

**FEDERAL COURT OF APPEAL**

B E T W E E N :

AIR PASSENGER RIGHTS

Applicant

- and -

CANADIAN TRANSPORTATION AGENCY

Respondent

**MOTION RECORD OF THE PROPOSED INTERVENER,  
THE NATIONAL AIRLINES COUNCIL OF CANADA,  
FOR LEAVE TO INTERVENE**

**(in writing)**

**Volume 1 of 3**

**Notice of Motion, Pleadings and Affidavits**

April 27, 2020

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**EX PARTE**

**FEDERAL COURT OF APPEAL**

B E T W E E N :

AIR PASSENGER RIGHTS

Applicant

- and -

CANADIAN TRANSPORTATION AGENCY

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**INDEX****Volume 1 of 3****Notice of Motion, Pleadings and Affidavits**

<b>Tab</b>	<b>Description</b>	<b>Page No.</b>
1.	<b>Notice of Motion</b> , dated April 27, 2020	1
	<b>Pleadings:</b>	
2.	Order, dated April 16, 2020	7
3.	<b>Affidavit of Mike McNaney</b> , sworn April 27, 2020	11
	Exhibit "A": Air Canada News Release, dated April 21, 2020	16
	Exhibit "B": Air Transat News Release, dated March 18, 2020	18
	Exhibit "C": WestJet Update, dated April 19, 2020	21
	Exhibit "D": News Release, dated April 9, 2020, provided by Chorus Aviation Inc. regarding its subsidiary Jazz Aviation	24
4.	<b>Affidavit of Nicola Colville</b> , sworn April 24, 2020	27
	Exhibit "A": IATA Updated Impact Statement, dated April 14, 2020	31
	Exhibit "B": IATA Updated Impact Statement, dated April 16, 2020	41

Exhibit “C”:	IATA COVID-19 Canada Economic Impact Analysis, dated April 22, 2020	56
Exhibit “D”:	IATA Press Release, dated April 14, 2020	63
<b>5. Affidavit of Jiwan Son,</b>	<b>sworn April 27, 2020</b>	<b>66</b>
Exhibit “A”:	Excerpt from Organization and mandate section of Canadian Transportation Agency website, printed April 24, 2020	71
Exhibit “B”:	Statement on Vouchers, dated March 25, 2020	74
Exhibit “C”:	Important Information for Travellers During COVID-19, March 18, 2020	76
Exhibit “D”:	FAQs: Statement on Vouchers, April 22, 2020	81
Exhibit “E”:	Determination No. A-2020-42, March 13, 2020	84
Exhibit “F”:	Determination No. A-2020-47, March 25, 2020	88
Exhibit “G”:	Order No. 2020-A-32, March 18, 2020	91
Exhibit “H”:	Order No. 2020-A-37, March 25, 2020	94
Exhibit “I”:	Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, undated	97
Exhibit “J”:	PC Number: 2020-0157 - Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada), March 18, 2020	108
Exhibit “K”:	Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 2, March 20, 2020	117
Exhibit “L”:	PC Number: 2020-0161 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States), March 20, 2020	128
Exhibit “M”:	PC Number: 2020-0162 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any Country other than the United States), March 22, 2020	139

Exhibit “N”:	Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 3, March 24, 2020	150
Exhibit “O”:	PC Number: 2020-0175 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Mandatory Isolation), March 24, 2020	161
Exhibit “P”:	PC Number: 2020-0184 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any Country other than the United States), March 26, 2020	174
Exhibit “Q”:	PC Number: 2020-0185 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States), March 26, 2020	189
Exhibit “R”:	Repealed - Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, March 27, 2020	200
Exhibit “S”:	Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 6, April 17, 2020	209
Exhibit “T”:	Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 3, April 17, 2020	223
Exhibit “U”:	“Aviation measures in response to COVID-19” posted on the Transport Canada website and modified April 2, 2020	238
Exhibit “V” :	Statement of Claim in Court file number T-428-20, Donaldson v. Swoop et al., issued March 27, 2020	252
Exhibit “W”:	Notice of Civil Claim in Court file number VLC-S-S-203759, Donaldson v. Swoop et al., issued March 27, 2020	266
Exhibit “X”:	Motion for Permission to Commence Class Action Proceedings in Court file number 500-06-001052-204, Lachaine v. Air Transat A.T. et al., issued March 23, 2020	285

**Volume 2 of 3**

**Written Representations and  
Schedule “A” – Statutes and Regulations**

<b>Tab</b>	<b>Description</b>	<b>Page No.</b>
6.	<b>Written Representations</b> , dated April 27, 2020	303
A.	<i>Federal Court Rules</i> , S.O.R./98-106	331
B.	<i>Canada Transportation Act</i> , S.C. 1996, c. 10	340
C.	<i>Federal Courts Act</i> , R.S.C., 1985, c. F-7	350
D.	<i>Air Passenger Protection Regulations</i> , SOR/2019-150	354

**Volume 3 of 3**

**Authorities**

<b>Tab</b>	<b>Description</b>	<b>Page No.</b>
7.	<i>VIA Rail Canada Inc. v. Canadian Transportation Agency</i> , 2005 FCA 79 (CanLII)	360
8.	<i>Rothmans, Benson &amp; Hedges Inc. v. Canada (Attorney General)</i> , [1990] 1 F.C. 74 (T.D.); aff’d. [1990] 1 F.C. 90 (C.A.)	416
9.	<i>Sports Maska Inc. v. Bauer Hockey Corp.</i> , 2016 FCA 44	423
10.	<i>Canada (Attorney General) v. Pictou Landing Band Council</i> , 2014 FCA 21	452
11.	<i>Prudential Steel Ltd. v. Bell Supply Company</i> , 2015 FC 1243 (CanLII)	469
12.	<i>Prudential Steel Ltd. v. Bell Supply Company</i> , 2016 FCA 282 (CanLII), [2017] 3 FCR 165	486
13.	<i>Democracy Watch v. Conflict of Interest and Ethics Commissioner</i> , 2009 FCA 15	499
14.	<i>Pieters v. Canada (Attorney General)</i> , 2007 FC 556 (CanLII)	507
15.	Decision No. 307-C-A-2015, Canadian Transportation Agency	522

16. Decision No. 398-C-A-2014, Canadian Transportation Agency 534
17. *RJR-MacDonald Inc. v. Canada (Attorney General)*, 1994 CanLII 117 (SCC) 539
18. *Unilin Beheer B.V. v. Triforest Inc.*, 2017 FC 76 (CanLII) 583
19. *Namgis First Nation v. Canada (Fisheries, Oceans and Coast Guard)*, 2018 FC 334 (CanLII) 653
20. *R. v. Canadian Broadcasting Corp.*, 2018 SCC 5 (CanLII), [2018] 1 SCR 196 693
21. *Glooscap Heritage Society v. Canada (National Revenue)*, 2012 FCA 255 (CanLII) 715

TAB 1

**FEDERAL COURT OF APPEAL**

B E T W E E N :

AIR PASSENGER RIGHTS

Applicant

- and -

CANADIAN TRANSPORTATION AGENCY

Respondent

**NOTICE OF MOTION OF THE PROPOSED INTERNVENER,  
THE NATIONAL AIRLINES COUNCIL OF CANADA,  
FOR LEAVE TO INTERVENE**

**TAKE NOTICE THAT** the Proposed Intervener, the National Airlines Council of Canada (“NACC”), will make a motion to the Court in writing under Rule 369 of the *Federal Courts Rules*, S.O.R./98-106.

**THE MOTION IS FOR:**

1. An Order pursuant to Rule 109 of the *Federal Courts Rules*, granting the NACC leave to intervene in these proceedings, subject to the following terms:
  - (a) The NACC may serve and file a memorandum of fact and law not exceeding twenty (20) pages with respect to the interlocutory motion by May 6, 2020;
  - (b) In the alternative, if this Honourable Court decides to grant the NACC leave to intervene, but is not inclined to grant it’s request to file its motion record no later than May 6, 2020, the NACC may serve and file a memorandum of fact and law not exceeding twenty (20) pages within two (2) days of receipt of the Order granting leave to intervene;



- (c) In the further alternative, the NACC may rely on its written representations and submissions herein in lieu of serving and filing a memorandum of fact and law with respect to the interlocutory motion;
  - (d) The NACC may serve and file a memorandum of fact and law not exceeding twenty (20) pages with respect to the application within the timeline provided by this court;
  - (e) The NACC shall have the right to make oral submissions at the hearing of the application for no more than 30 minutes; and
  - (f) The NACC shall not seek costs, nor shall costs be awarded against it.
2. Such further and other relief as the Proposed Intervener may request and this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

1. The application and motion for interlocutory order are concerned with a statement issued by the Canadian Transportation Agency (the “Agency”) on or about March 25, 2020 entitled “Statement on Vouchers” (the “Statement”) and the Statement being cited in a page of the Agency’ website entitled “Important Information for Travellers During COVID-19” (the “COVID-19 Agency Page”).
2. The application and motion for interlocutory order raise the following issues:
  - Whether the Statement and the COVID-19 Agency Page are “matters” within the meaning of s 18.1(1) of the *Federal Courts Act* and therefore subject to judicial review;
  - Whether the Agency erred in law in that it exceeded its mandate and power in issuing the Statement and citing it on the COVID-19 Agency Page, including, whether in the extraordinary and unprecedented circumstances of the COVID-19

pandemic, the issuing of the Statement and citing of same on the COVID-19 Agency Page was a reasonable exercise of its discretion;

- Whether the Agency breached the provisions of the Agency's Code of Conduct in issuing the Statement and/or citing it on the COVID-19 Agency Page; and
- Whether the issuing of the Statement and/or citing it on the COVID-19 Agency Page, creates a reasonable apprehension of bias in the Agency and/or its members.

3. In addition, the motion for interlocutory order raises the following additional issue:

- (a) Whether the applicant meets the tri-partite test for granting an interlocutory order as confirmed by the Supreme Court in *RJR-MacDonald Inc. v. Canada (Attorney General)* [1994] 1 S.C.R. 311, and *R. v. CBC*, 2018 SCC 5, in particular, the balance of convenience, including the public interest in light of the extraordinary and unprecedented circumstances of the COVID-19 pandemic.

4. The NACC is a Canadian not-for-profit trade organization incorporated on September 4, 2008 and advocates on behalf of its member airlines for safe, environmentally responsible and competitive air travel by promoting the development of sound public policy.

5. The NACC represents Canada's largest national and international passenger air carriers: Air Canada, Air Transat, Jazz Aviation LP and WestJet which, combined carried 88.1% of all passengers carried by Canadian airlines domestically, 69.2% of all transborder passengers and 54.2% of all international passengers.

6. Canada's airlines have been severely impacted by the extraordinary and unprecedented circumstances of the COVID-19 pandemic such that it poses an existential threat to them. Accordingly, Canadian airlines and, significantly, the largest of Canada's airlines have an integral stake in these proceedings, as do airline passengers and the regulatory body respondent. However, the interests of Canada's airlines are not presently represented in these proceedings.

7. The scope of the Agency's participation in these proceeding may be limited to an explanatory role and submissions on jurisdiction and, accordingly, may not speak to the issues as they relate to and impact upon Canadian airline stake holders.

8. The NACC's proposes to advance submissions at the hearing of the motion for interlocutory order and the application that will be relevant and useful to this Honourable Court and made from a perspective distinct from that of either the applicant or the Agency.

9. The NACC's proposed submissions will be distinct from those of the applicant and respondent in that they will be from the perspective of the Canadian airline industry.

10. The NACC's intervention will serve the interests of justice in this proceeding, whereas its exclusion would have the opposite result.

11. The NACC anticipates it will make submissions at the hearing of the motion for interlocutory order and the application that will address the availability of judicial review of the impugned Statement and COVID-19 Agency Page and the legality, propriety and reasonableness of the impugned Statement and its citation on the COVID-19 Agency Page from the perspective of Canada's largest airlines in light of the existential threat faced by Canada's airlines in the extraordinary and unprecedented circumstances resulting from the COVID-19 pandemic.

12. The motion for interlocutory order was made in writing and without notice. By Order dated April 16, 2020, Locke J.A. granted the applicant's request that the motion for interlocutory order be dealt with on an expedited basis. Upon the Order coming to the attention of the NACC it immediately considered and took steps to seek intervenor status and did not delay.

**Statutes and Regulations Relied On**

13. The *Canada Transportation Act*, S.C. 1996, c. 10, Sections 5 and 86.11.

14. The *Air Passenger Protection Regulations*, SOR/2019-150, Sections 10 and 18.

15. The *Federal Courts Act*, R.S.C., 1985, c. F-7, Section 18.1(1).

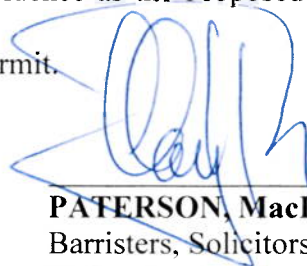
16. The *Federal Courts Rules*, S.O.R./98-106, Rules 3, 109, 361, 362(2)(b), and 369.

17. Such further and other grounds as the Proposed Intervener may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) The Affidavit of Mike McNaney, sworn April 27, 2020;
- (b) The Affidavit of Nicola Colville, sworn April 24, 2020;
- (c) The Affidavit of Jiwan Son, sworn April 27, 2020;
- (d) The Written Representations of the Proposed Intervener;
- (e) The Motion Record of the Proposed Intervener; and
- (f) Such further and other evidence as the Proposed Intervener may advise and this Honourable Court may permit.

April 27, 2020



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Proposed Intervener

**EX PARTE**

Air Passenger Rights  
Applicant

Canadian Transportation Agency  
and  
Respondent

Court File No.: A-102-20

**FEDERAL COURT OF APPEAL**

Proceeding commenced at VANCOUVER

**NOTICE OF MOTION OF THE PROPOSED  
INTERVENER, THE NATIONAL AIRLINES  
COUNCIL OF CANADA,  
FOR LEAVE TO INTERVENE**

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Counsel for the Proposed Intervener,  
The National Airlines Council of Canada

TAB 2

Federal Court of Appeal



Cour d'appel fédérale

Date: 20200416

Docket: A-102-20

Ottawa, Ontario, April 16, 2020

Present: LOCKE J.A.

BETWEEN:

AIR PASSENGER RIGHTS

Applicant

and

CANADIAN TRANSPORTATION AGENCY

Respondent

ORDER

WHEREAS the applicant has filed an application for judicial review of two public statements made by the respondent on its website; these two public statements comprise (i) a Statement on Vouchers published on March 25, 2020 concerning the propriety of airlines offering vouchers or credits for future travel (instead of refunds) to passengers affected by flight disruptions caused by COVID-19, and (ii) a webpage entitled Important Information for Travellers During COVID-19 which refers to the Statement on Vouchers; the applicant argues that the Statement on Vouchers was published contrary to the respondent's own *Code of Conduct*, and further that it misleads passengers concerning their rights;

**AND WHEREAS**, in the context of this application, the applicant has made a motion in writing (under Rule 369 of the *Federal Courts Rules*, SOR/98-106) for an interlocutory order that, among other things, the two public statements in question be removed from the respondent's website;

**AND WHEREAS** there appears no longer to be any dispute that the applicant's motion record has been properly served on the respondent;

**AND WHEREAS** on March 19, 2020, this Court issued a *Notice to the Parties and the Profession*; the Notice provided, among other things, for a suspension period ("suspension period"); this is a period during which time will not run under the *Federal Courts Rules*, judgments and directions; the Notice set the suspension period from March 16, 2020 to April 17, 2020;

**AND WHEREAS** on April 2, 2020, this Court issued a further *Notice to the Parties and the Profession* extending the suspension period to May 15, 2020;

**AND WHEREAS** the March 19, 2020 Notice suggests that the suspension period may not apply in cases of genuine urgency, and that such cases should be dealt with case-by-case;

**AND WHEREAS** the applicant requests that its motion be dealt with on an expedited basis and as a case of genuine urgency not subject to the suspension period; among other things, the applicant alleges that the Statement on Vouchers is being cited by members of the travel industry, including air carriers, travel agencies and travel insurance companies, to convince passengers (wrongly, it is alleged) that they are not entitled to refunds for travel disruptions caused by COVID-19, and must instead be satisfied with vouchers, credits, cancellation fees, or



reduced refunds; the applicant argues that, since the Statement on Vouchers is affecting relations between non-parties, any delay in addressing the concerns raised in its application and its motion may give rise to irreparable harm, and that this matter is therefore urgent;

**AND WHEREAS** the respondent opposes the request that the applicant's motion be dealt with on an expedited basis; the respondent notes that its operations have been significantly affected by various measures put in place in the context of COVID-19, though it does acknowledge on its website that it "continues to maintain its normal operations" other than dispute resolution activities involving air carriers and their passengers; the respondent also notes that the Statement on Vouchers has already been widely publicized, and that little benefit would therefore be achieved by dealing with the applicant's motion on an expedited basis; the respondent further alleges that it will suffer significant prejudice if required to respond to the applicant's motion in the normal course;

**AND WHEREAS** it is not the role of this Court to reach any conclusions at this time concerning the issues that will be considered in the context of the applicant's motion or the applicant's application;

**AND WHEREAS** the Court is satisfied that, if the applicant is successful in its arguments on the motion, there is potential for reliance by non-parties on the Statement on Vouchers such that their rights might be irrevocably affected - indeed the timing of the publication of the Statement on Vouchers (in the midst of the COVID-19 pandemic) suggests that it was intended to have an immediate effect on relations between air carriers and their passengers;

**AND WHEREAS** the Court is also satisfied that, though the respondent's resources are limited at present, it is not unable to deal with the applicant's motion during the suspension period, especially if the usual timelines are relaxed somewhat; the Court is not convinced that the respondent will suffer significant prejudice under these circumstances;

**AND WHEREAS** the Court is also not convinced that the wide dissemination of the Statement on Vouchers is a reason not to expedite the applicant's motion; the apparently urgent basis on which the Statement on Vouchers was prepared and published suggests that the question of its removal should likewise be considered on an expedited basis;

**AND WHEREAS** the Court is therefore satisfied that it is in the interest of justice that the applicant's motion be dealt with during the suspension period despite the March 19 and April 2, 2020 Notices;

**THIS COURT ORDERS** that:

1. The applicant's request that its motion for an interlocutory order shall be dealt with on an expedited basis is granted.
2. The respondent shall serve and file its record no later than April 29, 2020.
3. The applicant may serve and file its written representations in reply within eight days after being served with the respondent's record.

\_\_\_\_\_  
"George R. Locke"

J.A.

