a risk of bankruptcy, it is not for the government to decide which creditors, whether it is passengers or banks, will be first in the line.

• (1635)

**The Chair:** Thank you, Mr. Lukács and Mr. Bachrach.

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

**The Chair:** You're welcome.

Now we're going to the second round. The second round will have five minutes each for Mr. Kram from the Conservatives and Mr. Rogers from the Liberals, and two and a half minutes each for Mr. Barsalou-Duval of the Bloc and Mr. Bachrach of the NDP.

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

**Mr. Michael Kram (Regina—Wascana, CPC):** Thank you very much, Mr. Chair.

My questions are for Mr. Sparling of Air North. I will confess that I've never been to Yukon Territory, but I hear it's beautiful. It's definitely on my bucket list of places to visit some day. I suspect that there may be other members of the committee who have never been to that region of the country either.

First of all, I was wondering if you could give the committee a better idea of what it means to the people of Yukon Territory to have their own regional airline to service their communities and meet their needs.

**Mr. Joseph Sparling:** Well, in terms of airline economics, you've likely all heard people describing airlines as often running in a hub and spoke system. In a typical hub and spoke system, the cash tends to flow from the spoke to the hub.

In the case of Yukon, by making Yukon our hub, when Yukoners buy their travel locally their travel dollars stay in Yukon to support the local economy, and when visitors come to Yukon, their travel dollars flow into Yukon to support the local economy.

I don't know how familiar you are with territorial economics, but it costs about a billion and a half dollars a year to run the territory. We only generate \$200 million to \$300 million ourselves. The rest comes courtesy of southern taxpayers.

There's a lot of interest in making territories—our territory in particular—more self-sufficient, and by creating our own airline in Yukon, I think we've taken a big step in that direction. We have indigenous ownership with a 49% stake by the Vuntut Gwitchin First Nation.

One of the clauses in all of the Yukon first nation land claims settlements is a commitment by both the federal and the territorial governments to take steps to help first nations participate in the territorial economy. I think the investment in Air North north by the

Vuntut Gwitchin was one of the first such investments made by a Yukon first nation. I think it's generally regarded as perhaps a great template of just how first nations can participate in the territorial economy.

**Mr. Michael Kram:** Very good.

Last month, various news outlets reported that Nav Canada was planning to shut down air traffic control towers at several airports across the country, including at the Erik Nielsen Whitehorse International Airport. As a major tenant of that airport, can you explain to the committee how the loss of the air traffic control tower at the airport in Whitehorse would affect your operations both at present and as air traffic increases as we come out of the pandemic?

**Mr. Joseph Sparling:** Firstly, as an industry, we sympathize with Nav Canada's problems. They're just like the rest of us. They're trying to keep their expenses from getting too far ahead of their revenues. Nav Canada has proposed a 30% rate increase to airlines. As an industry, we've come back to them and said they should look at cutting costs before they look at increasing rates.

As a Whitehorse-based operator, we have to be a little careful about criticizing every area in which they choose to cut costs. Having said that, there are some peculiarities with Whitehorse. We are a non-radar environment. That's probably the most significant differentiator between our control tower and other control towers. I think that if we were in a radar environment, if we had low-level radar, the safety considerations would be far less.

We've reached out. Nav Canada hasn't made a plan to formally close the tower. It's something they're considering. We've come back to them and are saying, "Look, without radar, there are some safety considerations." We've asked if they could not look at perhaps reducing hours, reducing staffing or doing something else to save money instead.

**Mr. Michael Kram:** Mr. Sparling, you were quoted in a news article about the closure of the air traffic control tower in Whitehorse. The November 26 edition of the Whitehorse Star reported that you had participated in some of the discussions with Nav Canada. Can you tell us if you've had any further discussions with Nav Canada on this topic since November 26?

• (1640)

**Mr. Joseph Sparling:** They reached out to us for feedback. We provided them with feedback. Whether it was before or after November 26, I can't remember.

**The Chair:** It's your question, Mr. Kram.

**Mr. Michael Kram:** Yes. I was wondering if you could just speak a little bit more about the ownership structure of your airport and how it's particularly beneficial to making the north and Yukon Territory self-sufficient.

**Mr. Joseph Sparling:** I'm sorry. Are you talking about the airport or the airline?

**Mr. Michael Kram:** The airline.

**Mr. Joseph Sparling:** Employment.... With 1,500 local Yukon shareholders, that's between 1 in 15 and 1 in 20 Yukoners who has an equity stake in the airline. Our shareholders are our customers. When we hold our annual general meeting in our hangar, we get better than 10% of our shareholders showing up. I don't think General Motors does that well. Our shareholders are a very engaged and interested group of people.

The question of refunds came up. I'm surprised nobody's asked me. We live in a small community. We don't sell the middle seat on our flights, and we do give refunds to passengers who need them, but in our market, people are going to travel. Only about 15% of our cancellations have resulted in refund requests. We are very lucky in that most people are happy to accept vouchers or credit for future travel.

The big guys, the international carriers, have been hammered by a drop in demand. I sympathize with them. They're trying to stay afloat. We have it relatively easier here in that northerners have to travel. People travel back and forth for medical reasons. There's good cargo flow on our regional routes. Old Crow doesn't have a road, so all of the groceries, building materials, consumer goods, absolutely everything that goes into that community has to be flown in. There is, with or without a pandemic, a somewhat stable level of demand for air service. It's just not what it was this time last year.

**The Chair:** Thank you, Mr. Sparling. Thank you, Mr. Kram.

Next, for the Liberals, we have Mr. Rogers. Churence, the floor is yours for five minutes.