TAB 3

**FEDERAL COURT OF APPEAL**

B E T W E E N :

AIR PASSENGER RIGHTS

Applicant

- and -

CANADIAN TRANSPORTATION AGENCY

Respondent

**AFFIDAVIT OF MIKE McNANEY  
(Sworn April 27, 2020)**

I, Mike McNaney, President, of the Hamlet of Heritage Pointe, in the Province of Alberta,  
SWEAR THAT:

1. I am the President and Chief Executive Officer of the National Airlines Council of Canada (“NACC”), the Proposed Intervener, and as such have knowledge of the matters hereinafter deposed. Where, in this Affidavit I rely on the information of others, I verily believe that information to be true.
2. Prior to my appointment to the NACC, I had been engaged in the airline industry for more than 20 years, including, for the last five years, having the position of Vice President, Industry, Corporate & Airport Affairs for WestJet. In this capacity, I was interacting with industry associations and stakeholders, including but not limited to the NACC, the Canadian Transportation Agency and the International Air Transport Association (“IATA”).
3. The NACC is a Canadian not-for-profit trade organization incorporated pursuant to the *Canada Not-for-profit Corporations Act*, SC 2009, c.23 on September 4, 2008 with its head office in Ottawa, Ontario.

4. The Members of the NACC are Canada's largest passenger air carriers ("airlines"), providing domestic and international service. They are Air Canada, Air Transat, Jazz Aviation LP and WestJet.

5. Collectively, in 2019, the NACC's member airlines carried over 82 million passengers annually and directly employed approximately 64,000 people. Its members are a critical component of Canada's overall air transport and tourism sector which collectively supports more than 600,000 jobs and 3.2% of Canada's GDP.

6. Overall in 2019, the NACC's member airlines represented 88.1% of all Canadian airline domestic capacity, 69.2% of trans-border capacity (to/from the United States), and 54.2% of international capacity (to/from international markets other than the United States).

7. The NACC promotes safe, sustainable and competitive air travel by advocating for the development of policies, regulations and legislation to foster a world-class transportation system.

8. The NACC engages with numerous federal government entities on behalf of its membership, including but not limited to Transport Canada, the Canadian Transportation Agency, NavCanada, the Canadian Air Transport Security Authority, the Canada Border Services Agency, Public Safety Canada, the Transportation Safety Board, Department of Finance, Global Affairs Canada, Immigration, Refugees and Citizenship Canada, Employment and Social Development Canada, Environment and Climate Change Canada, Destination Canada, Members of Parliament and Members of the Senate.

9. In addition, the NACC works with other aviation trade associations, including the International Air Transportation Agency (IATA).

10. The aviation industry is reeling from the unprecedented impact of the COVID-19 pandemic. The NACC's member airlines have announced job reductions impacting more than 50% of their respective workforces, affecting thousands of employees in communities large and small across the country. Capacity and service frequency has been reduced to mere fractions of typical levels and in some cases a total cancellation of service has occurred as the fleets are largely grounded. Presently:

- Air Transat: has grounded 100% of its fleet of aircraft and suspended all of its service/flights;
- Air Canada and Jazz Aviation are experiencing an 88% reduction in their capacity from their 2019 service, suspended most of their international and all transborder (US) passenger service and reduced their domestic passenger service;
- Jazz Aviation has grounded approximately 70% of its fleet of aircraft; and
- WestJet has suspended all its international and transborder passenger service and reduced its domestic service by approximately 88% - suspending some 600 flights a day.

Attached hereto and marked as **Exhibit "A"** to this my Affidavit is a true copy of the Air Canada News Release, dated April 21, 2020.

Attached hereto and marked as **Exhibit "B"** to this my Affidavit is a true copy of the Air Transat News Release, dated March 18, 2020.

Attached hereto and marked as **Exhibit "C"** to this my Affidavit is a true copy of the WestJet Update, dated April 19, 2020.

Attached hereto and marked as **Exhibit "D"** to this my Affidavit is a true copy of the News Release, dated April 9, 2020, provided by Chorus Aviation Inc. regarding its subsidiary Jazz Aviation.

11. With the COVID-19 pandemic and the continued rapid development of government policies directly and indirectly impacting aviation, the NACC and the overall industry, have been focused on implementing the necessary procedures to comply with new government directives created by the COVID-19 pandemic.

12. In the midst of the COVID-19 pandemic, the NACC has acted as the voice for and/or liaison with our members in order to disseminate information from and to federal government organizations in an expedited and concise manner and to provide recommendations to ensure effective implementation of these new measures. The information exchanges have been frequent,

including actively participating in daily update briefings with federal officials across numerous departments, to address the ever-changing operational obligations/requirements being implemented to protect the health and safety of Canadians.

13. The NACC has been actively involved in consultations concerning Interim Orders, Guidance Materials, Exemption Orders, Civil Aviation Safety Alerts and Bulletins. As the Canadian and global communities continue to develop ongoing public policy responses to the COVID-19 pandemic, this activity will continue apace.

14. On my request, IATA provided me with its estimates that the disruptions from COVID-19 could result in a 39.8 million reduction in passengers carried, and a USD\$10.5 billion (or approx. CAD\$14.8 billion) loss in airline base revenues, in Canada.

15. The impact of the COVID-19 pandemic on the Canadian airline industry, in my experience, is unprecedented and potentially catastrophic.

16. The NACC became aware of the April 16, 2020 Order of the Federal Court of Appeal on Friday April 17, 2020 and on Monday April 20, 2020 its Board of Directors decided to move to seek leave to intervene in the application and motion for interlocutory order commenced by Air Passenger Rights.

17. I swear this Affidavit in support of the National Airlines Council of Canada's motion for leave to intervene and for no other purpose.

SWORN BEFORE ME by video conference

From the Hamlet of Heritage Pointe, in the Province of Alberta,

To the City of Toronto, in the Province of Ontario,

On April 27, 2020.

A Commissioner for taking Affidavits (or as the case may be)  
Jiwan Son - LSO#: 77827G

**Mike McNaney**

Air Passenger Rights  
Applicant

Canadian Transportation Agency  
and  
Respondent

Court File No.: A-102-20

**FEDERAL COURT OF APPEAL**

Proceeding commenced at VANCOUVER

**AFFIDAVIT OF MIKE McNANEY**  
(Sworn April 27, 2020)

**PATERSON MacDOUGALL LLP**

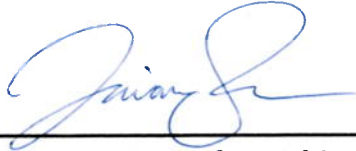
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Lawyers for the Proposed Intervener,  
The National Airlines Council of Canada



**This is Exhibit "A" referred to in the Affidavit of  
Mike McNaney, sworn before me  
this 27<sup>th</sup> day of April, 2020**

A handwritten signature in blue ink, appearing to read "J. J. [unclear]", written over a horizontal line.

**A Commissioner for Taking Affidavits**



News Release Archive

## Air Canada to Temporarily Suspend Transborder U.S. Flights

*Last flights between Canada and the U.S. will operate April 26, resume May 22*

MONTREAL, April 21, 2020 /CNW Telbec/ - Air Canada announced that it will suspend scheduled service to the U.S. after April 26 as a result of the agreement between the governments of Canada and the United States to extend border restrictions by an additional 30 days, effective today. Air Canada plans to resume service to the U.S. May 22, subject to any further government restrictions beyond that date.

The airline is waiving change fees for affected customers with bookings during this period to enable them to reschedule their travel with no additional fee. Customers can find more information about Air Canada's rebooking policies and revised schedule at [www.aircanada.com](http://www.aircanada.com)

Since March 16, Air Canada has reduced its schedule by more than 90 per cent as a result of COVID-19. Following the initial announcement of U.S.-Canada travel restrictions on March 21, Air Canada maintained limited service to 11 U.S. destinations from its three Canadian hubs, primarily to facilitate the repatriation of Canadians. The last scheduled commercial flight from the U.S. to Canada will be on April 26.

More information about Air Canada's COVID-19 response is available at <https://www.aircanada.com/ca/en/aco/home/book/travel-news-and-updates/2020/covid-19.html>

### About Air Canada

Air Canada is Canada's largest domestic and international airline. Canada's flag carrier is among the 20 largest airlines in the world and in 2019 served over 51 million customers. Air Canada is a founding member of Star Alliance, the world's most comprehensive air transportation network. Air Canada is the only international network carrier in North America to receive a Four-Star ranking according to independent U.K. research firm Skytrax, which also named Air Canada the 2019 Best Airline in North America. For more information, please visit: [aircanada.com/media](http://aircanada.com/media), follow @AirCanada on Twitter and join Air Canada on Facebook.

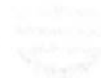
**Internet:** [aircanada.com/media](http://aircanada.com/media)

SOURCE Air Canada

For further information: [media@aircanada.ca](mailto:media@aircanada.ca)

<https://aircanada.mediaroom.com/2020-04-21-Air-Canada-to-Temporarily-Suspend-Transborder-U-S-Flights>

A STAR ALLIANCE MEMBER



The only Four-Star  
international network  
carrier in North America

**This is Exhibit "B" referred to in the Affidavit of  
Mike McNaney, sworn before me  
this 27<sup>th</sup> day of April, 2020**



---

**A Commissioner for Taking Affidavits**

Travel advisory – Information regarding the coronavirus

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**transat**

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# Transat announces a gradual suspension of its flights

MONTREAL, March 18, 2020 /CNW Telbec/ – Transat A.T. Inc. announces today the gradual suspension of Air Transat flights until April 30.

This decision follows the Government of Canada's announcement that the country is closing its borders to foreign nationals, as well as similar decisions by several other countries where Transat operates.

Sales for departures until April 30 are suspended immediately from and to most destinations in Europe and the United States. Repatriation flights will still be operated during the next two weeks, in order to bring Transat customers back to their home country. So as to allow as many repatriations as possible, sales will, however, remain temporarily open in both directions between Montreal and Paris and Lisbon and between Toronto and London and Lisbon. A date for a full halt to operations will be announced soon.

Sales are also halted immediately from and to the Caribbean and Mexico. Again, flights will continue for a few more days in order to repatriate Transat customers to Canada. Transat is advising its Canadian customers who were scheduled to depart in the coming days to heed the government's recommendations and postpone their departure.

For domestic flights, clients are encouraged to check that their flight is maintained on the website.

Transat customers who are currently at destinations are asked to check the company's website, where necessary information for the organization of their return will be made available. There will be no booking fee and passengers will not have to pay any price difference. It is of the utmost importance to Transat to bring everyone back.

All customers who were unable to travel because their flight is cancelled will receive a credit for future travel, to be used within 24 months of their original travel date.

"This is an unprecedented situation, beyond our control, which is forcing us to briefly suspend all of our flights to contribute to the effort to fight the pandemic, protect our customers and employees and safeguard the company," said Transat President and Chief Executive Officer Jean-Marc Eustache. "We are doing everything we can so that this has as little impact as possible on our employees and customers, whom we make sure to bring back home."

In addition to the cost-cutting measures already implemented in recent weeks, we will be moving ahead in the coming days with measures to reduce staffing. These measures will include temporary layoffs and reduction of work time or salary that will unfortunately affect a significant portion of our employees. The company's senior executives and members of the Board of Directors are also taking pay cuts.

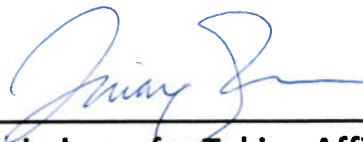
#### About Transat

Transat A.T. Inc. is one of the world's largest integrated tourism companies and Canada's holiday travel leader. It offers vacation packages, hotel stays and air travel under the Transat and Air Transat brands to some 60 destinations in more than 25 countries in the Americas and Europe. Transat is firmly committed to sustainable tourism development, as reflected in its multiple corporate responsibility initiatives over the past 12 years, and was awarded Travelite certification in 2018. Based in Montreal, the company has 5,000 employees (TSX: TRZ).

SOURCE Transat A.T. Inc.

Media: Christophe Hennebelle, Vice-President, Human Resources and Corporate Affairs, 514 987-1660, ext. 4584

**This is Exhibit "C" referred to in the Affidavit of  
Mike McNaney, sworn before me  
this 27<sup>th</sup> day of April, 2020**

A handwritten signature in blue ink, appearing to read "Gary J.", is written above a horizontal line.

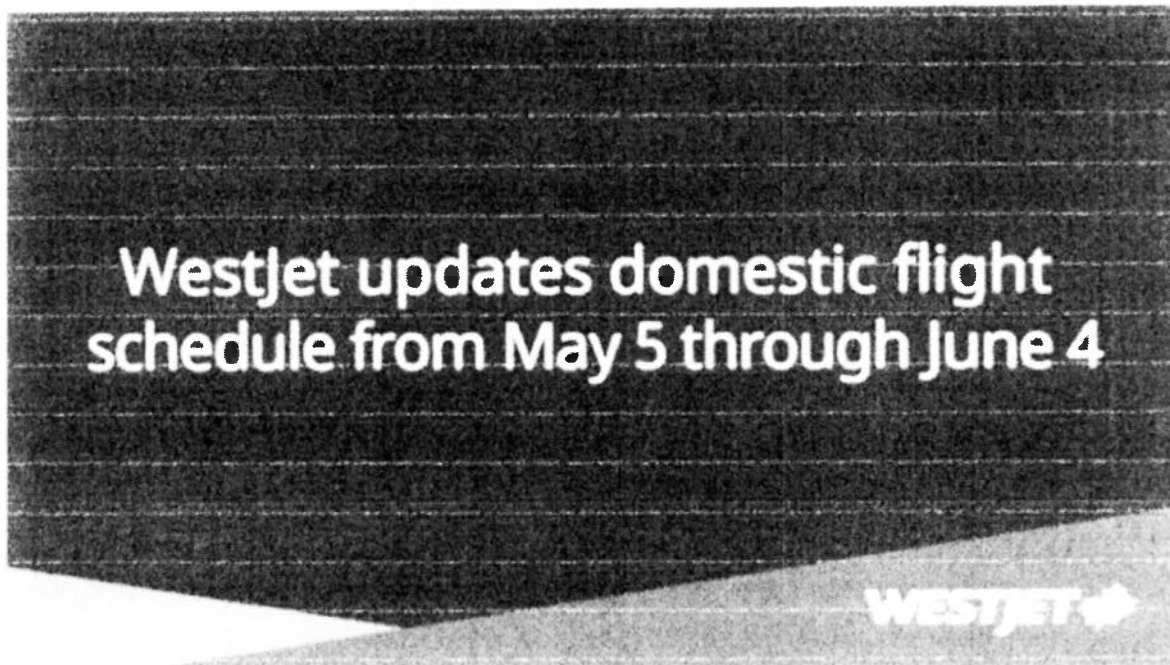
**A Commissioner for Taking Affidavits**

(<https://blog.westjet.com/>)

## WestJet updates domestic flight schedule from May 5 through June 4

By [WestJetter](https://blog.westjet.com/author/westjetter/) | April 19, 2020 |

[3 Comments](https://blog.westjet.com/westjet-updates-domestic-flight-schedule-from-may-5-through-june-4/#disqus_thread)



WestJet is making changes to its domestic flight schedule, removing approximately 4,000 weekly flights or 600 daily flights from May 5 through June 4, 2020. These changes are required to address significantly reduced guest demand during the COVID-19 crisis.

While some city pairings have been temporarily removed, we continue to serve the 38 Canadian airports to which we currently operate, ensuring that those with essential travel requirements can get where they need to be and that [cargo](https://blog.westjet.com/westjet-cargo-connecting-whats-needed/) goods like [blood](https://blog.westjet.com/westjet-cargo-ensuring-canadas-lifeline-reaches-communities-during-covid-19/), medical products and food supplies can continue to flow.

The overall demand for travel remains fluid during this ongoing pandemic and we continue to evaluate further reductions. Bookings and full schedule details are available at [westjet.com](https://www.westjet.com/en-ca/travel-info/flight-schedules). All transborder and international routes remain suspended at this time

through June 4, 2020.

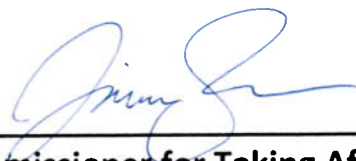
For guests with travel booked after May 5 through June 4, we are proactively notifying them of their options.

**The following city pairs have been temporarily removed from May 5-June 4, 2020:**

<b>Market</b>	<b>Previous Frequency</b>
Vancouver - Nanaimo	2x daily
Vancouver - Comox	1x daily
Vancouver - Regina	4x weekly
Vancouver - Saskatoon	5x weekly
Vancouver - Winnipeg	3x daily
Vancouver - Fort St. John	1x daily
Vancouver - Cranbrook	1x daily
Vancouver - Ottawa	1x daily
Vancouver - Montreal	6x weekly
Kelowna - Victoria	12x weekly
Calgary - Prince George	1x daily
Calgary - Ottawa	2x daily
Calgary - Montreal	13x weekly
Calgary - London, ON	1x daily
Calgary - Halifax	17x weekly
Edmonton - Comox	6x weekly
Edmonton - Victoria	20x weekly
Edmonton - Kelowna	7x daily
Edmonton - Grande Prairie	13x weekly
Edmonton - Yellowknife	1x daily
Edmonton - Saskatoon	3x daily



**This is Exhibit "D" referred to in the Affidavit of  
Mike McNaney, sworn before me  
this 27<sup>th</sup> day of April, 2020**



---

**A Commissioner for Taking Affidavits**



## Chorus Aviation Announces Jazz's Intention to Adopt the Canada Emergency Wage Subsidy

April 9th, 2020

HALIFAX, April 9, 2020 /CNW/ – Chorus Aviation Inc. ("Chorus") is announcing the intention of its subsidiary, Jazz Aviation LP ("Jazz"), to adopt the Canadian Emergency Wage Subsidy ('CEWS'). Due to the COVID-19 pandemic, the Air Canada Express flying operations undertaken by Jazz have been reduced by approximately 90% until at least the end of May, and Jazz expects to incur significant revenue losses for the last half of March and the second fiscal quarter. Any near-term recovery in Jazz's flight operations depends exclusively on the lifting of domestic and trans-border travel restrictions and protocols.

As of March 15, 2020, Jazz's active workforce in Canada consisted of approximately 5,000 employees. On April 6, 2020, Chorus announced significant measures to reduce costs and bolster its liquidity. This included the difficult decision to reduce Jazz's workforce by approximately 60%, or 3,000 employees. Subject to the adoption of the CEWS into law, Jazz intends to adopt the CEWS to assist its employees.

"Our employees are amongst the best in the business and play an integral role in supporting Air Canada's domestic and trans-border operations. I'm particularly pleased that our unionized labour groups support this initiative as we are hopeful the CEWS will provide much needed support to our employees through this difficult period," stated Randolph deGooyer, President of Jazz.

"I applaud the members of our federal government for tabling this important subsidy to help employers and their employees manage through this very uncertain time," stated Joe Randell, President and CEO, Chorus. "Every measure must be taken to preserve our strength and resources in order to successfully emerge from this crisis when it abates."

All areas of the organization are under review with the objective of reducing costs to ensure a strong company that is ready to resume normal operations as soon as possible.

For further information regarding the Capacity Purchase Agreement ('CPA') under which Jazz performs flight operations for Air Canada, please refer to Chorus' Annual Information Form dated February 12, 2020.