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

First of all, let me welcome all of the different groups today. The witnesses and their presentations are very interesting. I'm sure we've heard from many groups, and individuals especially, who are lobbying for cash refunds of course. Rightly or wrongly, the airlines argue that such activities, as were referenced earlier, could cause them to fail—which would be something we certainly wouldn't want—and that they're not legally obligated to offer refunds for some of the tickets they've sold without insurance and that kind of thing.

I want to ask Mr. Jack and Mr. Lawford to comment maybe. In a situation or a scenario where the courts confirm that given the circumstances, the airlines did in fact have the right to offer vouchers in lieu of cash reimbursements, what would you advocate for at that point? For instance, should vouchers be valid for longer than two years? I'd like for Mr. Jack, Mr. Lawford, or both, to comment on that, please.

**Mr. Ian Jack:** Sure. If I were a politician, I might say that I don't like to comment on hypotheticals, Mr. Chair, but I will go ahead and answer the question.

Under the circumstances, we have a government that has publicly stated that it will get refunds for people, and also that there is financial assistance on the table for the industry. In our case at least, our first thought is not about the outcome of a court case; it's about the outcome of a negotiation that is said to be under way, and that we hope will finish as soon as possible. As we noted in our re-

marks, some people have been out-of-pocket now for six, seven or eight months already, multiple thousands of dollars.

I would say that other jurisdictions have got on with this and got it done. Those would be the U.S., the EU—several European jurisdictions. Their governments have gotten together with their carriers and ensured that passengers have, at least in some circumstances and far more broadly than in Canada, gotten their money back. It is more than possible to do this. We just think that both the government and the carriers need to get on with it.

● (1645)

**Mr. Churence Rogers:** Mr. Lawford, yes, if you could, please respond.

**Mr. John Lawford:** If I may, Mr. Chair.

**The Chair:** Yes, Mr. Lawford, go ahead.

**Mr. John Lawford:** Thank you.

I would just add that, were a court or the CTA, via a sweeping decision, to come to that conclusion, our constituents would not be happy, and we would be supporting a bill like Bill C-249 to change the law. Thank you.

**The Chair:** Thank you.

**Mr. Churence Rogers:** I want to go to another question here, probably for Mr. Sparling.

I understand that when Transport Canada approved the merger of Canadian North and First Air they imposed a lot of very strict conditions to protect against the potentially predatory effects of a monopoly.

Would you agree to those same conditions today?

**Mr. Joseph Sparling:** I think things have changed pretty significantly since the time of the merger. It's not really for me to comment on how Canadian North and First Air feel about it. I don't know what the conditions were, really, but I would expect that a lot of them would not be very appropriate in today's environment. If there were conditions relating to reduction in service, for example, when demand dries up, if you don't reduce service in some way, in some manner, you're just flying a lot of empty seats around. It makes no sense.

The communities themselves must have some minimum level of service. Many of their communities don't have road access, so there is a minimum level of service that needs to be maintained. I expect that they'll figure out what that is, based upon consultations with the community. We certainly did that in our market. The first thing we did when the pandemic hit was to reduce our service from 30 flights a week to five flights a week. The first people we heard from was the hospital and the Yukon government's emergency measures organization. They said that to keep the emergency supplies flowing, we needed to have more flights. We've worked out a schedule with them and added back some flights right away to make sure there is enough service to look after the essential supplies and transportation, even if it is less than the actual level of demand.

To answer your question more succinctly, I would suggest that a lot of the conditions may well be inappropriate in a pandemic environment.

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

Thank you, Mr. Rogers.

We're now going to move to Mr. Barsalou-Duval for two and a half minutes.

The floor is yours.

[*Translation*]

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

My first question is for Dr. Lukács.

During his appearance before the Standing Committee on Transport, Mr. Streiner, the chair and CEO of the Canadian Transportation Agency, said that the agency doesn't have the power to require airlines to refund the cost of airline tickets.

Is that true?

[*English*]

**Dr. Gábor Lukács:** Mr. Streiner displayed stunning ignorance about the mandate of his own organization in what he stated in his testimony.

While the APPR is fully drafted, it is not a complete code. In the past 16 years, the agency had no [*Inaudible—Editor*] to enforce passengers' fundamental right to a refund. He did so—and his organization did, to be more precise—based on the Canada Transportation Act and the air transportation regulations, not the APPR. The Canada Transportation Act and the air transportation regulations remain in effect; they have not been amended. The law has been and remains that passengers still have a fundamental right to a refund regardless of the reason for the cancellation of a flight.

**The Chair:** Mr. Barsalou-Duval.

[*Translation*]

**Mr. Xavier Barsalou-Duval:** Thank you for your answer, Dr. Lukács.

I proposed a motion before this committee to obtain the correspondence between the office of the Minister of Transport and the Canadian Transportation Agency about reimbursing airfare costs. The goal is to determine whether the Canadian Transportation

Agency has in fact made impartial decisions, without any political pressure.

Would you say that adopting such a motion would be a good way to ensure the impartiality of the Canadian Transportation Agency?

[*English*]

**Dr. Gábor Lukács:** Mr. Chair, Canadians are entitled to transparency in how a government body deals with their finances, with decisions that affect their money. The motion tabled by Mr. Barsalou-Duval helps transparency and helps passengers get an explanation as to how the Canadian Transportation Agency came to issue a misleading statement on vouchers.

• (1650)

[*Translation*]

**Mr. Xavier Barsalou-Duval:** Thank you, Dr. Lukács. Minister Garneau—

[*English*]

**The Chair:** Thank you, Mr. Barsalou-Duval. Your time is up.

Thank you, Mr. Lukács.