### Forward-Looking Information

This news release contains 'forward-looking information'. Forward-looking information is identified by the use of terms and phrases such as "anticipate", "believe", "could", "estimate", "expect", "intend", "may", "plan", "predict", "potential", "project", "will", "would", and similar terms and phrases, including references to assumptions. Forward-looking information involves known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements to differ materially from those indicated in the forward-looking information. Actual results may differ materially from results indicated in forward-looking information for a number of reasons, including a prolonged duration of the COVID-19 outbreak and/or further restrictive

**MENU**

announced transactions to preserve liquidity (including the credit facility with Export Development Canada and the refinancing of existing unencumbered aircraft), as well as the risk factors identified in Chorus' Annual Information Form dated February 12, 2020 and in Chorus' public disclosure record available at [www.sedar.com](http://www.sedar.com). Statements containing forward-looking information in this news release represent Chorus' expectations as of the date of this news release (or as of the date they are otherwise stated to be made) and are subject to change after such date. Chorus disclaims any intention or obligation to update or revise such statements to reflect new information, subsequent events or otherwise, unless required by applicable securities laws.

**About Chorus Aviation Inc.**

Chorus is a global provider of integrated regional aviation solutions. Chorus' vision is to deliver regional aviation to the world. Headquartered in Halifax, Nova Scotia, Chorus is comprised of Chorus Aviation Capital a leading, global lessor of regional aircraft, and Jazz Aviation and Voyageur Aviation – companies that have long histories of safe operations with excellent customer service. Chorus provides a full suite of regional aviation support services that encompasses every stage of an aircraft's lifecycle, including aircraft acquisitions and leasing; aircraft refurbishment, engineering, modification, repurposing and preparation; contract flying; aircraft and component maintenance, disassembly, and parts provisioning.

Chorus Class A Variable Voting Shares and Class B Voting Shares trade on the Toronto Stock Exchange under the trading symbol 'CHR'. [www.chorusaviation.com](http://www.chorusaviation.com)

SOURCE Chorus Aviation Inc.

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TAB 4

**FEDERAL COURT OF APPEAL**

BETWEEN:

AIR PASSENGER RIGHTS

Applicant

- and -

CANADIAN TRANSPORTATION AGENCY

Respondent

**AFFIDAVIT OF NICOLA COLVILLE  
(Sworn April 24, 2020)**

I, NICOLA COLVILLE, Area Manager, Canada & Bermuda based in the City of Montreal, in Province of Quebec, SWEAR THAT:

1. I am the Area Manager for Canada & Bermuda of the International Air Transport Association ("IATA"), and as such have knowledge of the matters hereinafter deposed. Where, in this Affidavit I rely on the information of others, I verily believe that information to be true.
2. IATA is an international trade association for the airline industry. IATA has some 290 airline members that account for approximately 82% of the world's total air traffic.
3. IATA is headquartered in Montreal, Quebec and is a Canadian corporation established by a Special Act of Parliament in 1945; An Act to Incorporate the International Air Transport Association, SC 1945, c. 51.
4. IATA provides, *inter alia*, professional support services to various participants in the airline industry to ensure that its members, including Air Canada, WestJet and Air Transat, operate safely, securely, efficiently and economically.
5. Because of its expertise in the aviation industry, IATA makes presentations and provides detailed airline industry information and data to industry stake holders, including governments

and airlines, to assist them in dealing with a broad range of issues which affect the aviation sector globally and domestically.

6. IATA is closely monitoring the COVID-19 pandemic which has important implications for airlines and the aviation industry, and, to that end, accumulates, examines and distributes data to aviation stake holders and reports with its assessments and projections with respect to the impact on the industry on a frequent and continuing basis.

7. IATA's assessment of the economic impact of the COVID-19 pandemic on the worldwide airline sector as of April 16, 2020 is that it will result in worldwide passenger revenues dropping by 55% or USD\$314 billion in 2020 compared to 2019. Further that the number of worldwide flights is now down 80% compared to 2019.

Attached hereto and marked as **Exhibits "A" and "B"** to this my Affidavit are true copies of the IATA Updated Impact Statements, dated April 14 and 16, 2020.

8. IATA's assessment of the economic impact of the COVID-19 impact on the Canadian airlines sector is that it corresponds with the impact felt worldwide.

Attached hereto and marked as **Exhibit "C"** to this my Affidavit is a true copy of the IATA COVID-19 Canada Economic Impact Analysis, dated April 22, 2020.

9. Consistent with the latest global and regional assessment published by IATA on April 14, 2020, IATA projects the disruptions to air travel from COVID-19 could result in a 39.8 million reduction in passenger volumes and US\$10.5 billion loss in airline revenue in Canada.

10. The data that IATA has collected and examined supports that, without immediate government financial relief, many airlines will not survive the COVID-19 pandemic.

Attached hereto and marked as **Exhibit "D"** to this my Affidavit is a true copy of the IATA press release, dated April 14, 2020.

11. I swear this Affidavit in support of the National Airlines Council of Canada's motion for leave to intervene and for no other purpose.

SWORN BEFORE ME at the City of Montreal, in the Province of Quebec, this 24<sup>th</sup> day of April, 2020.

A Commissioner for taking Affidavits (or as the case may be)

**NICOLA COLVILLE**



**FEDERAL COURT OF APPEAL**

Proceeding commenced at VANCOUVER

**AFFIDAVIT OF NICOLA COLVILLE**  
(Sworn April 24, 2020)

**PATERSON MacDOUGALL LLP**

Barristers, Solicitors  
Box 100, Suite 900  
1 Queen Street East  
Toronto, Ontario  
M5C 2W5

Clay S. Hunter LS#: 31896M  
E-mail: CHunter@pmlaw.com  
Tel: (416) 643-3324  
Fax: (416) 366-3743

Lawyers for the Proposed Intervener,  
The National Airlines Council of Canada



**This is Exhibit "A" referred to in the Affidavit of  
Nicola Colville, sworn before me  
this 24<sup>th</sup> day of April, 2020**



---

**A Commissioner for Taking Affidavits**

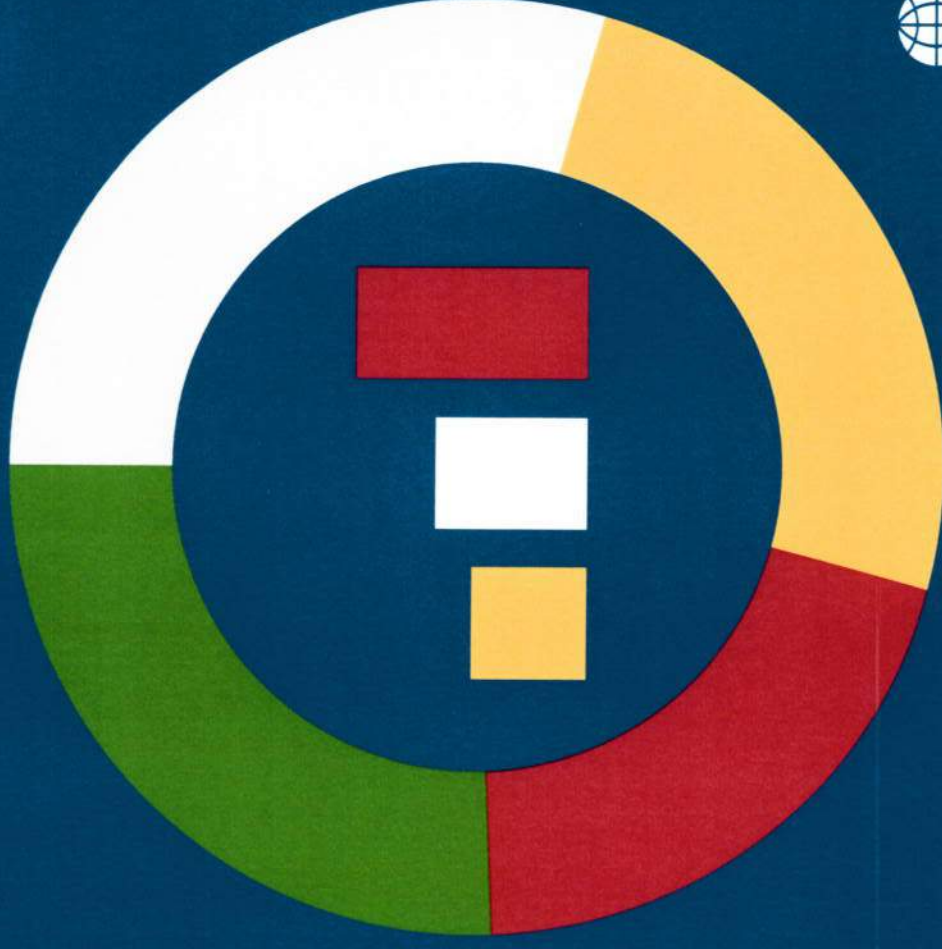


# COVID-19

## Updated Impact Assessment

Brian Pearce  
Chief Economist

14<sup>th</sup> April 2020



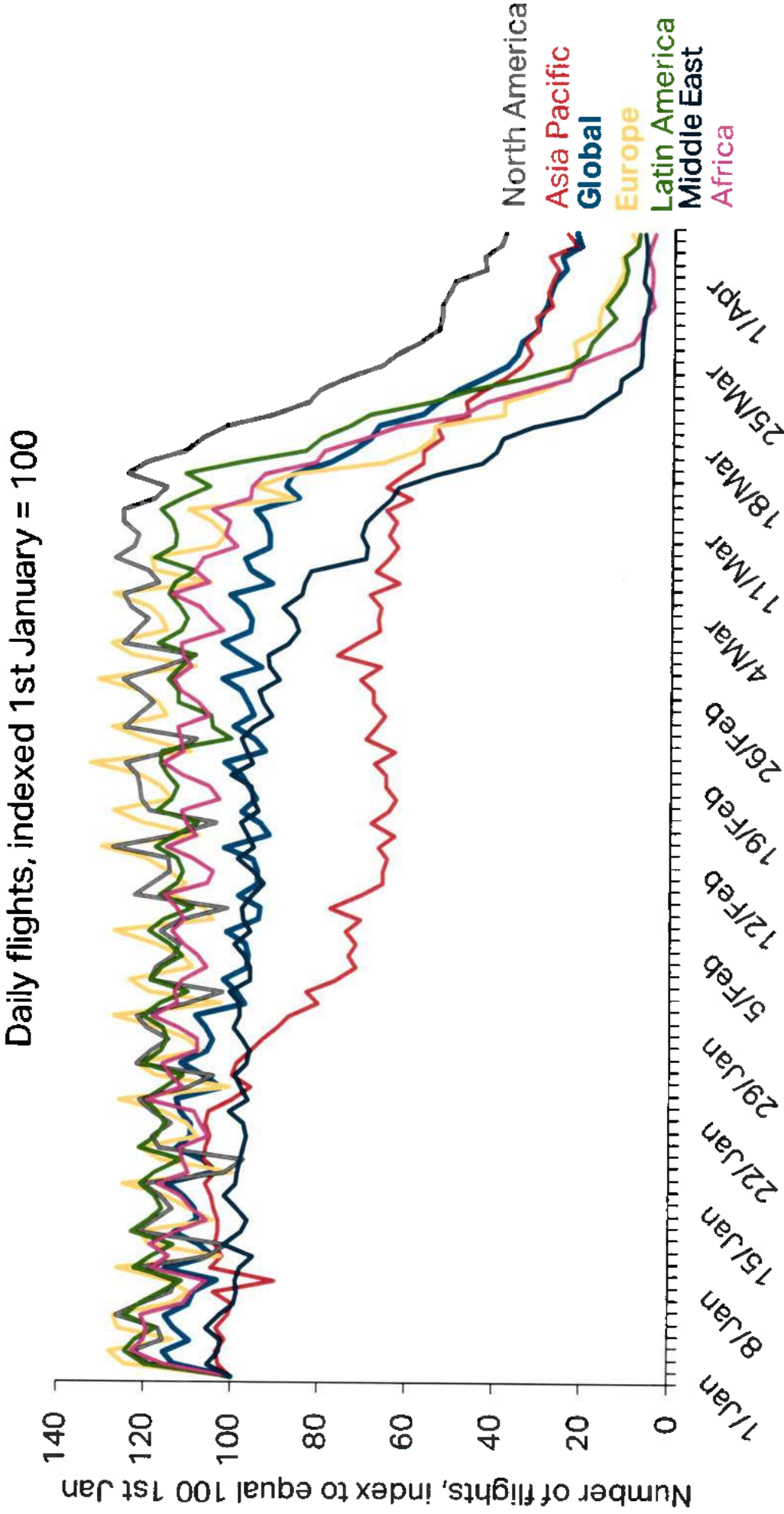
**Three weeks ago we estimated this COVID-19 impact**  
 Based on a 65% fall in worldwide flights in March, economic recession forecasts at the time, and a relaxation of travel restrictions through H2

Region of airline registration	RPKs 2020 % yoy	Passenger revenue \$ billion 2020 vs. 2019 levels
Asia-Pacific	-37%	-88
North America	-27%	-50
Europe	-46%	-76
Middle East	-39%	-19
Africa	-32%	-4
Latin America	-41%	-15
<b>Industry</b>	<b>-38%</b>	<b>-252</b>

Source: IATA Economics <https://www.iata.org/en/iata-repository/publications/economic-reports/third-impact-assessment/>



# Worldwide flights now down almost 80% by early April Industry virtually grounded outside US and Asia domestic markets

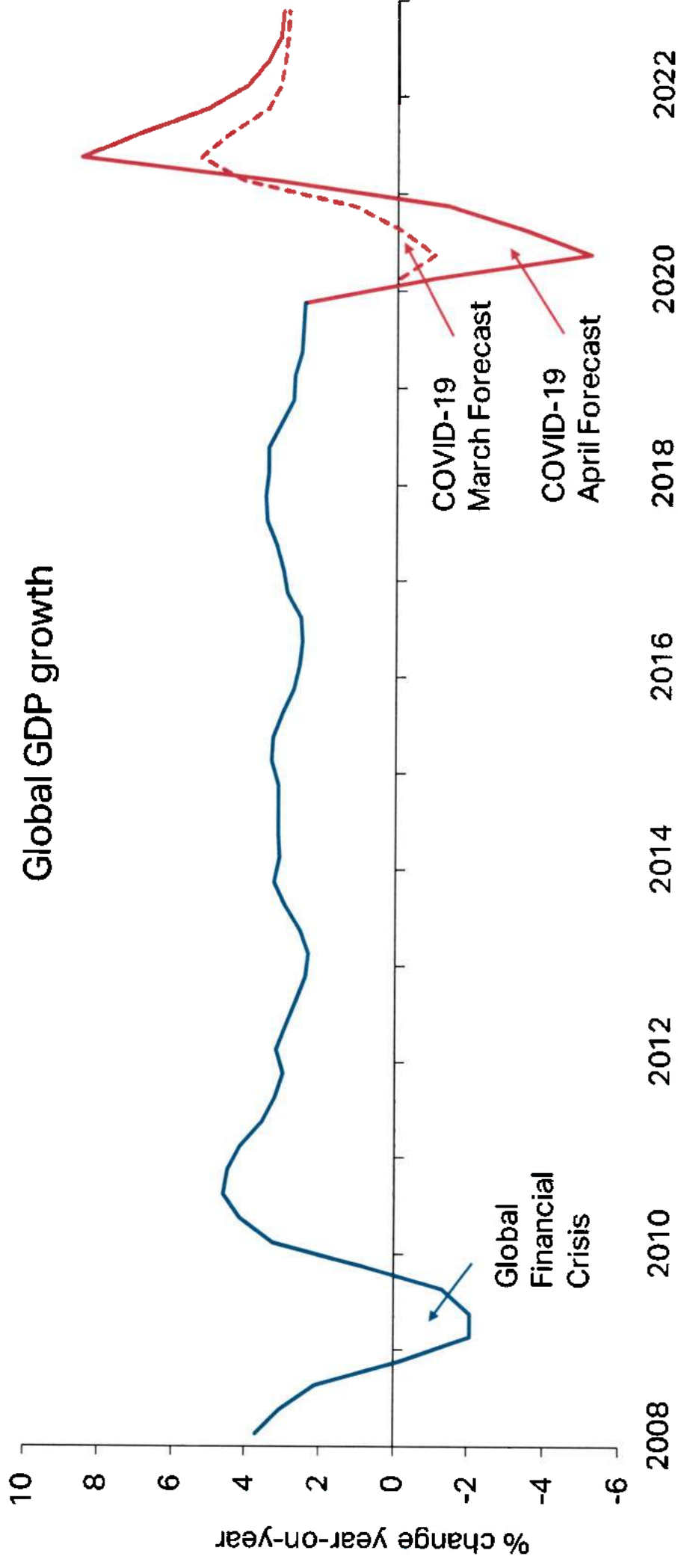


Source: IATA Economics analysis based on data provided under license by FlightRadar 24. All rights reserved.