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

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

My first question is for Mr. Jack.

Mr. Jack, you spoke a bit about how different jurisdictions around the world have been handling this issue of refunds and noted that other countries have actually done a lot better in getting money back into the pockets of the air passengers who bought tickets and had their flights cancelled. My question is why we've seen such a different circumstance in other jurisdictions compared with Canada. Is it a matter of those jurisdictions having different or stronger legislation to protect their consumers, or is it a matter of political will? That is, have other governments done a better job of getting those refunds for their citizens?

**Mr. Ian Jack:** I think it's a bit of both. It depends on the jurisdiction. The U.S. law is clearer. Leaving aside what the Canadian law actually says, there's no doubt the American law, on this point, is crystal clear in terms of some refunds, at least, that were processed.

In the European Union many governments got off the mark a lot faster in negotiating with their primary carriers. In the German example, for instance, the government made a deal with Lufthansa many months ago. They said the same thing that our Canadian government is saying now, which is, "As a result of our help for you, Lufthansa, to continue flying in the future, you must make your customers whole." The thing is, they got on with that months ago.

It is a very good question why it has taken our government until November to make the same kind of statement. There are other jurisdictions that got onto this months ago.

**Mr. Taylor Bachrach:** Thank you, Mr. Chair. Maybe I'll stay with Mr. Jack.

It seems as though we've heard a change in tone from the minister. When the minister first appeared, he was quite dismissive of these calls for refunds and pointed to the financial difficulties that carriers were experiencing. More recently he's had some stronger language around the fact that he's not going to be putting together a sectoral support package until the carriers produce the refunds.

Why do you think there's been the change of tone? What has happened along the way that has caused that change in tone?

**Mr. Ian Jack:** I don't think we can speak to the minister's motivation on this. I would say it's understandable that there was a lot of panic everywhere in the world—including, probably, in the corridors of Transport Canada—for the first few weeks of this pandemic. Nobody knew what was going on, but we've had lots of time since to calm down and get on with this. It is really too bad that it's taken until now, December. We still don't have....

They've announced they're going to do a deal. They don't have a deal yet. We don't know when that will happen, of course. Before we start seeing any refund cheques issued, we will quite likely—quite possibly, at least—reach the one-year anniversary of the first people having had their money disappear into an airline's coffers and not getting it back after a cancellation. Of course, there's not even any certainty of that at this point. The situation has, just simply, dragged on for too long.

**The Chair:** Thank you, Mr. Jack, and Mr. Bachrach.

We're now going to the Conservative Party.

Mr. Soroka, for five minutes, the floor is yours.

**Mr. Gerald Soroka (Yellowhead, CPC):** Thank you, Mr. Chair.

My first question is for Mr. Lawford. I like the idea of your creating a fund for passengers to get money from if there's an event that happens again. One of the big concerns that I keep hearing from the public is that airline tickets are expensive enough. How much money are you thinking of when you say a “small” amount?

**Mr. John Lawford:** That's a good question. I don't have a study for you. I can say that in similar situations, telecommunications monthly bills, for example, have to go up by 50¢ to cover subsidies for, say, rural telephone service. It's probably along that kind of line. You'd get a 50¢ or \$1 charge, something like that, per airline ticket. I don't know. I have to admit I haven't done the numbers.

Either way, it's going to come out of airlines, which will then pass it on, I'm sure, to consumers, whether it's a new rule, like from Bill C-249, or whether it's a fund.

**Mr. Gerald Soroka:** Okay, so this is just in the conceptual stage. You don't really have any numbers or anything in that regard.

Mr. Jack, you mentioned, right at the end of your comments, reforming security to make it easier for passengers to go through security. What were you talking about there?

• (1655)

**Mr. Ian Jack:** Thank you for the question, Mr. Soroka.

We think that at some point we are going to get past this pandemic. We will start to see air travel resume, perhaps not for some time now to the volumes it was at before. There were a series of reforms that were finally getting under way in this country, to a system that hasn't really been touched in over 20 years—the airline system broadly. All of those, of course, went into the deep freeze when COVID-19 happened.

We hope that some of them will be brought back and that they're not all forgotten. One of those, in relation to CATSA, involved the length of the lineups that used to exist. This is obviously not an issue today because nobody's flying, but when people start flying again, we're going to start seeing very long lines again. There was a project by the government to reform CATSA significantly, to give it better funding, and to allow it to invest more in technology so that we could see a better air system for Canadians.

The point of my remarks at the very end was simply to say, let's deal with this big issue of refunds first, but let's not forget about all of the other things that we all cared about right before the COVID pandemic hit. We should come back to some of those once we get past this unfortunate situation.

**Mr. Gerald Soroka:** That's why I wanted to ask the question, because I wasn't certain how it tied in, but now it doesn't quite tie in as well as I thought it would.

To Mr. Lukács, then, what you're implying here is almost that airlines were potentially selling tickets knowing that they weren't going to have the planes flying at the time. Is this true? Do you have any numbers to back this up, and if so, how much money do you think they collected in that regard?

**Dr. Gábor Lukács:** The numbers that we do have, as I mentioned, relate to the flights for November. Airlines, and frankly, Air Canada, were selling tickets between September 25 to October 31. Approximately 75% of the flights of Air Canada scheduled for November were cancelled. We are seeing somewhat similar trends for WestJet, but we don't have numbers for it. Those numbers that I'm referring to were also reported quite broadly by the Canadian press.

**Mr. Gerald Soroka:** Basically they were using this money to help fund their operations at the expense of customers.

**Dr. Gábor Lukács:** That's quite accurate. I would think of this as more of a kind of pyramid game, where they take the money and perhaps use it to operate flights of previous passengers, but don't deliver services to these passengers.

**Mr. Gerald Soroka:** Then this would easily tie right into the fact that airlines should be compensating passengers with money as opposed to a voucher, then.

**Dr. Gábor Lukács:** This truly speaks to refund. I would like to stress that compensation is not the same as a refund. Compensation is for inconvenience of your not getting there on time. We are talking here about simply giving passengers back their own money that they paid for services that were never delivered.

**Mr. Gerald Soroka:** Yes, I can understand that.

Ms. De Bellefeuille, I've heard from people that were on a trip. It got cancelled halfway and they had insurance, yet the insurance companies weren't compensating them for any of the interruption to their trip, or anything like that, because the airline gave them \$600 back. Is it true that, as long as they got a little bit of money from an airline, the insurance companies were off the hook?

[Translation]

**Ms. Sylvie De Bellefeuille:** Indeed, there have been difficulties with the insurers. Several of them consider travel credits as a reimbursement. They therefore refuse to reimburse consumers on the grounds that they received compensation that, in their opinion, is satisfactory. Of the two sides, the consumers lose out.

[English]

**The Chair:** Thank you.

Thank you, Mr. Soroka.

We're now going to move on to the Liberals with Ms. Jaczek for five minutes.

Ms. Jaczek, the floor is yours.

**Ms. Helena Jaczek (Markham—Stouffville, Lib.):** Thank you, Chair, and to all the witnesses for your excellent presentations.

Certainly, with situation we're in now, we're all absolutely clear that refunds are necessary. My constituents are telling me that very clearly.

We also know that pandemics have been predicted by public health officials for years. Those of us in the GTA were very conscious of the SARS pandemic, and, in fact, the spread of that through air travel. That's a given. There will be more pandemics in the future. I think it's really important for us as legislators to get things like the air passenger protection regulations right.

Mr. Jack, I would ask you to perhaps elaborate a little. Is there a model from another jurisdiction that could be very helpful to Canada going forward? You mentioned the United States. Could you be more specific as to how their regulations are worded and how they work?

• (1700)

**Mr. Ian Jack:** There are several jurisdictions around the world that have fairly clear black and white language. None of them are perfect. The U.S. law applies to domestic flights, not international flights. It doesn't cover everyone. There's no reason we can't simply right this in Canada. I think Mr. Lawford had a couple of interesting suggestions that the government should be considering for us going forward. We need to come up with a way to make sure that this doesn't happen again.

Unfortunately, and you referenced SARS and past pandemics, we've also seen predictions that COVID won't be the last pandemic. This could happen to us again. We all hope it doesn't, but it could. We have to make sure that we have proper refund provisions in place and that we close this loophole.

When people were looking at the legislation and the regulations in the APPR, they said we might have a hurricane somewhere and an airport might have to shut down for two days, so it wouldn't be fair to penalize the carrier in that case, because they would be doing their best to get people home. That's what the APPR says: make your best efforts to get people home again.

Unfortunately, nobody had thought about a pandemic shutting down airspace and then people not wanting to travel for months and months, even if the airspace were theoretically open. That's the world that we sadly live in now, and we need to take care of that for the future.

**The Chair:** Ms. Jaczek.

**Ms. Helena Jaczek:** I've heard that WestJet and Air Canada are currently actually providing some refunds. Ed Sims, the president and CEO of WestJet, wrote an op-ed in the Financial Post last week and said that this was occurring.

Madame De Bellefeuille, are you aware of some of these refunds? How are they being processed? Is it really happening, and is it a good step forward?

Could you tell us your experience?

**The Chair:** Ms. De Bellefeuille.

[Translation]

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

Personally, I haven't heard from consumers in connection with WestJet. I read in the newspapers, like everyone else, that WestJet had announced that it was going to reimburse its customers. For us, this is obviously a step in the right direction. What we would like is for other airlines to do the same.

[English]

**The Chair:** Ms. Jaczek.

**Ms. Helena Jaczek:** Mr. Charbonneau, do you have any experience with these apparent refunds that are occurring?

[Translation]

**Mr. Jacob Charbonneau:** Yes, of course.

WestJet did announce that it would voluntarily refund the airline tickets, but within six to nine months. That's a very long time. So the refunds haven't started yet.

On the Air Canada side, to my knowledge, the tickets that are refunded include those for European flights. That said, the refund policy that has been applied is not necessarily the one prescribed by law. Air Canada will reimburse European passengers who have purchased a ticket for one of its flights, not Canadian passengers. However, under European law and regulations, it is the destination and origin of the flight that matters, not the place where the ticket was purchased.

[English]

**The Chair:** Ms. Jaczek.

**Ms. Helena Jaczek:** Chair, how long do I have?

**The Chair:** You have another 30 seconds.

**Ms. Helena Jaczek:** I would simply say to my colleague Mr. Kram, it's most unfortunate that you've never visited Yukon. My daughter was there for four years. Air North provides an excellent service. Make sure you get there.

**The Chair:** Thank you, Ms. Jaczek; and thank you, witnesses.

We're now going to move on to Mr. Shipley for five minutes.

Mr. Shipley, the floor is yours.

**Mr. Doug Shipley (Barrie—Springwater—Oro-Medonte, CPC):** Thank you, Chair, and to all for joining us today.

My questions are going to be predominantly directed towards Mr. Lukács, but if anybody else has any more information, I'd be more than happy to have them jump in and add some.