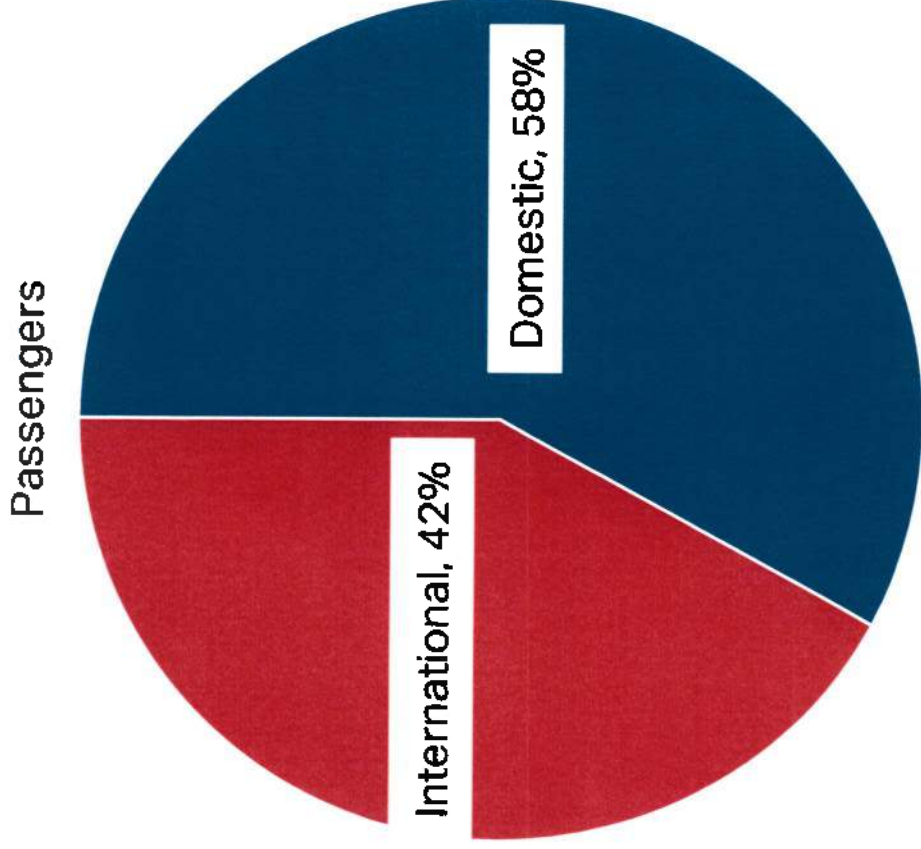
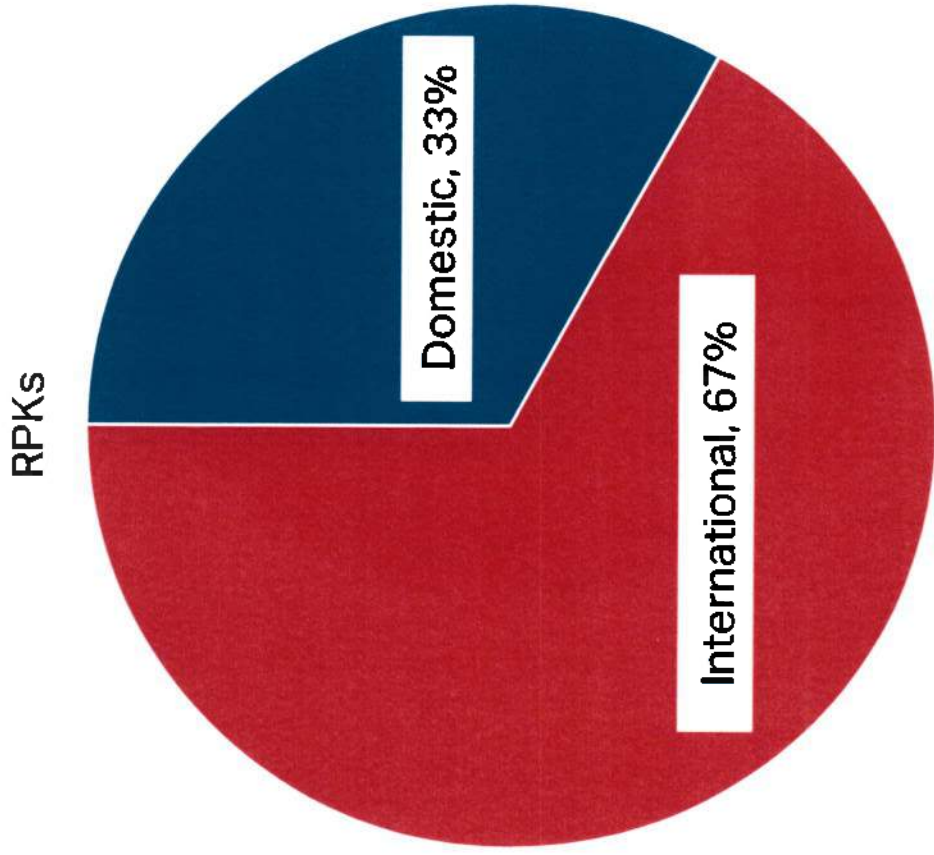
# Recession now expected to be much deeper in 2020

## Economists' revised forecasts expect output loss twice as large as GFC



Source: IATA Economics using data and forecasts from Oxford Economics

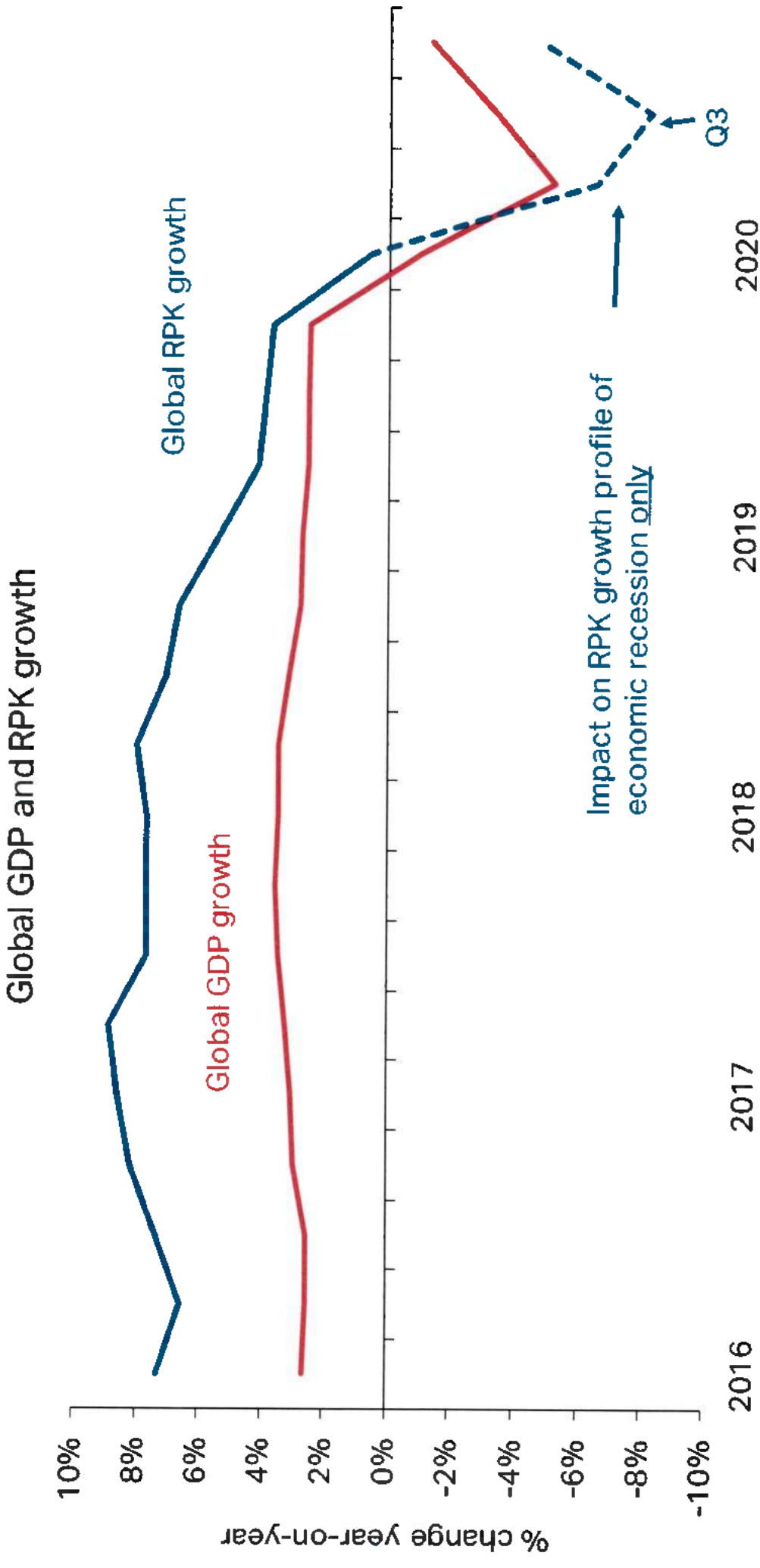
- Post lock-down return to air travel likely to be in stages
  - We assume domestic markets open in Q3 but international slower to open
- Share of global air travel in 2019



Source: IATA Economics using data from IATA Statistics

# Recession alone would push global RPKs down 8% in Q3

This excludes the travel restrictions and confidence effects of COVID-19

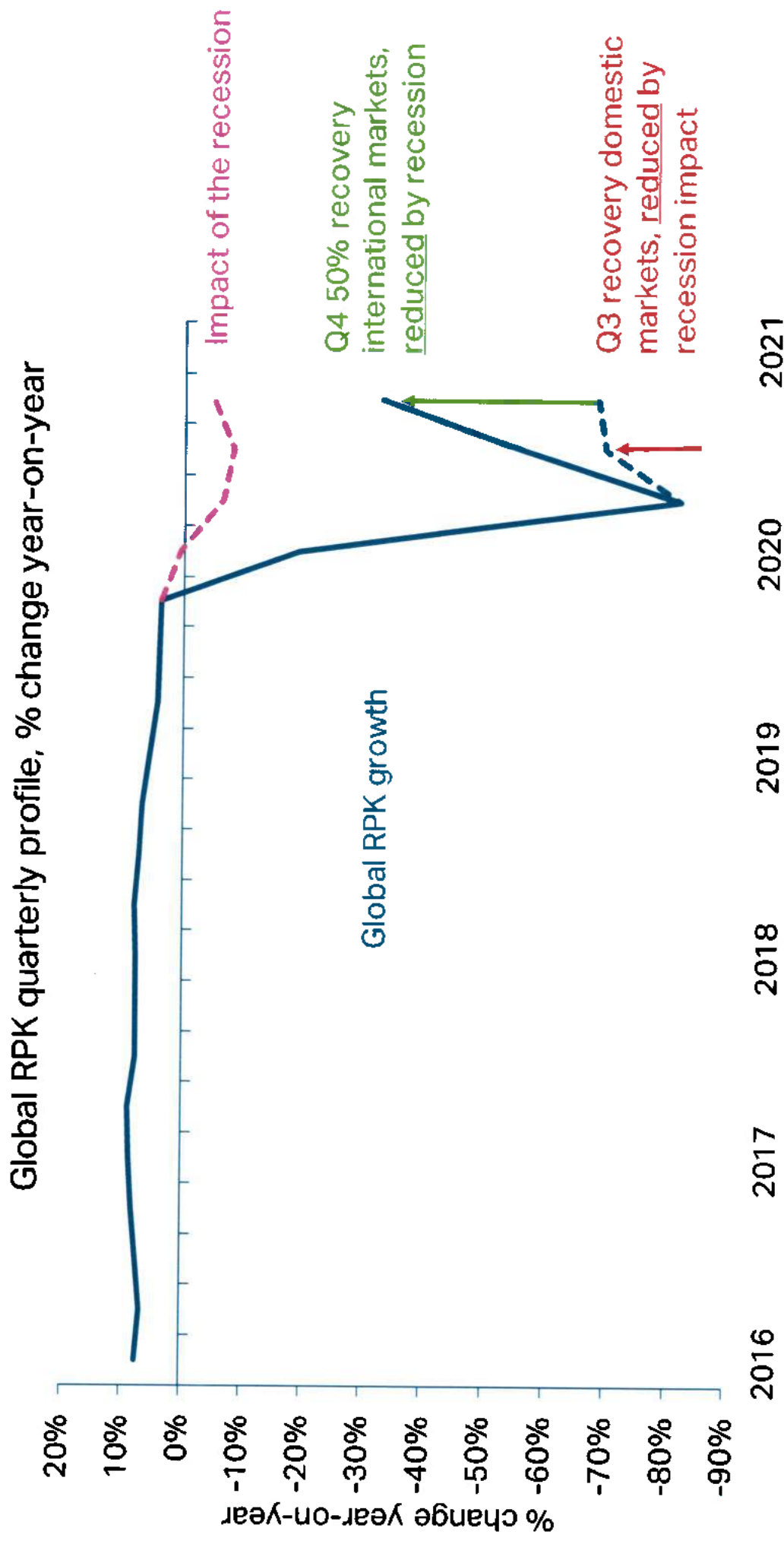


Source: IATA Economics using data and forecasts from Oxford Economics and IATA



# 2020 H2 'restart' slow leaving RPKs down 33% yoy by Q4

## Domestic markets assumed to open in Q3, international much slower



Source: IATA Economics using data and forecasts from Oxford Economics and IATA



**That implies a halving of global RPKs in 2020**  
**With lower yields that means a \$314 billion or 55% fall in passenger revenues**

Region of airline registration	RPKs 2020 (vs 2019 year- on-year change)	Passenger revenue \$ billion 2020 vs. 2019 levels
Asia-Pacific	-50%	-113
North America	-36%	-64
Europe	-55%	-89
Middle East	-51%	-24
Africa	-51%	-6
Latin America	-49%	-18
<b>Industry</b>	<b>-48%</b>	<b>-314</b>

Note: This assumes, as in the previous impact assessment, that the domestic lock-down lasts 3 months, until the end of Q2. But international travel restrictions are assumed in this assessment to be reduced more slowly, with only 50% of pent-up international RPKs recovered by Q4 (after reduction due to recession impact).

Source: IATA Economics

# Contacts

[economics@iata.org](mailto:economics@iata.org)

[www.iata.org/economics](http://www.iata.org/economics)



**This is Exhibit "B" referred to in the Affidavit of  
Nicola Colville, sworn before me  
this 24<sup>th</sup> day of April, 2020**



---

**A Commissioner for Taking Affidavits**



# COVID-19

## Updated Impact Assessment

IATA Economics

16<sup>th</sup> April 2020



Three weeks ago we estimated this COVID-19 impact  
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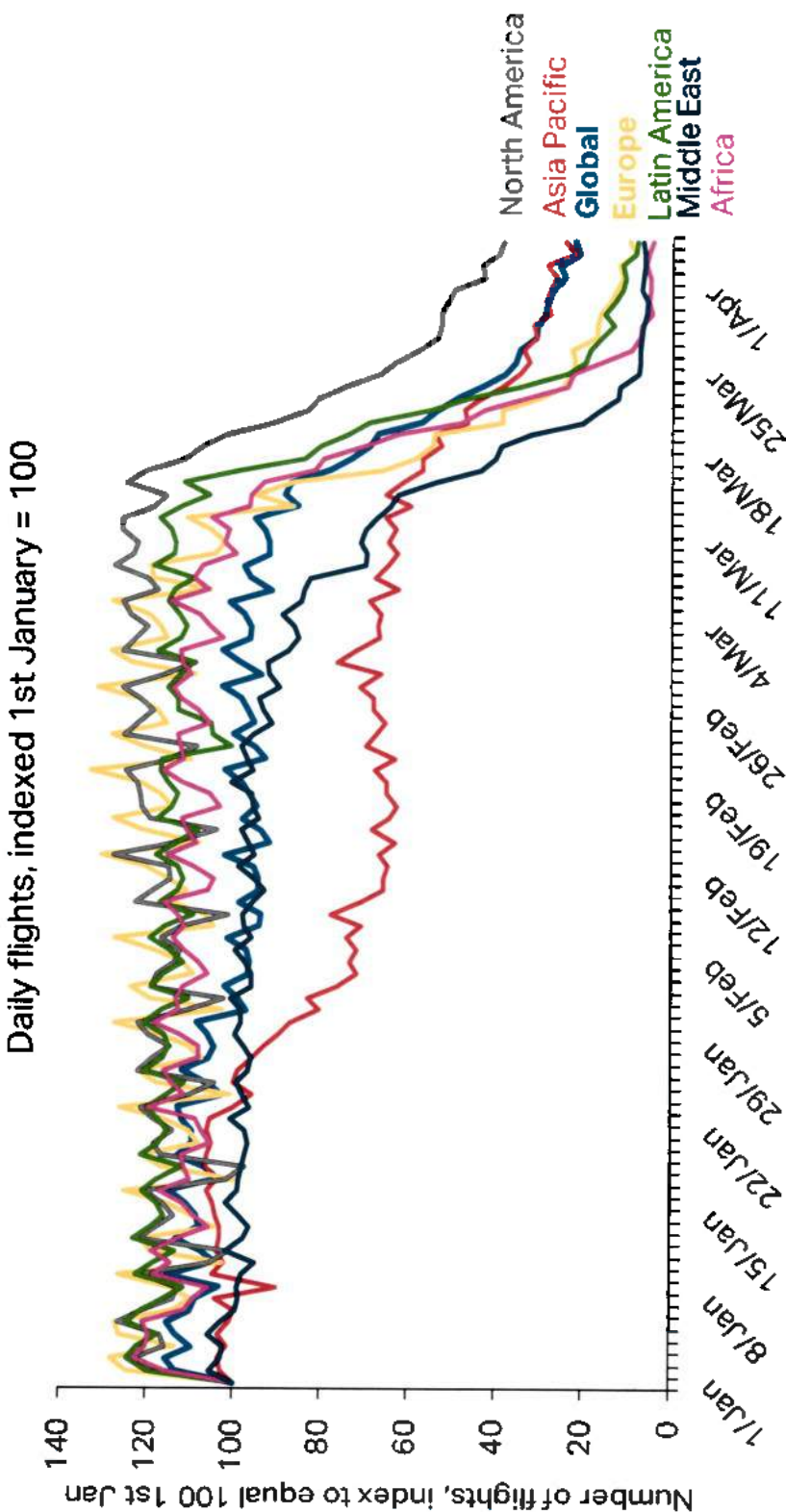
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Source: IATA Economics <https://www.iata.org/en/iata-repository/publications/economic-reports/third-impact-assessment/>

# Worldwide flights now down almost 80% by early April

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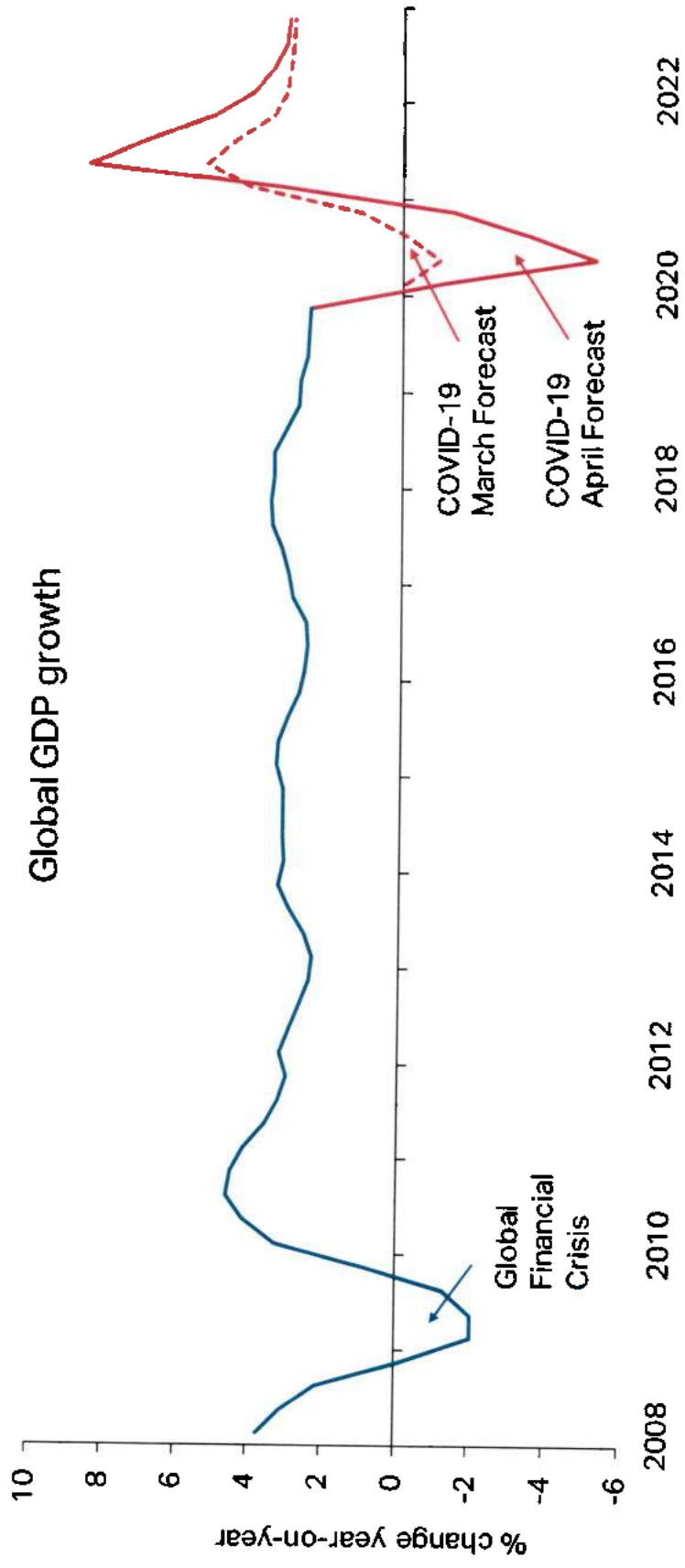


Source: IATA Economics analysis based on data provided under license by FlightRadar 24. All rights reserved.



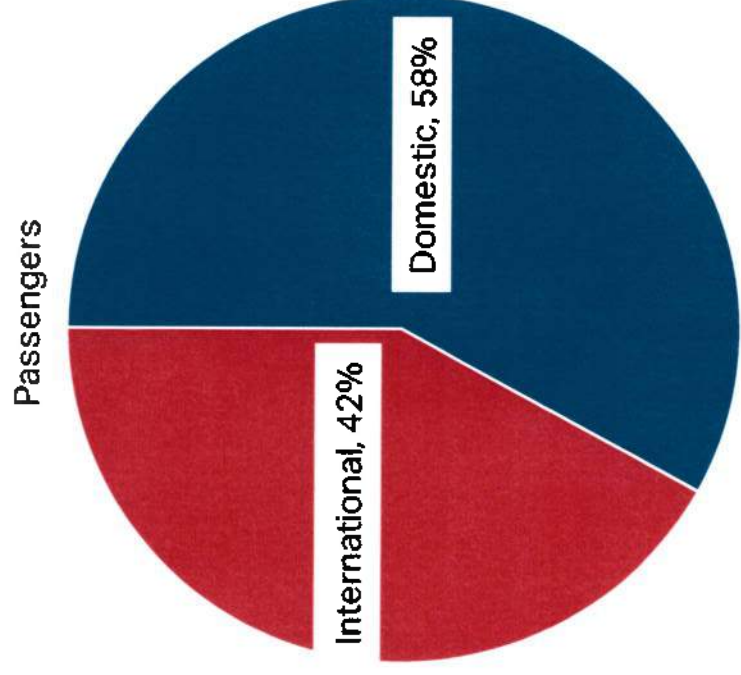
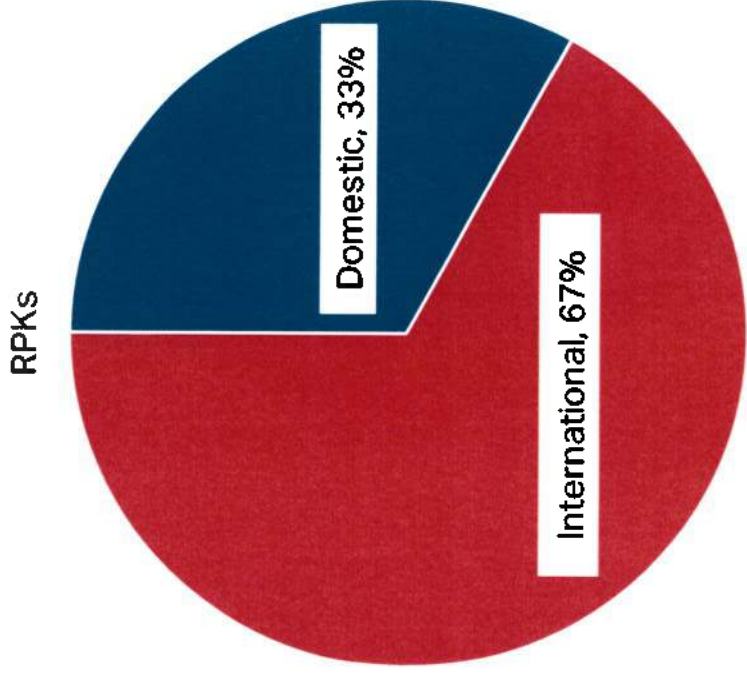
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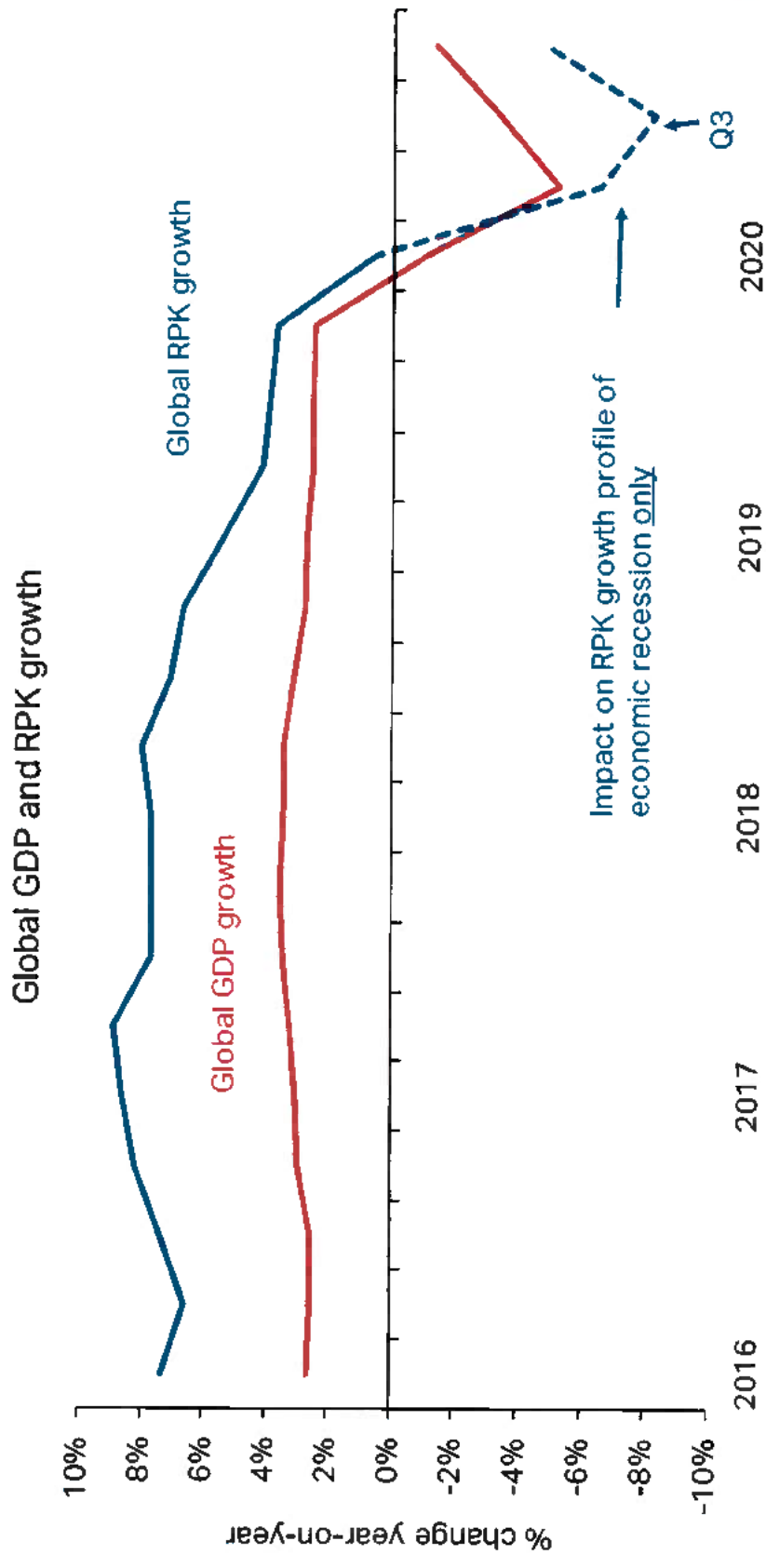


Source: IATA Economics using data from IATA Statistics



# Recession alone would push global RPKs down 8% in Q3

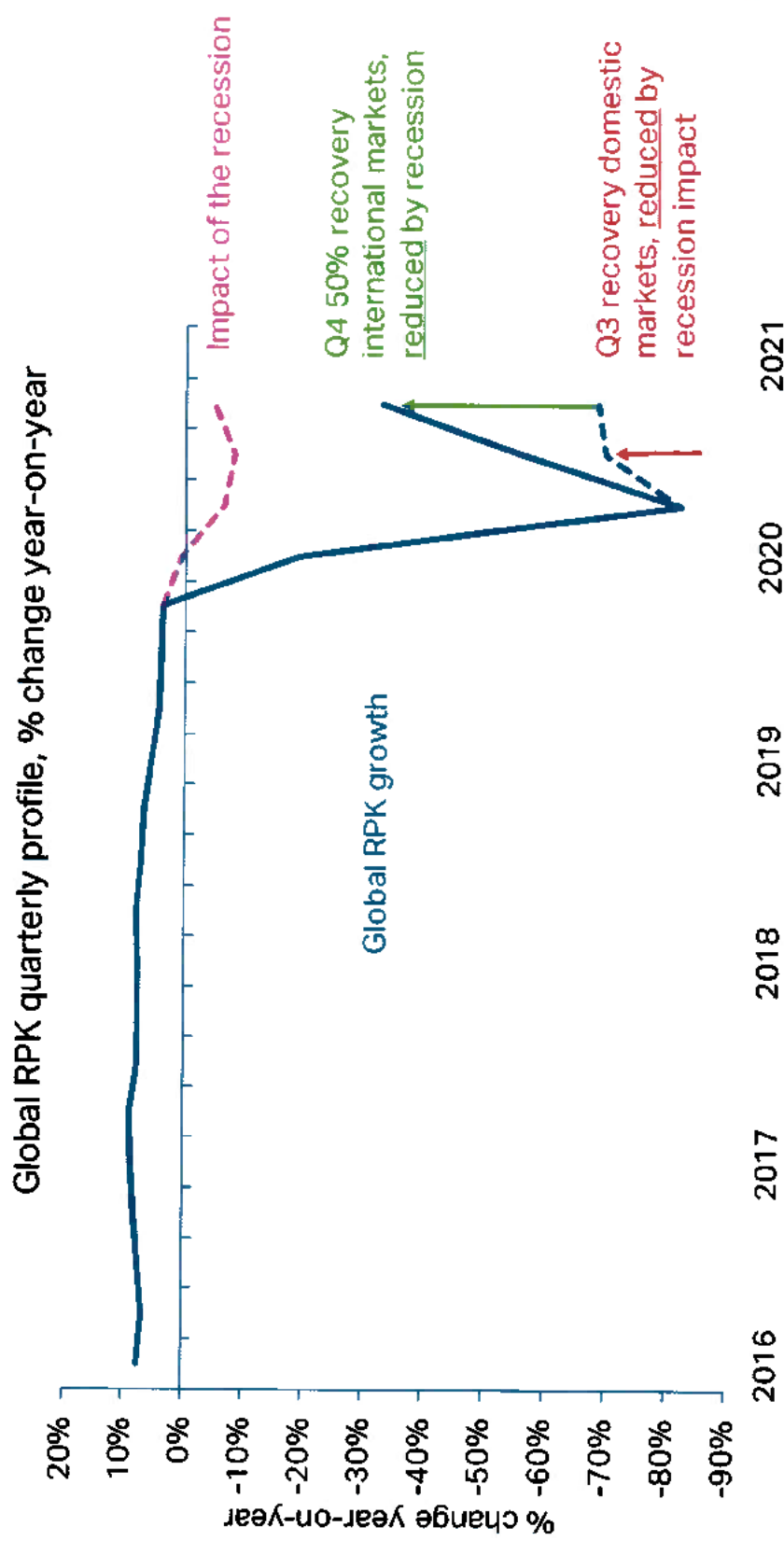
This excludes the travel restrictions and confidence effects of COVID-19



Source: IATA Economics using data and forecasts from Oxford Economics and IATA

# 2020 H2 'restart' slow leaving RPKs down 33% yoy by Q4

## Domestic markets assumed to open in Q3, international much slower



Source: IATA Economics using data and forecasts from Oxford Economics and IATA

## That implies a halving of global RPKs in 2020

With lower yields that means a \$314 billion or 55% fall in passenger revenues

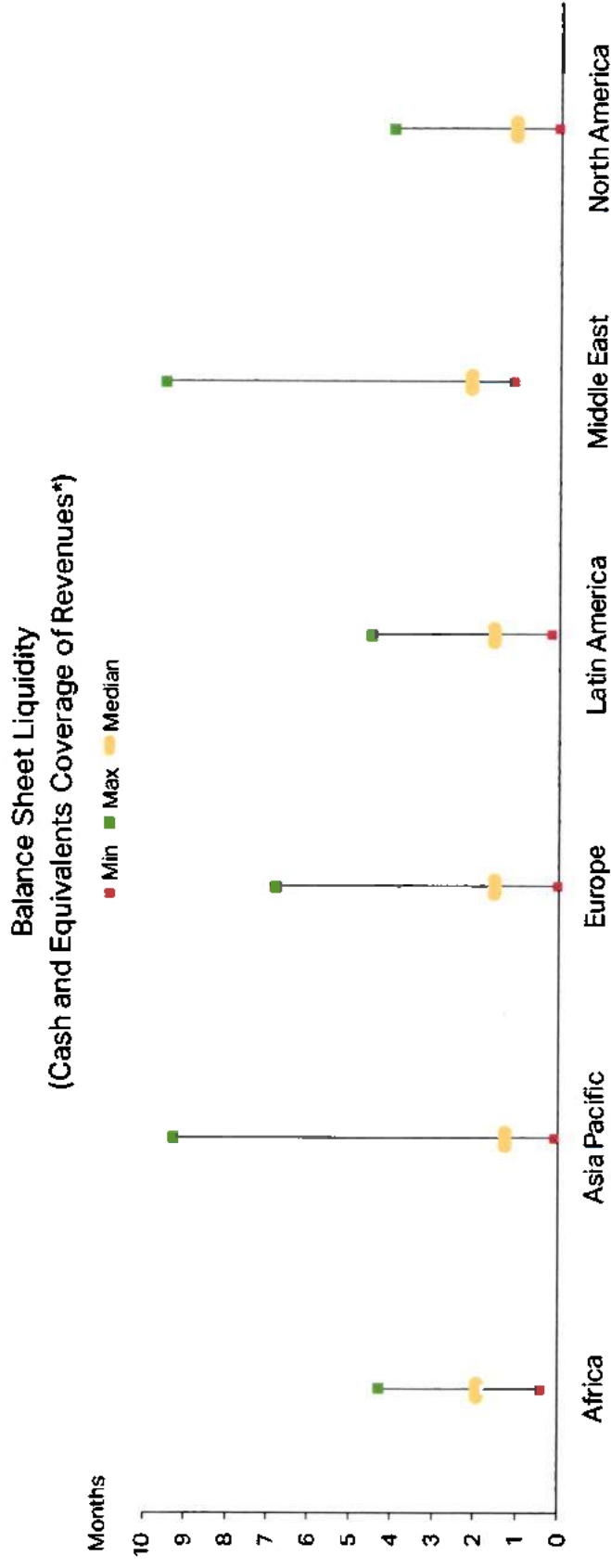
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Source: IATA Economics

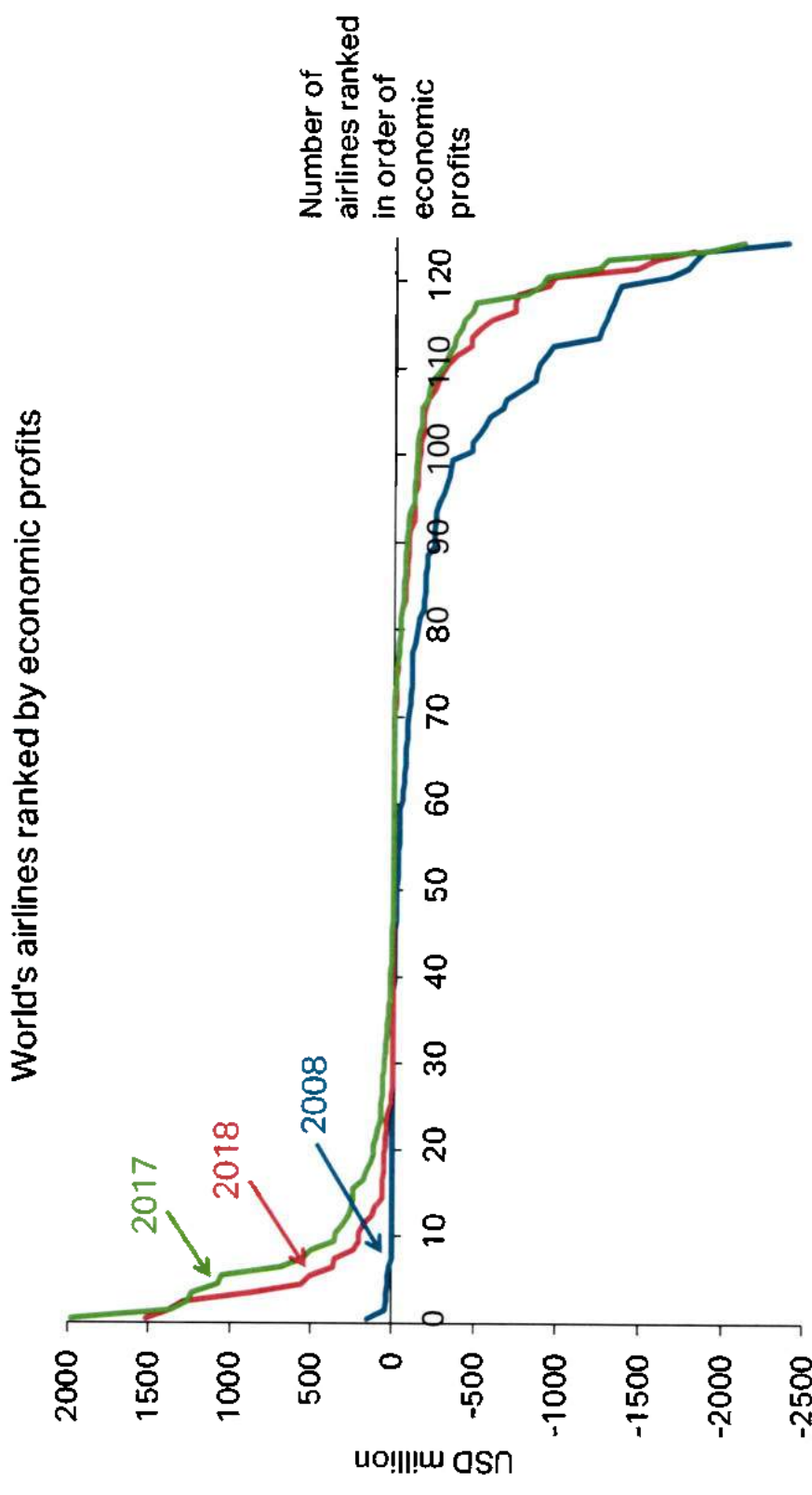
# Risk is airlines run out of cash before recovery arrives

## The typical airline had 2 months of cash at the start of this year



\*Latest available 12 months cumulative revenues Africa, Latin America and the Middle East might not be representative due to small sample size.