I hear a lot about people needing refunds on tickets. I haven't heard the number yet. I've heard that how many complaints and calls have come in.

Do we know the total number of customers who still have flight tickets that haven't been refunded? What is the total number that we're looking at out there?

• (1705)

**Dr. Gábor Lukács:** We have estimates based on financial data published by those airlines that are publicly traded, and as such, they have public financial reports. Air Canada currently holds about \$2.3 billion in advance ticket sales. Projecting that to the entire Canadian airline sector, we estimate that about \$3.87 billion is outstanding. A very conservative estimate would mean that corresponds to about 3,870,000 passengers who are affected.

The exact numbers are available only to the airlines themselves. They should be producing that data to the committee.

**Mr. Doug Shipley:** Thank you for that information. That is mind-boggling. That's even more than I thought it was going to be.

Just to clarify, because that's a very large number, that's not customers. Could that be almost divided in half because we're looking at two-way tickets?

**Dr. Gábor Lukács:** No, that could not be divided by half, because when you do the calculations, if you look at StatsCan data, without taxes, an average ticket ranges between \$200 and \$300, depending which quarter you look at. You also add taxes to that, so the estimates for a one-way ticket, on average, would be about \$500 or less. A round-trip ticket would be \$1,000 or less.

Then you divide \$3.87 billion by \$1,000, and that's how you get 3,870,000 passengers.

More data is in the airlines' hands, and you certainly have the power to subpoena that data in this committee.

**Mr. Doug Shipley:** That's a tremendous number. You seem to have a lot of information, so you probably will have this.

What percentage do Canadian consumers represent of that number of over three million? Do we have any idea?

**Dr. Gábor Lukács:** We have not done that calculation. One would have to be very careful to do the proper calculation because you have some statistics on per segment flown, per embarkment. The best way to get information would be to ask the airlines themselves to open their books and provide that information, at least to this committee. If the airlines are asking for money from the public purse, they have to open their books.

**Mr. Doug Shipley:** Thank you for that information. The numbers are a little more mind-boggling than I thought. That's good information to have.

You also mentioned earlier—and this perplexes me—that airlines are still selling tickets, only to cancel flights. There was an incident here. I drive because I'm near enough, but two weeks ago on a Thursday, a lot of my colleagues had their airline tickets booked and then got a text/email almost at the same time indicating that their four o'clock flight out of Ottawa on Friday was cancelled due to bad weather. There was no bad weather. It really sent a lot of people scrambling, trying to get home all over Canada. No one could figure out exactly what was going on. Again, that was a Thursday night. The email/text went to everybody almost at the same time indicating that weather had caused their flight to be cancelled.

Is this the type of thing you're talking about, Mr. Lukács?

**Dr. Gábor Lukács:** Mr. Chair, we are seeing a number of instances where airlines make dubious claims about the reasons for flight cancellations. The reason is that if the cancellation is within the airline's control, on top of refunds, airlines also have to compensate passengers for the inconvenience. Given how poorly the APPR is worded and how it has been billed, airlines have a significant financial incentive to not be entirely forthright about the reasons for flight cancellations.

We have also seen airlines blame the pandemic for flight cancellations even though they happened a long time in advance. It was clearly a business decision. There are concerns about transparency. With the numbers, the current financial data and interest in travel, it would be predictable that only a fraction of those flights would operate.

**The Chair:** Thank you, Mr. Lukács.

Thank you, Mr. Shipley.

**Mr. Doug Shipley:** Thank you, Chair.

**The Chair:** We're now going to move on the Liberal Party with Mr. Sidhu for five minutes.

Mr. Sidhu, you have the floor.

**Mr. Maninder Sidhu (Brampton East, Lib.):** Thank you, Mr. Chair.

Thank you to our witnesses for being with us today and providing some valuable insights.

My first question is for Mr. Jack.

The minister has already stated that assistance to the airlines is conditional on their reimbursing their customers. I have many constituents who have reached out to me to express their concerns in regard to their refund.

What more would you add to that? Would you seek additional conditions to that?

• (1710)

**Mr. Ian Jack:** Mr. Chair, thank you.

Do you mean additional conditions on the refunds or on the carriers?

**Mr. Maninder Sidhu:** I mean additional conditions on the carriers for them to reimburse [*Inaudible—Editor*] because we want to be responsible as well.

**Mr. Ian Jack:** Thank you for the clarification. I appreciate it.

Just today we had one of the carriers announce that they're pulling out of a couple of small markets. Perhaps that's part of their negotiating strategy right now—I'm not sure. If I were a member of the committee, if I were the government, I would want to make sure that the service is restored, that there are guarantees for minimal service across this country. The aviation sector binds us. We have somebody from Air North who has said repeatedly and quite truthfully that people need to travel in the north. People need to travel from communities across this country. Some travel is a nice to have, but some of it is a must-have. We do need to make sure that those services are there.

I would note that the carriers have taken slightly different positions on this. We have heard that WestJet is refunding passengers for flights that it cancelled, not flights that passengers cancelled out of from an abundance of caution in the spring. I cancelled two of my tickets for flights in early to mid-March because I thought there was no way I was going anywhere in April or May. Those were business flights. I'm not out of pocket myself, so I'm not complaining about my own finances, but I'm observing that an awful lot of people would have done that. That's why I think that, overall, it's important that we don't differentiate between the people who cancelled flights themselves during the height of the pandemic and those whose flights were cancelled by the carriers.

**Mr. Maninder Sidhu:** Thank you for that.

Mr. Lawford, I would like to hear your thoughts on this as well.