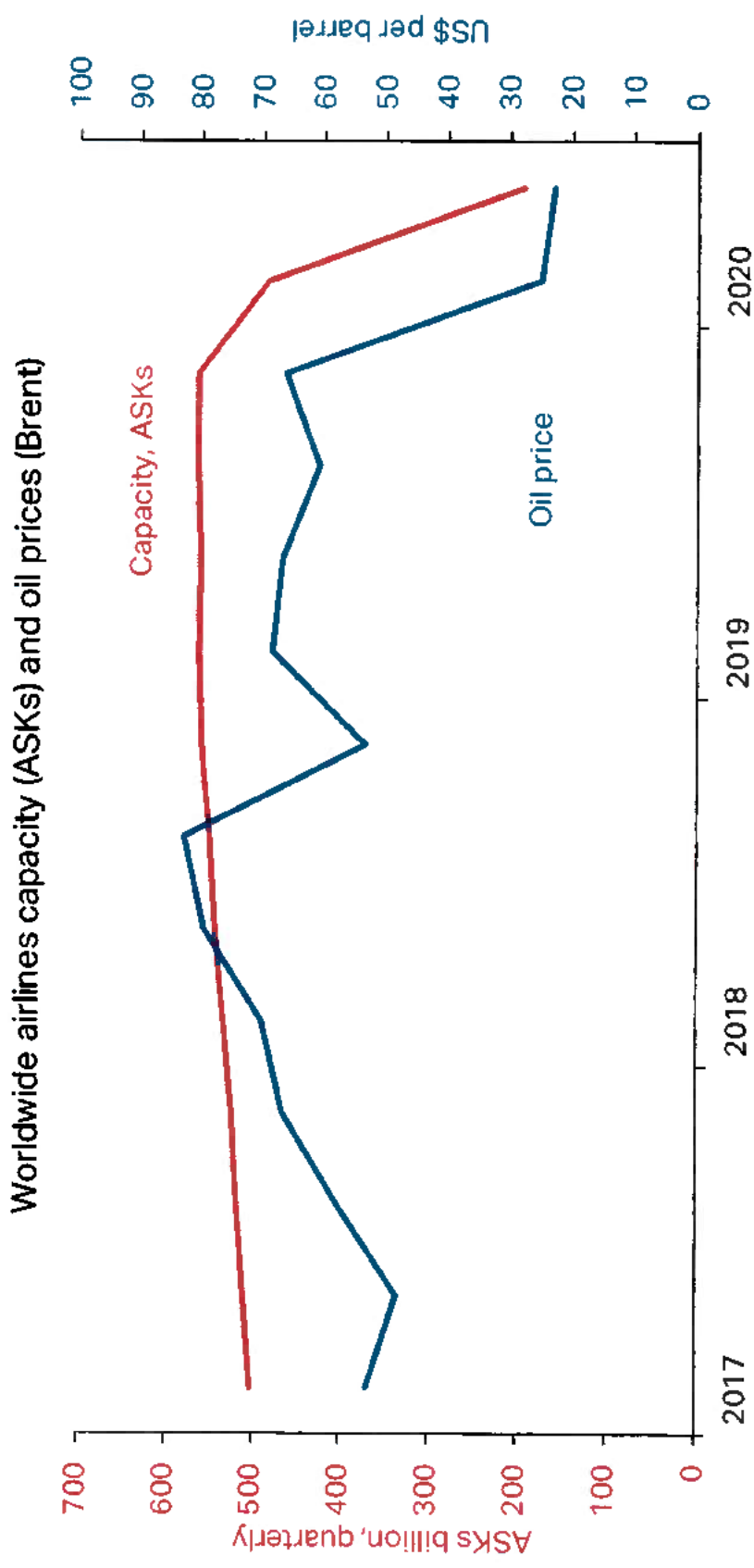
# Even before COVID-19 much of the industry was fragile Only around 30 airlines drove improvement. Long tail of weaker airlines



Source: IATA Economics using data from a McKinsey study for IATA

# Variable costs can be reduced sharply

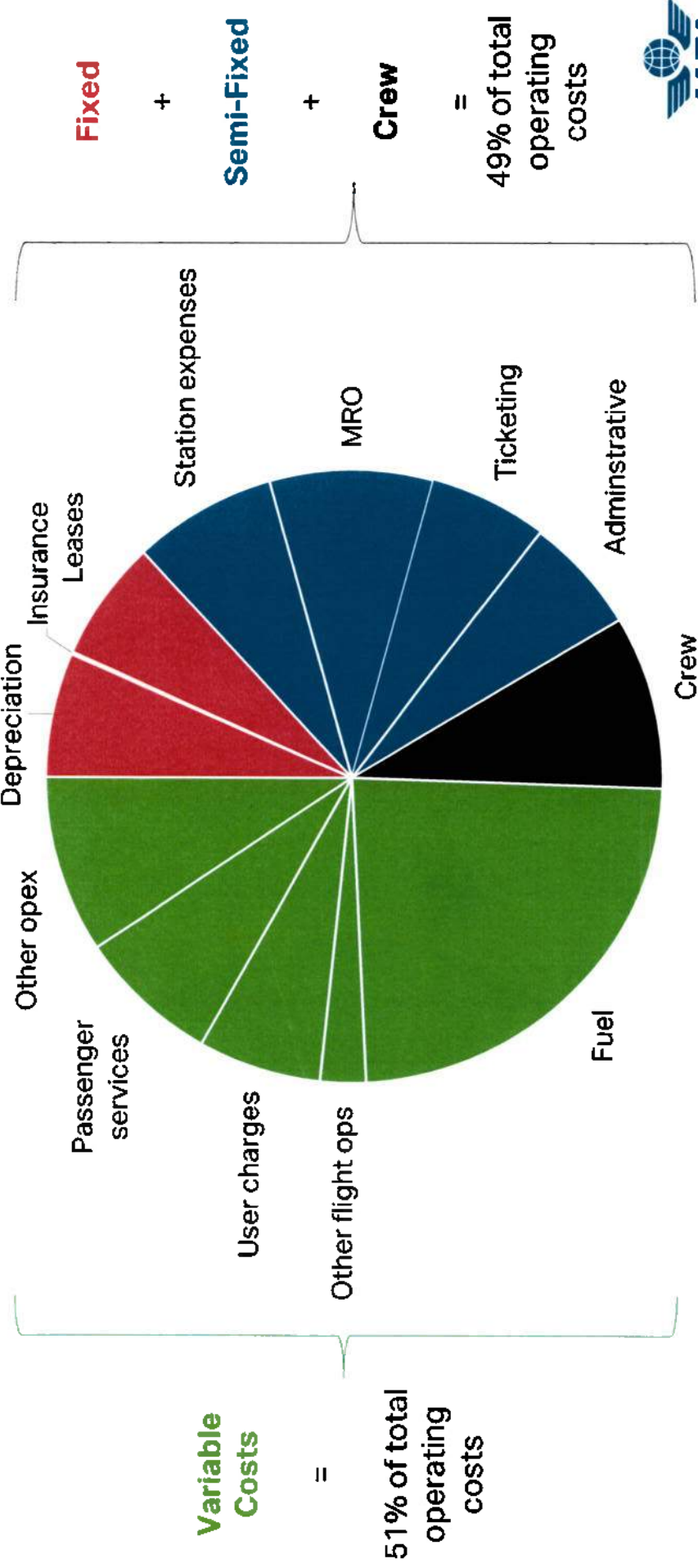
## Much capacity has been grounded and fuel prices have collapsed



Source: IATA Economics using data from IATA Statistics and Refinitiv Datastream

# But airlines have significant fixed and semi-fixed costs

## Over a short period of time many costs cannot be avoided

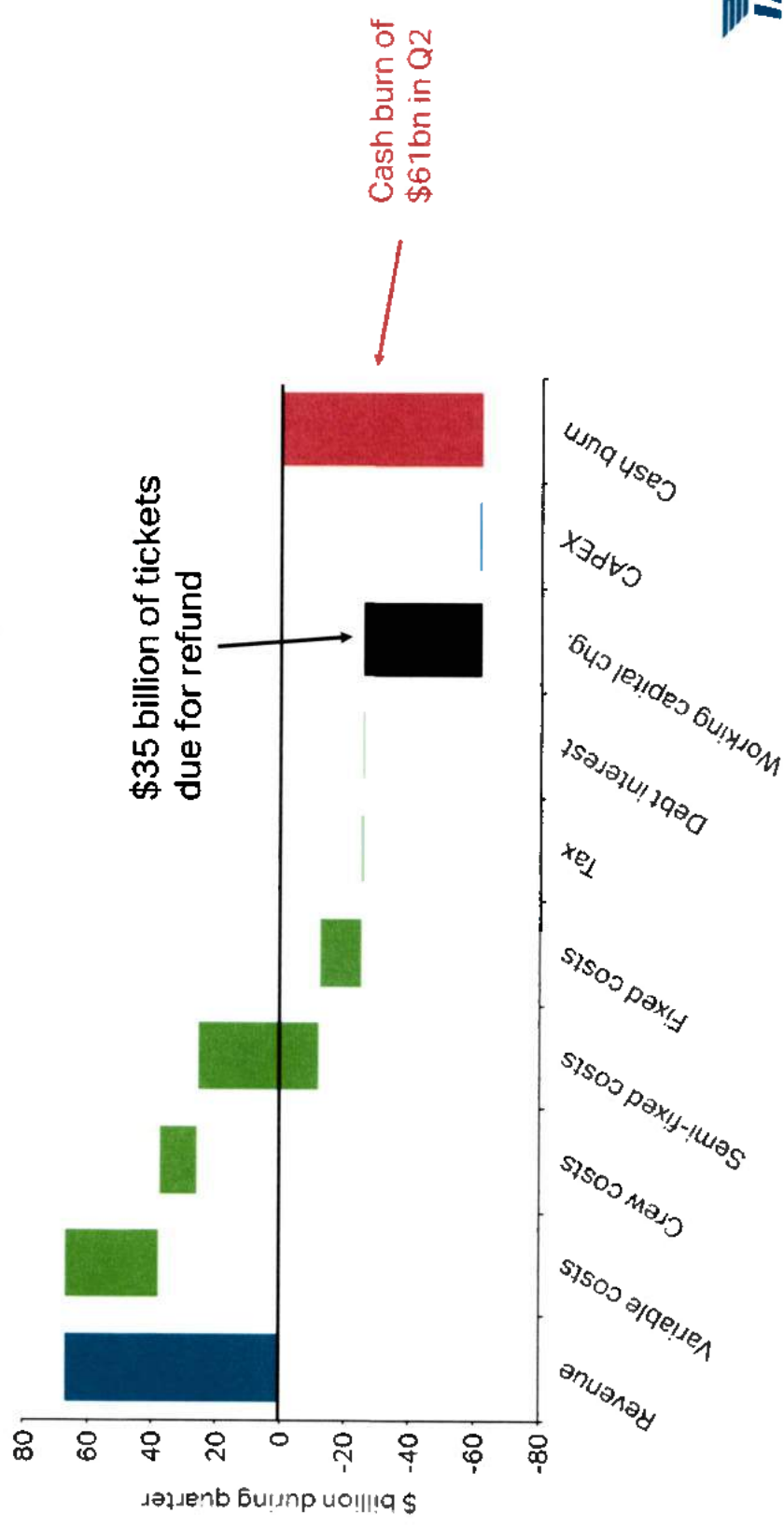


Source: IATA Economics using data from WATS and Economic Performance of the Airline Industry, End-Year 2019

# There is also an estimated \$35 billion of ticket refunds

## On top of unavoidable costs, ticket refunds may burn cash in 2020 Q2

Airline industry cash burn forecast for Q2 2020





# Contacts

[economics@iata.org](mailto:economics@iata.org)

[www.iata.org/economics](http://www.iata.org/economics)



**This is Exhibit "C" referred to in the Affidavit of  
Nicola Colville, sworn before me  
this 24<sup>th</sup> day of April, 2020**

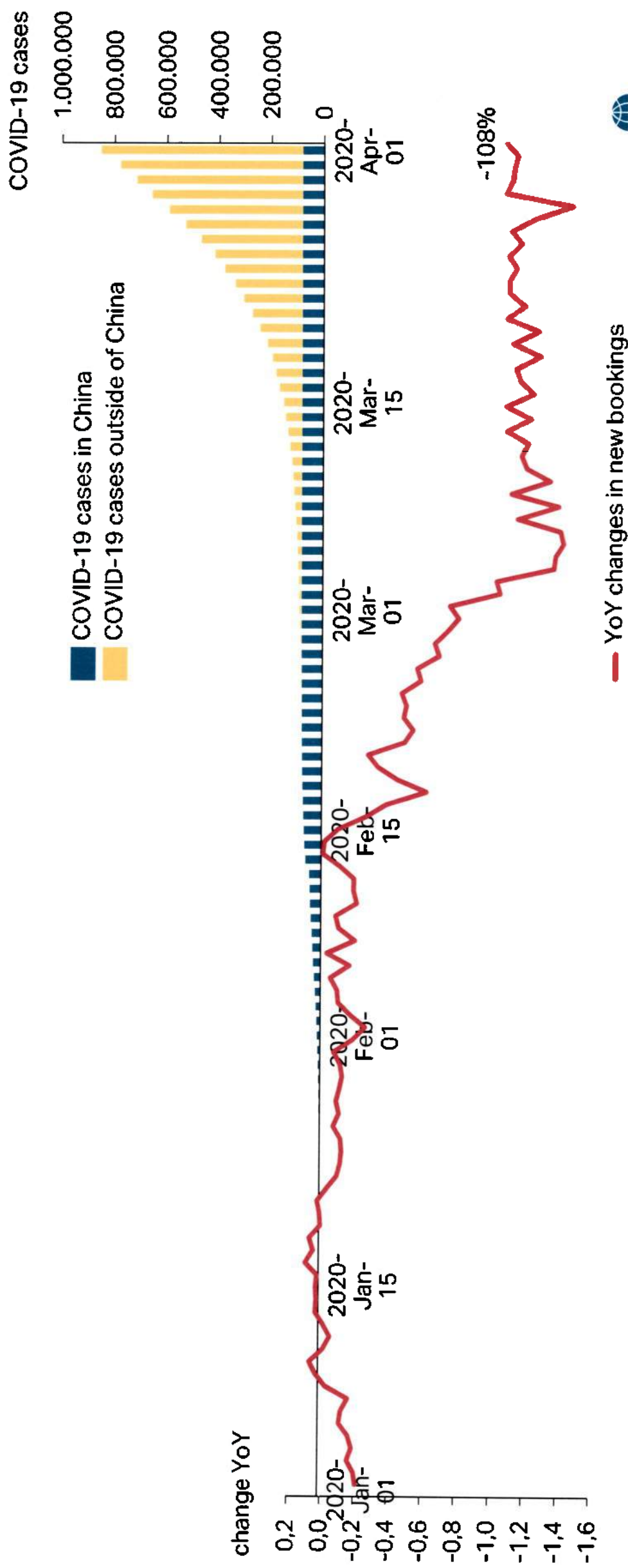


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**A Commissioner for Taking Affidavits**



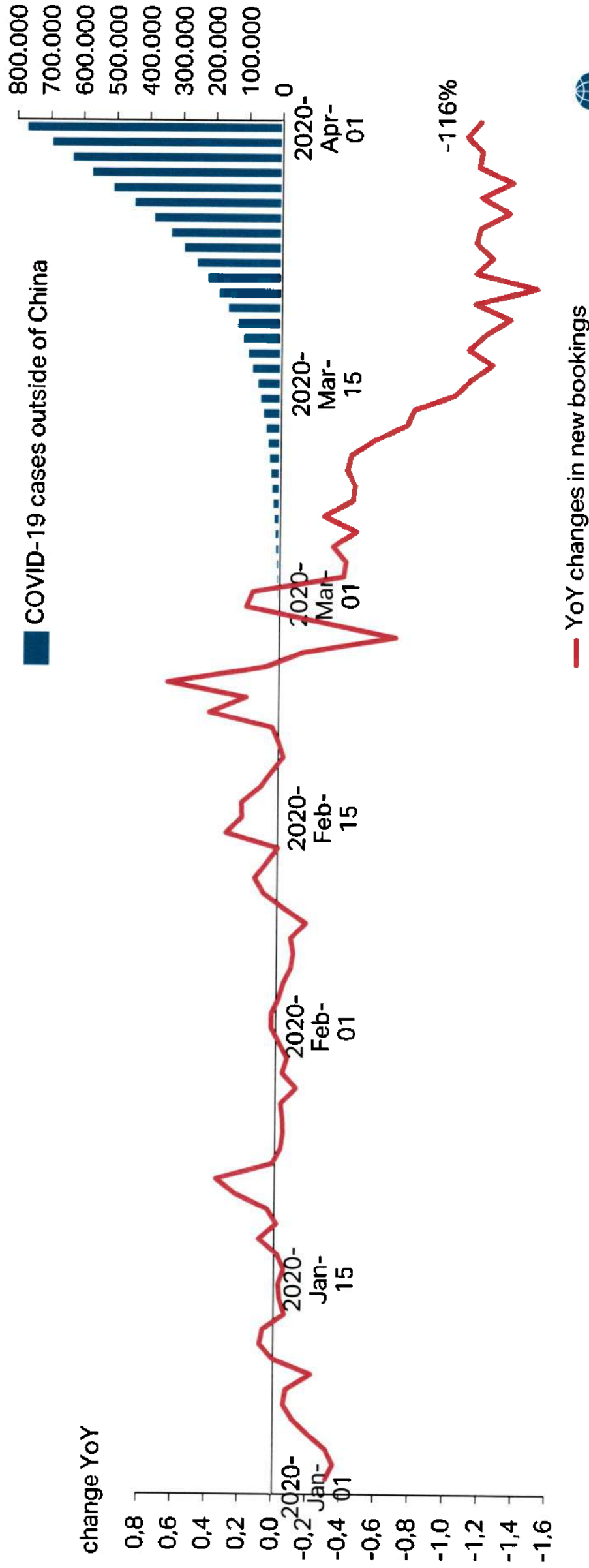
# Canada international bookings declining since COVID-19 outbreak in China and plummeting since outbreak elsewhere