**Mr. John Lawford:** I have some thoughts about bailouts in particular rather than conditions around the tickets. We've advocated for bailout money to make sure that none of that goes to shareholders, with no dividends or extras paid out of that money, and no share buybacks, executive compensation or bonuses, to try to keep all the labour that they presently have so that there are no layoffs when they are receiving bailout monies, and, of course, for consumer refunds in this particular situation. Those are the extra conditions I'm speaking about in terms of bailouts rather than ticket conditions.

**Mr. Maninder Sidhu:** Thank you for that.

Mr. Sparling, I want to thank you for being here.

Regional connectivity is very, very important. It's not just about the connectivity; it's about learning about each other's cultures. Canada is a vast country, and we need to ensure that we're able to travel. I've never been to Yukon. I hope to come one day.

How much assistance have you received so far between the wage subsidy and financial assistance from the federal government through Yukon?

**Mr. Joseph Sparling:** Through the end of September, we're at just over \$7 million between the Canada emergency wage subsidy and the northern essential air services relief program. The majority of it is the Canada emergency wage subsidy funding. The Yukon government, in conjunction with the federal government, has a program for essential air services in the north, which we certainly have taken advantage of and are very thankful for.

**Mr. Maninder Sidhu:** Thank you for that.

Is there anything else you'd like to add? I've noticed that you're not getting that much speaking time, but I definitely am very intrigued. Are there any other issues you want to bring up or anything you would like to by way of comments?

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

**Mr. Joseph Sparling:** Thank you. Hopefully, I covered everything in the notes. I think one of the things that I tried to point out is that I learned a lot when I was researching just how many—or how few—communities in the whole country actually have scheduled air service. The fact is that the majority of them are communities of under 10,000 people.

There is also the notion of interline agreements. A lot of our regional communities are not accessible to the rest of Canada in the absence of simple interline agreements between air carriers that will show a passenger wanting to go from Toronto to Dawson City, for example, that it's possible to fly there. In the absence of an interline agreement between ourselves and Air Canada, Dawson as a destination doesn't show up.

Another example would be that of a passenger who flies from Old Crow to Toronto and misses a connection in Vancouver with an Air Canada or WestJet flight. They could conceivably be asked to buy a new ticket, because there is no interline agreement between the two carriers.

I think that if our goal as a nation is to truly link every community in the country together, then we should be making the airlines mandated to link themselves together so passengers can check their bags and be protected when transiting from one carrier to another. This should not be a competitive tool that a big airline can use against small airlines. I think that's a key point to think about.

• (1715)

**The Chair:** Thank you, Mr. Sparling and Mr. Sidhu.

I'm now going to move on for two and a half minutes to Mr. Barsalou-Duval and the Bloc Québécois.

Mr. Barsalou-Duval, the floor is now yours.

[*Translation*]

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

My next question is for Mr. Charbonneau from Late Flight Claim Canada.

Mr. Charbonneau, you mentioned earlier that, since the start of the pandemic, several countries around the world, including EU countries and the United States, have been stating loud and clear that passengers are entitled to a refund. Here, in Canada, it's quite the opposite. The policies of the Canadian Transportation Agency and the statements of the Minister of Transport, Marc Garneau, have resulted in a decrease in the protections offered to passengers. For example, since the beginning of the pandemic, the minister has not supported passengers' right to a refund. In fact, what he is now saying is that passengers may be entitled to a refund if there was government assistance, but he isn't defending their right to reimbursement.

I'd like to know what you think of Canada's position, compared to the rest of the world, with respect to passenger protection.

**Mr. Jacob Charbonneau:** Indeed, in Canada, the political system and the Canadian Transportation Agency appear to favour carriers at the expense of consumers. And, it's taken a long time to address the issue, whereas in other countries it was done at the beginning of the crisis.

There is also a difference in the way the Air Passenger Protection Regulations are interpreted. As the name implies, these are regulations that should protect consumers. The numbers prove how necessary the regulations were. Since they were put in place on December 19, 2019, there have been 22,000 complaints. Half of them were filed before the crisis, so within the first three months after the regulation was put in place.

If regulations that are designed to protect passengers generates so many complaints, questions may be raised about their merits and enforcement. If you have the power to ignore it when passengers need it, it's just as problematic.

**Mr. Xavier Barsalou-Duval:** Thank you for your answer.

I'm going to ask you another question.

The purchase of Air Transat by Air Canada has been under discussion for several months. Even in a situation where there's a certain amount of competition, we can see that passengers' rights are being abused. If we have to find ourselves in a situation where there will be even less competition for air transport in Quebec, won't that have an effect on the conditions under which passengers will travel?

**Mr. Jacob Charbonneau:** Obviously, this can become problematic, because you are giving the keys to the kingdom to a single company, in this case a company that often sets itself apart, but not for the right reasons: it is the subject of several complaints, both in terms of language and services offered.

It also puts the entire industry at risk. Less competition means fewer players in the value chain for services, because you want to get volume discounts, and if there are fewer players, then fewer suppliers are engaged. But the value chain and the critical chain are important because if there are fewer suppliers, as soon as one of them has a problem, it can affect the whole industry. If there is a global computer failure, as we've already seen with some carriers, it affects the entire industry. If there is widespread piracy, it will affect the entire industry. Obviously, the less competition there is, the more the industry is at risk, and the less we try to stand out.

This is also the case for other stakeholders. I'm thinking of travel agents and travel agencies. If there isn't as much competition, these people won't have the choice to use a given supplier, then there will be no room for negotiation.

The same applies to passengers. If there isn't enough airline choice in Canada, and they are forced to choose between Air Canada and Air Canada, they risk going to an airline outside of Canada, which can result in a reduction in market share for Canadian companies.

[*English*]

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

We'll now move on to the NDP.

Mr. Bachrach, you have two and half minutes. The floor is yours.

• (1720)

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

Mr. Lukács, in the recent questions we heard about the 11,000 complaints that the CTA received from passengers even before the pandemic, with a further 11,000 complaints or claims afterwards. What do you think the issues are preventing these complaints from being resolved in a timely way. What impacts are these delays having on the ability of air passengers to assert their consumer rights in Canada?

**Dr. Gábor Lukács:** What is missing first and foremost in dealing with those complaints is the will by the Canadian Transportation Agency to address them. We have documents indicating that the Canadian Transportation Agency has been sending away passengers who have valid complaints, telling them that they have no case. We don't know the full extent of that, because we haven't yet received all of the documents under access to information.

The issue of refunds seems to be the primary source of the recent batch of complaints. They could have been dealt with very swiftly and simply in a single proceeding for each airline. Precedence for that exists from SkyGreece—I have that from 2015—when they issued a single decision to deal with all of the issues relating to passengers who were stranded.

It does not take months or years to deal with some of those issues. It just takes the will to address it.

**Mr. Taylor Bachrach:** Mr. Lukács, you mentioned before that you feel that the current legislation and the current regulations are actually strong enough to require these refunds. You also mentioned that you believe changes could be made to increase their clarity and protect consumer rights. Could you identify specifically what changes you think need to be made to the APPR in order to ensure that passengers are never left exposed like this again?

**Dr. Gábor Lukács:** First of all, I believe passenger rights should be incorporated in the primary legislation, not in regulations. Regulations they can suspend, and do suspend, on a whim. Second, even before the APPR, passengers had a right to a refund when the airline cancelled a flight for any reason. That hasn't changed. It could be incorporated and should be incorporated in the APPR simply to have a single document that lists all those rights.

The other major issue of concern relates to who has the burden of proof, when a flight is cancelled or delayed, of whether or not it was in the airline's control. There's this whole idea that if a flight was cancelled or delayed for maintenance reasons, then the airline is off the hook. That is inconsistent with international standards. Canada should generally adopt the European Union's gold standard. In the European Union, there are no such issues with refunds. The European Union made it clear to all states that they have to enforce the right of passengers to a refund, which is clearly enshrined in the European regulations.

**Mr. Taylor Bachrach:** Okay.

Maybe my last question, just....

**The Chair:** Actually, Mr. Bachrach, the time is up. I'm sorry.

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

**The Chair:** I'm bang on time here, so I'm trying to keep it disciplined. My apologies.

Thank you for the questions as well, Mr. Lukács.

I'm now going to go to the Conservatives.

Ms. Kusie, you have five minutes.

**Mrs. Stephanie Kusie:** Thanks very much, Mr. Chair.

Mr. Sparling, I was hoping that you might be able to provide some insight as to what a lack of rapid testing has meant for regional service in the north specifically—if and how that has affected air travel in the north.

**Mr. Joseph Sparling:** Well, to the extent that rapid testing would eliminate the need for mandatory self-isolation, then it's had a major impact. As you may or may not know, anybody now coming into Yukon from outside the territory must self-isolate for two weeks. We had a travel bubble with B.C., starting in July. When the travel bubble opened in July, we saw a pretty significant uptick in traffic. I thought we were clearly on the mend in terms of the COVID impact.

However, in late November, due to the rising infections in B.C., the government reimposed the travel bubble, and traffic dropped like a rock. Rapid testing, if we were able to then let people travel more freely, would make a significant difference. We're certainly in discussions with the Yukon government about that possibility.

To date, the border is closed. It's having a major impact. We're looking for something to get things going again.

• (1725)

**Mrs. Stephanie Kusie:** I'm going to move now to air cargo. I'm wondering what it means in terms of the significance of being able to move cargo freely to and from the Yukon at this time and if there have been difficulties or changes in cargo patterns as a result of the pandemic.

**Mr. Joseph Sparling:** Our cargo volumes are the one thing that has been stable as a result of the pandemic. Passenger volumes were down 95% in April. We've recovered to being down 60% or so. Cargo volumes have remained relatively stable throughout the pandemic. We're very thankful for that.

**Mrs. Stephanie Kusie:** Okay. It's significant, and there's been no difficulty.

I'll go back to Dr. Lukács then.

Dr. Lukács, could you please expand on the changes that you would like to see within the current legislation, which I believed was proposed by my predecessor, MP Doherty? Could you explain clearly for the committee what this legislation would incur exactly?

**Dr. Gábor Lukács:** Currently there's a private member's bill by Mr. Barsalou-Duval, Bill C-249, which was tabled earlier. I understand that your predecessor may also be working on something similar.

The effect of this bill is that it would declare that the law has always been that passengers are entitled to a refund when an airline cancels a flight for any reason, whether it's within or outside the airline's control.

The one change that I would like to see in the bill is this: Instead of having this within the summary of the bill, it be moved into the actual text of the statute to avoid any doubt. What we have seen now is that airlines will try to use every excuse not to repay passengers. Making clear that this bill is declaratory will settle once and for all this debate. It will ensure that it is clear to everyone that the law has always meant that when an airline cancels a flight for any reason and doesn't provide passengers with a service that passengers have paid for, passengers have to get that money back.

**The Chair:** You have 40 seconds, Ms. Kusie.

**Mrs. Stephanie Kusie:** Thank you very much.

I'll finish, then, with the question that I had earlier for our colleague Mr. Lawford.