1 Source: IATA Economics analysis based on DDS, ECDC data 22 April 2020



# Canada domestic bookings declining since COVID-19 cases rising outside of China

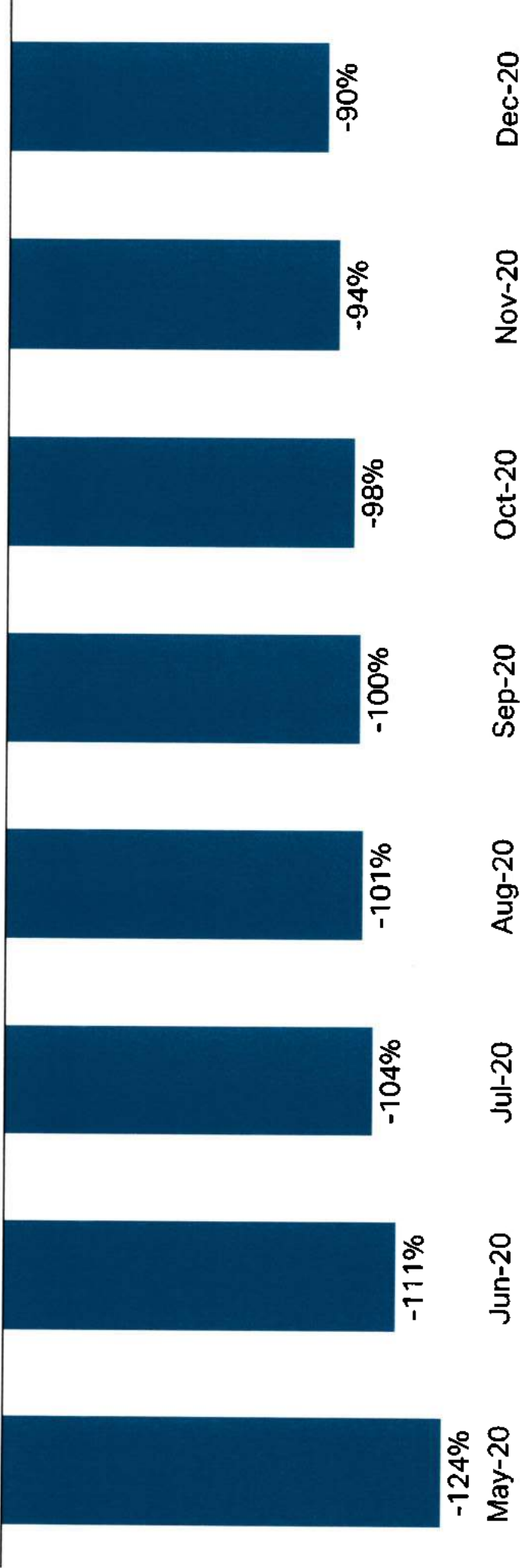


2 Source: IATA Economics analysis based on DDS, ECDC data 22 April 2020



# Canada international bookings down for travel through rest of this year

YoY change in number of net bookings (sales net of refunds) in April 2020 for international flights to/from Canada, by month of travel



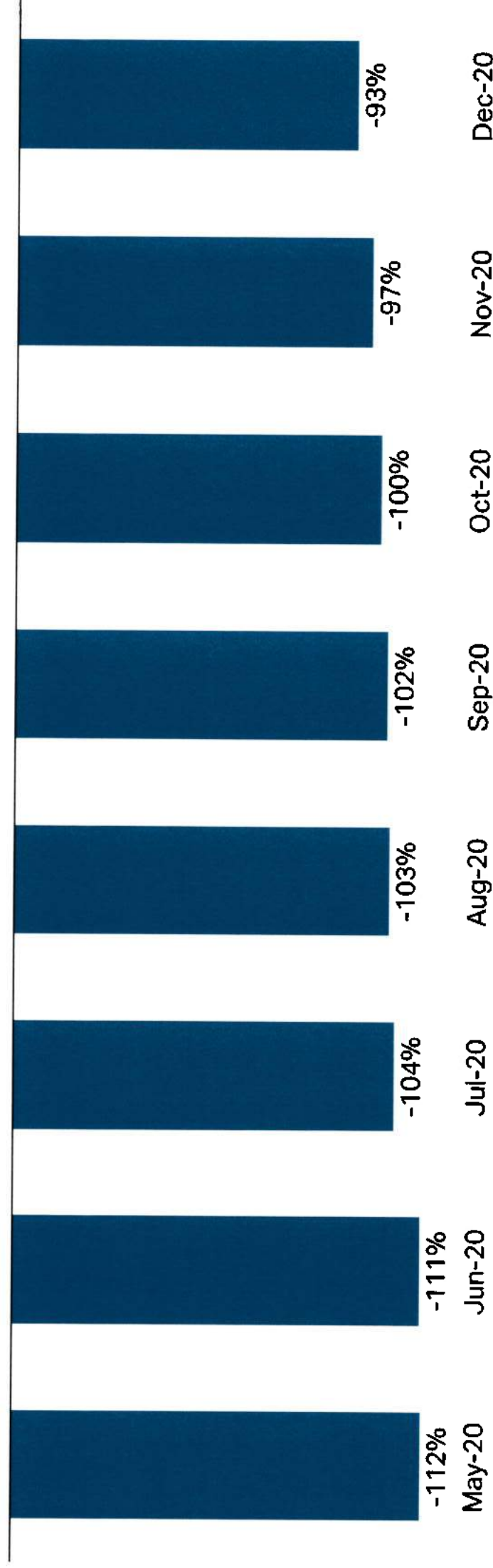
3 Source: IATA Economics analysis based on DDS data

22 April 2020



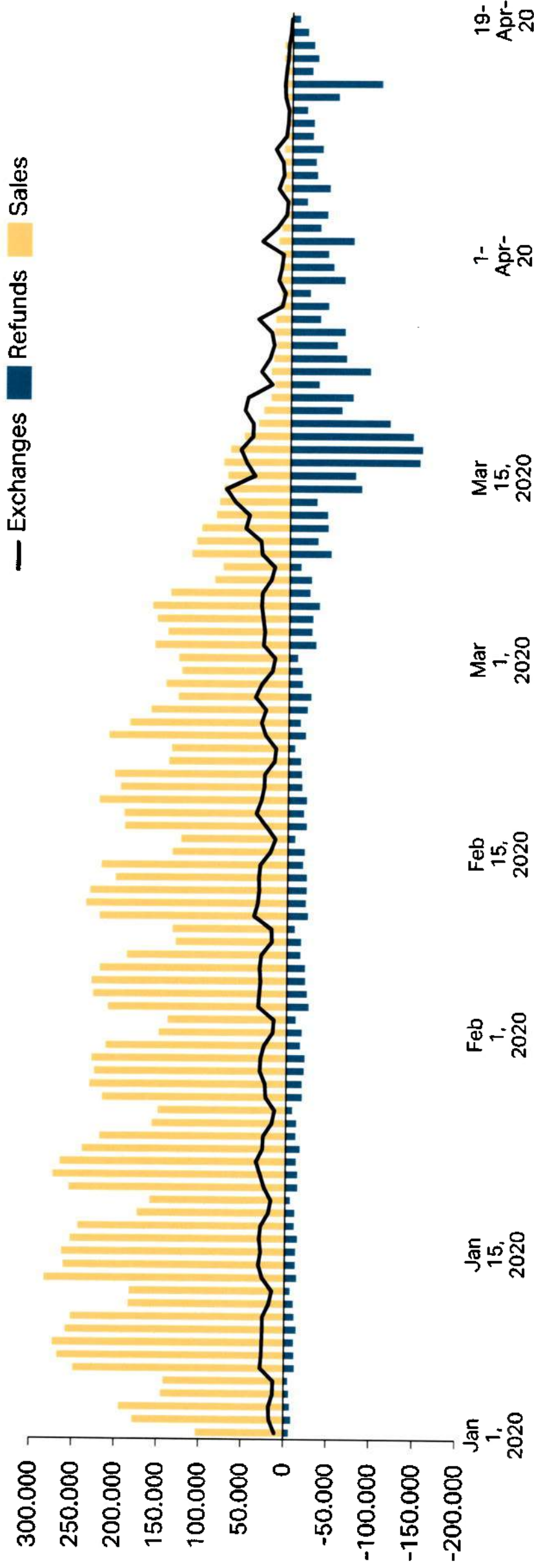
# Canada domestic bookings down for travel through rest of this year

YoY change in number of net bookings (sales net of refunds) in April 2020 for domestic flights in Canada, by month of travel



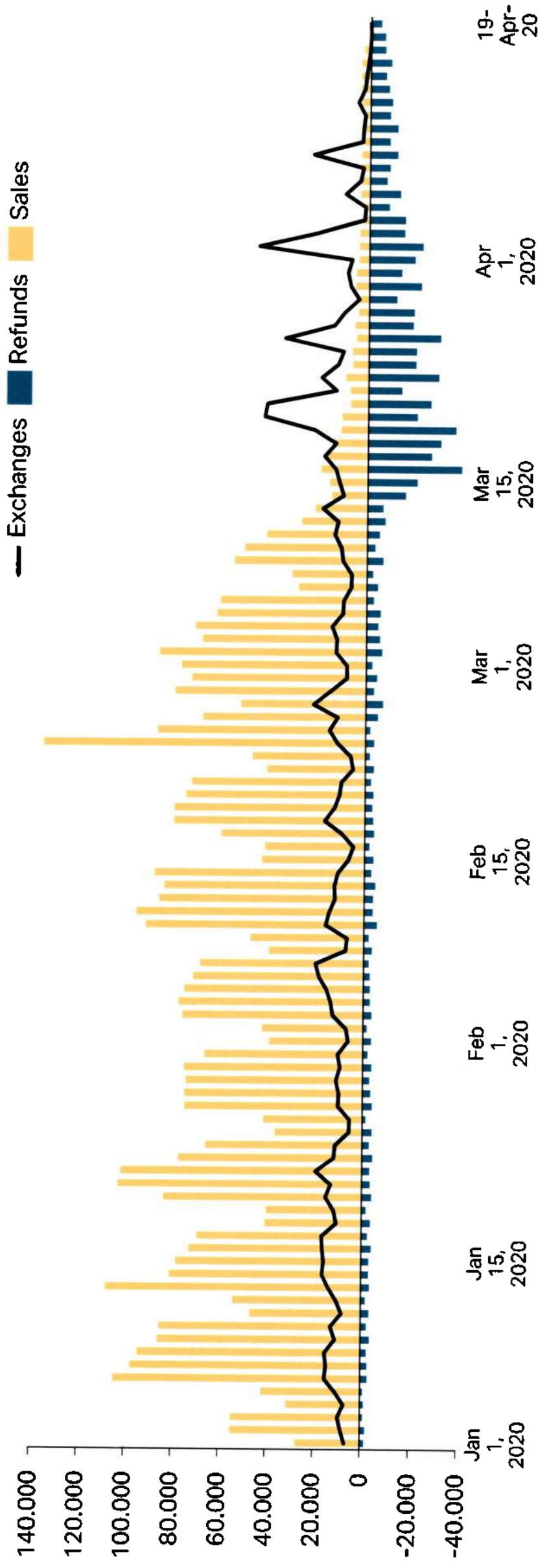
# Daily refunds have been exceeding new sales on Canada international routes

Sales, refunds and exchanges of tickets on routes to/from Canada, Jan 1 – Apr 19 2020



# Daily refunds have been exceeding new sales on Canada domestic routes

Sales, refunds and exchanges of tickets on domestic routes in Canada, Jan 1 – Apr 19 2020





**This is Exhibit "D" referred to in the Affidavit of  
Nicola Colville, sworn before me  
this 24<sup>th</sup> day of April, 2020**



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**A Commissioner for Taking Affidavits**



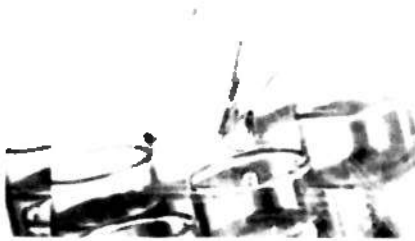


64

Press Release No: 29

Date: 14 April 2020

# COVID-19 Puts Over Half of 2020 Passenger Revenues at Risk



### Translation:

[La COVID-19 menace plus de la moitié des revenus de passagers de 2020 \(pdf\)](#)

[国际航协：2020年客运收入或面临损失达3,140亿美元 \(pdf\)](#)

[El COVID-19 pone en riesgo más de la mitad de los ingresos por pasajeros aéreos \(pdf\)](#)

**Geneva** - The International Air Transport Association (IATA) released updated analysis showing that the COVID-19 crisis will see airline passenger revenues drop by \$314 billion in 2020, a 55% decline compared to 2019.

On 24 March IATA estimated \$252 billion in lost revenues (-44% vs. 2019) in a scenario with severe travel restrictions lasting three months.

The updated figures reflect a significant deepening of the crisis since then, and reflect the following parameters:

- Severe domestic restrictions lasting three months
- Some restrictions on international travel extending beyond the initial three months
- Worldwide severe impact, including Africa and Latin America (which had a small presence of the disease and were expected to be less impacted in the March analysis).

Full-year passenger demand (domestic and international) is expected to be down 48% compared to 2019. The two main elements driving this are:

- **Overall Economic Developments:** The world is heading for recession. The economic shock of the COVID-19 crisis is expected to be at its most severe in Q2 when GDP is expected to shrink by 6% (by comparison, GDP shrank by 2% at the height of the Global Financial Crisis). Passenger demand closely follows GDP progression. The impact of reduced economic activity in Q2 alone would result in an 8% fall in passenger demand in the third quarter.
- **Travel Restrictions:** Travel restrictions will deepen the impact of recession on demand for travel. The most severe impact is expected to be in Q2. As of early April, the number of flights globally was down 80% compared to 2019 in large part owing to severe travel restrictions imposed by governments to fight the spread of the virus. Domestic markets could still see the start of an upturn in demand beginning in the third quarter in a first stage of lifting travel restrictions. International markets, however, will be slower to resume as it appears likely that governments will retain these travel restrictions longer.

"The industry's outlook grows darker by the day. The scale of the crisis makes a sharp V-shaped recovery unlikely. Realistically, it will be a U-shaped recovery with domestic travel coming back faster than the international market. We could see more than half of passenger revenues disappear. That would be a \$314 billion hit. Several governments have stepped up with new or expanded financial relief measures but the situation remains critical. Airlines could burn through \$61 billion of cash reserves in the second quarter alone. That puts at risk 25 million jobs dependent on aviation. And without urgent relief, many airlines will not survive to lead the economic recovery," said Alexandre de Juniac, IATA's Director General and CEO.

### Financial Relief

Governments must include aviation in stabilization packages. Airlines are at the core of a value chain that supports some 65.5 million jobs worldwide. Each of the 2.7 million airline jobs supports 24 more jobs in the economy.

"Financial relief for airlines today should be a critical policy measure for governments. Supporting airlines will keep vital supply chains working through the crisis. Every airline job saved will keep 24 more people employed. And it will give airlines a fighting chance of being viable businesses that are ready to lead the recovery by connecting economies when the pandemic is contained. If airlines are not ready, the economic pain of COVID-19 will be unnecessarily prolonged," said de Juniac.

IATA proposes a number of relief options for governments to consider, including:

- **Direct financial support** to passenger and cargo carriers to compensate for reduced revenues and liquidity attributable to travel restrictions imposed as a result of COVID-19.
- **Loans, loan guarantees and support** for the corporate bond market by governments or central banks. The corporate bond market is a vital source of finance for airlines, but the eligibility of corporate bonds for central bank support needs to be extended and guaranteed by governments to provide access for a wider range of companies.
- **Tax relief:** Rebates on payroll taxes paid to date in 2020 and/or an extension of payment terms for the rest of 2020, along with a temporary waiver of ticket taxes and other government-imposed levies.

[Read Alexandre de Juniac's speech](#)

[Read the COVID-19: Updated Impact Assessment - 14 April \(pdf\)](#), presentation by Brian Pearce, IATA's Chief Economist

**For more information, please contact:**

Corporate Communications  
Tel: +41 22 770 2967  
Email: [corpcomms@iata.org](mailto:corpcomms@iata.org)

**Notes for Editors**

- IATA (International Air Transport Association) represents some 290 airlines comprising 82% of global air traffic.
- You can follow us at [www.twitter.com/iata](http://www.twitter.com/iata) for announcements, policy positions, and other useful industry information.

TAB 5

Court File No.: A-102-20

**FEDERAL COURT OF APPEAL**

**BETWEEN:**

**AIR PASSENGER RIGHTS**

Applicant

- and -

**CANADIAN TRANSPORTATION AGENCY**

Respondent

**AFFIDAVIT OF JIWAN SON  
(Sworn April 27, 2020)**

I, Jiwan Son, Associate, of the City of Toronto, in the Province of Ontario, SWEAR THAT:

1. I am an Associate with the law firm Paterson, MacDougall LLP, lawyers for the National Airlines Council of Canada ("NACC"), the Proposed Intervener, and as such have knowledge of the matters hereinafter deposed. Where, in this Affidavit I rely on the information of others, I verily believe that information to be true.
2. The applicant, Air Passenger Rights commenced an application and interlocutory motion seeking, respectively, judicial review of and, in the interim, among other things, the removal of a public statement issued and cited by the respondent, Canadian Transportation Agency on its website.
3. The Federal Court of Appeal granted the applicant's request by Order, dated April 16, 2020, that its interlocutory motion proceed on an expedited basis, with the deadline for the respondent's material being April 29, 2020.
4. Upon the Order coming to the attention of the NACC, it immediately considered intervenor status and is bringing this Motion for Leave to Intervene.