Dr. Lukács, what affect do you think this will have on consumer confidence in the future?

We heard some testimony today that there was some increased confidence in consumers based upon the passenger rights legislation. Do you think that this has been eroded as a result of this situation of the pandemic?

**Dr. Gábor Lukács:** The air passenger protection regulations created a false sense of confidence. They never were meant to work; they were designed to fail. Certainly what we see now undermines further passenger and customer confidence.

Bill C-249 is going to fix just the basics. The most important principle in every commercial transaction, that if you don't receive what you paid for, you get your money back, is a vital step for the entire sector's recovery.

**The Chair:** I will now go to our last speaker, for five minutes. For the Liberals, it is Mr. Bittle.

Mr. Bittle, the floor is yours.

**Mr. Chris Bittle (St. Catharines, Lib.):** Thank you very much, Mr. Chair.

Mr. Lawford, my understanding is that the CTA's voucher statement in March was not a binding decision. It did not change the law, but provided guidance as to a reasonable approach, given the extraordinary circumstances. I was wondering if you could comment on that.

**Mr. John Lawford:** Yes, I suppose that the CTA thought it was a reasonable response in the panic moment. However, that was a policy statement they should have known was going to affect consumers' will and understanding of the situation.

My concern with it is that it implied, at least at a consumer understanding level, that refunds would not be forthcoming and that

consumers should just sit tight and be happy with their two-year vouchers. I think the CTA did not take into account consumers' perception of what they were trying to do, which was just to give a temporary circuit break until they could get to these complaints.

I would have been much happier had they described it that way, but they left it out, making it sound, with no context, as if that were all that consumers were ever going to get and that it were all they were entitled to. I think that's the concern Dr. Lukács also mentioned.

• (1730)

**Mr. Chris Bittle:** Perhaps this is venturing into hypotheticals, but I am wondering if you could comment. I know there's some dispute as to the situation the airlines find themselves in. What would the status of a consumer be if an airline or airlines were to enter into bankruptcy or creditor protection? As an unsecured creditor, what would their rights be under the law?

**Mr. John Lawford:** As I think Maître De Bellefeuille said, they would likely be unsecured creditors at the very bottom of the heap. If the company were to come to an arrangement to hand out, let's say, 17¢ on the dollar, they would get their portion after secured creditors took that 17¢, and I'm sure their complaint would be larger than that. So they would probably get nothing. I understand the concern might be that if there are refunds offered, some airlines may become financially unstable, and then that would happen and there would be a knock-on effect.

However, my understanding is a bailout package is being negotiated—without consumers in the room, I might add. If that's the case, then I think it's eminently reasonable to ask for refunds, especially if taxpayers are already going to be making sure that no one goes bankrupt.

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

I'll throw this question to you, as well, but I'll open it up to whomever wants to answer.

How concerned do you think the government should be about Canada's losing connectivity for a long time, both domestically and internationally, as a result of this crisis?

**Mr. John Lawford:** That's the million-dollar question.

Certainly I believe that Air Canada is large enough and strong enough, and probably WestJet as well, to weather at least another year of this. Other smaller airlines, such as Air Transat, may be in a different position. I think it's the minister's job to monitor that situation closely and to come up with new policy, if needed.

That's all I can say.

Thank you.

**Mr. Chris Bittle:** Would any other witness like to answer that question?

**Dr. Gábor Lukács:** I'm happy to comment on that.

For the short term, people should be staying at home because that is the safest thing to do in the pandemic. Once the pandemic is over, demand is going to be back. If consumer confidence is restored, demand is going to be back and connectivity will be back. These things are tied together: One cannot deal with one and not the other.

**Mr. Chris Bittle:** Mr. Jack, would you like to comment on that question?

**Mr. Ian Jack:** I agree with Mr. Lukács. We have to deal with both of these things. We do have negotiations under way with the carriers to ensure that their policies on financial needs allow them to carry on. We need to get consumer confidence back up.

A number of us have observed that there are economic, cultural and social benefits from having a viable airline industry in this country. We need to ensure that is the case, but we also need to make sure that consumers aren't the ones funding this, because they paid for a service they never received. The airlines made off with their money.

**Mr. Chris Bittle:** Mr. Sparling, as an industry representative could you comment on that in terms of the future of the industry and your airline?

**Mr. Joseph Sparling:** You spoke of international carriers. They've been hardest hit. As a country we need to do all that we can to make sure that our carriers that fly internationally are protected and are able to compete with foreign air carriers who are of-

ten funded by their governments. That means doing all that we can to drive business.

For people travelling internationally on Canadian carriers, we should do all that we can to make the cost structure of our Canadian air carriers competitive with those of other countries, which are sometimes subsidizing their airlines. This might include such things as taking over, at least temporarily, some of the infrastructure costs that Canadian carriers are bearing, the excise tax on fuel, the Nav and airport fees. Things like that will make the cost structure of Canadian air carriers more in line with those of foreign air carriers.

Vis-a-vis the Americans, generally speaking, U.S. carriers have about a 20% cost advantage over Canadian carriers. We could do a lot to help our industry if we were to level the playing field a bit in that regard.

• (1735)

**The Chair:** Thank you, Mr. Sparling and Mr. Bittle.

Thank you to all of the witnesses, and for all of the questions from all parties.

One of the satisfying parts of today's meeting was that not only did we talk about the airlines, but also about the supply chain, including travel agents and others who have been affected by the pandemic and many of the challenges we've been facing for the past year.

The meeting is adjourned.

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