5. Attached hereto and marked as **Exhibit “A” to Exhibit “H”** to this my Affidavit are true copies of documents from the Canadian Transportation Agency website as follows:

<b>Exhibit “A”</b>	Excerpt from Organization and mandate section of Canadian Transportation Agency website	printed April 24, 2020
<b>Exhibit “B”</b>	Statement on Vouchers	March 25, 2020
<b>Exhibit “C”</b>	Important Information for Travellers During COVID-19	March 18, 2020
<b>Exhibit “D”</b>	FAQs: Statement on Vouchers	April 22, 2020
<b>Exhibit “E”</b>	Determination No. A-2020-42	March 13, 2020
<b>Exhibit “F”</b>	Determination No. A-2020-47	March 25, 2020
<b>Exhibit “G”</b>	Order No. 2020-A-32	March 18, 2020
<b>Exhibit “H”</b>	Order No. 2020-A-37	March 25, 2020

6. Attached hereto and marked as **Exhibit “I” to Exhibit “T”** to this my Affidavit are true copies of the Government of Canada Orders in Council and Interim Orders from the Government of Canada website as follows:

<b>Exhibit “I”</b>	Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19	undated
<b>Exhibit “J”</b>	PC Number: 2020-0157 - Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada)	March 18, 2020
<b>Exhibit “K”</b>	Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 2	March 20, 2020
<b>Exhibit “L”</b>	PC Number: 2020-0161 - Minimizing the Risk of Exposure to COVID-19 in Canada	March 20, 2020

	Order (Prohibition of Entry into Canada from the United States)	
<b>Exhibit "M"</b>	PC Number: 2020-0162 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any Country other than the United States)	March 22, 2020
<b>Exhibit "N"</b>	Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 3	March 24, 2020
<b>Exhibit "O"</b>	PC Number: 2020-0175 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Mandatory Isolation)	March 24, 2020
<b>Exhibit "P"</b>	PC Number: 2020-0184 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any Country other than the United States)	March 26, 2020
<b>Exhibit "Q"</b>	PC Number: 2020-0185 - Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)	March 26, 2020
<b>Exhibit "R"</b>	Repealed - Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19	March 27, 2020
<b>Exhibit "S"</b>	Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 6	April 17, 2020
<b>Exhibit "T"</b>	Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 3	April 17, 2020

7. Attached hereto and marked as **Exhibit "U"** to this my Affidavit is a true copy of "Aviation measures in response to COVID-19" posted on the Transport Canada website and modified April 2, 2020.

8. Attached hereto and marked as **Exhibit "V"** to this my Affidavit is a true copy of the Statement of Claim in Court file number T-428-20, *Donaldson v. Swoop et al.*, issued March 27, 2020.

9. Attached hereto and marked as **Exhibit "W"** to this my Affidavit is a true copy of the Notice of Civil Claim in Court file number VLC-S-S-203759, *Donaldson v. Swoop et al.*, issued March 27, 2020.

10. Attached hereto and marked as **Exhibit "X"** to this my Affidavit is a true copy of the Motion for Permission to Commence Class Action Proceedings in Court file number 500-06-001052-204, *Lachaine v. Air Transat A.T. et al.*, issued March 23, 2020.

11. I swear this Affidavit in support of The National Airlines Council of Canada's motion for leave to intervene and for no other purpose.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, this 27<sup>th</sup> day of April, 2020.

A Commissioner for taking Affidavits (or as the case may be)



Air Passenger Rights  
Applicant

Canadian Transportation Agency  
and  
Respondent

Court File No.: A-102-20

**FEDERAL COURT OF APPEAL**

Proceeding commenced at VANCOUVER

**AFFIDAVIT OF JIWAN SON**  
(Sworn April 27, 2020)

**PATERSON MacDOUGALL LLP**  
Barristers, Solicitors  
Box 100, Suite 900  
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Toronto, Ontario  
M5C 2W5

Clay S. Hunter LS#: 31896M  
E-mail: [CHunter@pmlaw.com](mailto:CHunter@pmlaw.com)  
Tel: (416) 643-3324  
Fax: (416) 366-3743

Lawyers for the Proposed Intervener,  
The National Airlines Council of Canada

**This is Exhibit "A" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this ~~22~~ day of April, 2020**

A handwritten signature in blue ink, appearing to be "D. J. Smith", written over a horizontal line.

**A Commissioner for Taking Affidavits**

[Home](#)

# Organization and mandate

## Our organization and mandate

### [Members](#)

### [Organizational chart](#)

### [Partner organizations](#)

### [At the Heart of Transportation: A Moving History](#)

The Canadian Transportation Agency (CTA) is an independent, quasi-judicial tribunal and regulator that has, with respect to all matters necessary for the exercise of its jurisdiction, all the powers of a superior court.

The CTA is made up of five full-time [Members](#); up to three temporary Members may also be named. The Members, who are all based in the National Capital Region, are supported in their decision-making process by some 240 employees and administrative staff.

## The CTA has three core mandates

- We help ensure that the national transportation system runs efficiently and smoothly in the interests of all Canadians: those who work and invest in it; the producers, shippers, travellers and businesses who rely on it; and the communities where it operates.
- We protect the human right of persons with disabilities to an accessible transportation network.
- We provide consumer protection for air passengers.

## Our tools

To help advance these mandates, we have three tools at our disposal:

- **Rule-making:** We develop and enforce ground rules that establish the rights and responsibilities of transportation service providers and users and that level the playing field among competitors. These rules can take the form of binding regulations or less formal guidelines, codes of practice or interpretation notes.

- **Dispute resolution:** We resolve disputes that arise between transportation providers on the one hand, and their clients and neighbours on the other, using a range of tools from facilitation and mediation to arbitration and adjudication.
- **Information provision:** We provide information on the transportation system, the rights and responsibilities of transportation providers and users, and the Agency's legislation and services.

## Our values

Our Code of Values and Ethics outlines the core values and expected behaviours that guide us in all activities related to our professional duties. Our guiding values are:

**Respect for democracy** - We uphold Canadian parliamentary democracy and promote constructive and timely exchange of views and information.

**Respect for people** - We treat people with dignity and fairness and foster a cooperative, rewarding working environment. **Integrity** - We act with honesty, fairness, impartiality and transparency.

**Stewardship** - We use and manage our resources wisely and take full responsibility for our obligations and commitments.

**Excellence** - We provide the highest quality service through innovation, professionalism and responsiveness.

## Members

- [Scott Streiner, Chair and CEO](#)
- [Elizabeth C. Barker, Vice-Chair](#)
- [William G. McMurray, Member](#)
- [Mark MacKeigan, Member](#)
- [Mary Tobin Oates, Member](#)
- [Heather Smith, Member](#)
- [Gerald Dickie, temporary Member](#)
- [Lenore Duff, temporary Member](#)

### Scott Streiner, Chair and CEO



Scott Streiner was appointed Chair and CEO of the Canadian Transportation Agency (CTA) by the Governor in Council in 2015 and reappointed in 2020. His term runs until July 2021.

Scott has taken a series of steps to enhance the CTA's ability to respond to the needs of the national transportation system, its users, and the communities in which it operates. These include reorganizing and streamlining the CTA's internal structures and processes;

recruiting top-notch talent to serve on the executive team; implementing action plans to foster a

This is Exhibit "B" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 21 day of April, 2020



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A Commissioner for Taking Affidavits



[Home](#)

## Statement on Vouchers

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The COVID-19 pandemic has caused major disruptions in domestic and international air travel.

For flight disruptions that are outside an airline's control, the *Canada Transportation Act* and *Air Passenger Protection Regulations* only require that the airline ensure passengers can complete their itineraries. Some airlines' tariffs provide for refunds in certain cases, but may have clauses that airlines believe relieve them of such obligations in force majeure situations.

The legislation, regulations, and tariffs were developed in anticipation of relatively localized and short-term disruptions. None contemplated the sorts of worldwide mass flight cancellations that have taken place over recent weeks as a result of the pandemic. It's important to consider how to strike a fair and sensible balance between passenger protection and airlines' operational realities in these extraordinary and unprecedented circumstances.

On the one hand, passengers who have no prospect of completing their planned itineraries with an airline's assistance should not simply be out-of-pocket for the cost of cancelled flights. On the other hand, airlines facing huge drops in passenger volumes and revenues should not be expected to take steps that could threaten their economic viability.

While any specific situation brought before the CTA will be examined on its merits, the CTA believes that, generally speaking, an appropriate approach in the current context could be for airlines to provide affected passengers with vouchers or credits for future travel, as long as these vouchers or credits do not expire in an unreasonably short period of time (24 months would be considered reasonable in most cases).

The CTA will continue to provide information, guidance, and services to passengers and airlines as we make our way through this challenging period.

[Share this page](#)

**Date modified:**  
2020-03-25

**This is Exhibit "C" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be "S. Payne", is written over a horizontal line.

**A Commissioner for Taking Affidavits**

[Home](#)

# Important Information for Travellers During COVID-19

## 📌 Official Global Travel Advisory from the Government of Canada

### ⚠️ Suspension of all air dispute resolution activities

During these difficult times, the Canadian Transportation Agency (CTA) continues to maintain its normal operations while our employees practice social distancing. Our dedicated employees are working remotely and are available through electronic means to provide service. You can continue to request CTA services, file applications, and do normal business with us through our normal channels.

Please note, however, that the CTA has temporarily paused all dispute resolution activities involving air carriers until June 30, 2020, to permit them to focus on immediate and urgent operational demands. While you can continue to file air passenger complaints with us and all complaints will be processed in due course, we may not be able to respond quickly. On or before June 30, 2020, the Agency will determine if the pause should end on that date or be extended to a later date.

## Air Passenger Protection Obligations During COVID-19 Pandemic

On March 11, 2020, the World Health Organization assessed the outbreak of COVID-19 as a pandemic. Since the outbreak of the virus, a number of countries, including Canada, have imposed travel bans, restrictions, or advisories. Officials have also recommended behaviours, such as enhanced hygiene practices and social distancing, to mitigate the spread of the virus. The situation is evolving rapidly, and further restrictions relating to travel may be implemented.

The Canadian Transportation Agency (CTA) has taken steps to address the major impacts that the COVID-19 pandemic is having on the airline industry by making temporary exemptions to certain requirements of the *Air Passenger Protection Regulations* (APPR) that apply from **March 13, 2020 until June 30, 2020**.

This guide explains these temporary changes and how the APPR apply to certain flight disruptions related to COVID-19.



In addition to the APPR, carriers must also follow their tariffs. In light of the COVID-19 Pandemic, CTA has issued a [Statement on Vouchers](#).

## Related Links

[Air carriers - Exemptions due to COVID-19 pandemic](#)

[A-2020-42 | Determination | 2020-03-13](#)

[Air Canada also carrying on business as Air Canada rouge and as Air Canada Cargo - temporary exemption from the advance notice requirements of section 64 of the CTA](#)

[2020-A-36 | Order | 2020-03-25](#)

[Extension of stay - COVID-19 - immediate and temporary stay of all dispute proceedings involving air carriers](#)

[2020-A-37 | Order | 2020-03-25](#)

[Air carriers - further exemptions due to COVID-19 pandemic](#)

[A-2020-47 | Determination | 2020-03-25](#)

## Delays and Cancellations

The APPR set airline obligations to passengers that vary depending on whether the situation is **within the airline's control**, **within the airline's control and required for safety purposes**, or **outside the airline's control**. Descriptions of these categories can be found in [Types and Categories of Flight Disruption: A Guide](#).

The CTA has identified a number of situations related to the COVID-19 pandemic that are considered outside the airline's control. These include:

- flight disruptions to locations that are covered by a government advisory against travel or unnecessary travel due to COVID-19;
- employee quarantine or self-isolation due to COVID-19; and
- additional hygiene or passenger health screening processes put in place due to COVID-19.

Airlines may make decisions to cancel or delay flights for other reasons. Whether these situations are within or outside the airline's control would have to be assessed on a case-by-case basis.

### Airline obligations

In the event of a flight delay or cancellation, airlines must always keep passengers informed of their rights and the cause of a flight disruption. Airlines must also always make sure the passengers reach their destinations (re-booking them on other flights).

If the cause of the disruption is within an airline's control, there are additional obligations, as outlined below.

### Situations outside airline control (including COVID-19 related situations mentioned above)

In these situations, airlines must:

- **Rebook passengers on the next available flight operated by them or a partner airline.**
  - *For disruptions between March 13, 2020 and June 30, 2020, airlines do not have to follow APPR requirements to rebook passengers using an airline with which they have no commercial agreement.*
  - Please refer to the CTA's [Statement on Vouchers](#).
  - This obligation does not require air carriers to rebook passengers who have already completed their booked trip (including by other means such as a repatriation flight).

### Situations within airline control

In these situations, airlines must:

- **Meet standards of treatment**
- **Rebook passengers on the next available flight operated by them or a partner airline or a refund, if rebooking does not meet the passenger's needs;**
  - *For disruptions between March 13, 2020 and June 30, 2020, airlines do not have to follow APPR requirements to rebook passengers using an airline with which they have no commercial agreement.*
  - Please refer to the CTA's [Statement on Vouchers](#).
  - This obligation does not require air carriers to rebook passengers who have already completed their booked trip (including by other means such as a repatriation flight).
- **Provide compensation:** *For disruptions between March 13, 2020 and June 30, 2020, different compensation requirements are in effect. If the airline notified the passengers of the delay or cancellation less than 72 hours in advance, they must provide compensation based on how late the passenger arrived at their destination (unless the passenger accepted a ticket refund):*
  - **Large airline:**
    - 6-9 hours: \$400
    - 9+ hours: \$700
  - **Small airline:**
    - 6-9 hours: \$125
    - 9+ hours: \$250
- Effective March 25, 2020, the deadline for a carrier to respond to claims filed by passengers for payment of the compensation for inconvenience is suspended until June 30, 2020 (or any further period that the Agency may order). Once the suspension is over, carriers will have 120 days to respond to claims received before or during the suspension.

### Situations within airline control, but required for safety

In these situations, the airline must:

- **Meet standards of treatment;**
- **Rebook passengers on the next available flight operated by them or a partner airline or a refund, if rebooking does not meet the passenger's needs.**

- *For disruptions between March 13, 2020 and June 30, 2020, airlines do not have to follow APPR requirements to rebook passengers using an airline with which they have no commercial agreement.*
- Please refer to the CTA's [Statement on Vouchers](#).
- This obligation does not require air carriers to rebook passengers who have already completed their booked trip (including by other means such as a repatriation flight).


## Other APPR requirements

All other air passenger entitlements under the APPR remain in force, including clear communication, tarmac delays and seating of children. For more information visit the CTA's [Know Your Rights](#) page.

## Refusal to transport

The Government of Canada has barred foreign nationals from all countries other than the United States from entering Canada (with some exceptions). Airlines have also been instructed to prevent all travellers who present COVID-19 symptoms, regardless of their citizenship, from boarding international flights to Canada.

The APPR obligations for flight disruptions would not apply in these situations.

 Share this page

**Date modified:**

2020-03-18

**This is Exhibit "D" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be 'SON', written over a horizontal line.

**A Commissioner for Taking Affidavits**



[Home](#)

## FAQs: Statement on Vouchers

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*The CTA has been asked a number of questions about its Statement on Vouchers. Below are answers to the most frequently-posed questions.*

### **What is the purpose of the Statement on Vouchers?**

The Statement on Vouchers, although not a binding decision, offers suggestions to airlines and passengers in the context of a once-in-a-century pandemic, global collapse of air travel, and mass cancellation of flights for reasons outside the control of airlines.

This unprecedented situation created a serious risk that passengers would simply end up out-of-pocket for the cost of cancelled flights. That risk was exacerbated by the liquidity challenges faced by airlines as passenger and flight volumes plummeted.

For flights cancelled for reasons beyond airlines' control, the *Air Passenger Protection Regulations*, which are based on legislative authorities, require that airlines ensure passengers can complete their itineraries but do not obligate airlines to include refund provisions in their tariffs.

The statement indicated that the use of vouchers could be a reasonable approach in the extraordinary circumstances resulting from the COVID-19 pandemic, when flights are cancelled for reasons outside airlines' control and passengers have no prospect of completing their itineraries. Vouchers for future travel can help protect passengers from losing the full value of their flights, and improve the odds that over the longer term, consumer choice and diverse service offerings – including from small and medium-sized airlines – will remain in Canada's air transportation sector. Of course, as noted in the statement, passengers can still file a complaint with the CTA and each case will be decided on its merits.

### **Why did the CTA talk about vouchers when US and EU regulators have said that airlines should give refunds?**

The American and European legislative frameworks set a minimum obligation for airlines to issue refunds when flights are cancelled for reasons outside their control. Canada's doesn't. That's the reason for the difference in the statements.

Some jurisdictions have relaxed the application or enforcement of requirements related to refunds in light of the impacts of the COVID-19 pandemic, including European countries that have approved the issuance of vouchers instead of refunds.

### **Do I have to accept a voucher if I think I'm owed a refund?**

The Statement on Vouchers suggests what could be an appropriate approach in extraordinary circumstances, but doesn't affect airlines' obligations or passengers' rights.

Some airline tariffs might not provide for a refund and others might include *force majeure* exceptions to refund provisions.

If you think that you're entitled to a refund for a flight that was cancelled for reasons related to the COVID-19 pandemic and you don't want to accept a voucher, you can ask the airline for a refund.

Sometimes, the airline may offer a voucher that can be converted to a refund if the voucher hasn't been used by the end of its validity period. This practice reflects the liquidity challenges airlines are facing as a result of the collapse of air travel while giving passengers added protection in the event that they ultimately can't take advantage of the voucher.

If you think you are entitled to a refund and the airline refuses to provide one or offers a voucher with conditions you don't want to accept, you can file a complaint with the CTA, which will determine if the airline complied with the terms of its tariff. Each case will be decided on its merits.

 Share this page

**Date modified:**

2020-04-22

**This is Exhibit "E" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be "J. Son", written over a horizontal line.

**A Commissioner for Taking Affidavits**



[Home](#) → [Decisions and determinations](#)

## Determination No. A-2020-42

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March 13, 2020

**DETERMINATION by the Canadian Transportation Agency relating to COVID-19 pandemic – Temporary exemptions to certain provisions of the *Air Passenger Protection Regulations*, SOR/2019-150 (APPR).**

**Case number:** 20-02750

[1] On March 11, 2020, the World Health Organization assessed the outbreak of COVID-19 as a pandemic.

[2] Since the outbreak of the virus, a number of countries, including Canada, have imposed travel bans, restrictions, or advisories.

[3] Public health experts have also recommended behaviours, such as enhanced hygiene practices and social distancing, to mitigate the spread of the virus.

[4] The situation is evolving rapidly, and further restrictions relating to travel may be implemented.

[5] The pandemic is causing a significant decrease in demand for air travel. Flying with many empty aircraft seats can result in significant financial difficulties for air carriers, which may therefore decide to cancel or consolidate flights. Due to the evolving nature of the situation and public behaviours, these decisions may need to be made much closer to a scheduled flight day than would normally be the case.

[6] Other aspects of air carrier operations may also be impacted by the pandemic, including but not limited to staff shortages due to quarantines or refusals to work, additional hygiene practices onboard the aircraft, and passenger health screenings. These factors may result in flight delays.

[7] Under the APPR, air carriers have minimum obligations to passengers when flights are cancelled or delayed. Those obligations depend on whether the disruption was within the control of the air carrier, within the air carrier's control but required for safety, or outside the carrier's control:

- Situations within the air carrier's control: keep the passenger informed, provide standards of treatment (such as food and water), compensate the passenger for inconvenience, and rebook or refund the passenger.
- Situations within the air carrier's control but required for safety: keep the passenger informed, provide standards of treatment, and rebook or refund the passenger.



- Situations outside the air carrier's control: keep the passenger informed and rebook the passenger so the passenger can complete their itinerary.

[8] Section 10 of the APPR provides a non-exhaustive list of situations considered outside the air carrier's control (the third category above). These include medical emergencies and orders or instructions from state officials. In the context of the COVID-19 pandemic, the following would be considered outside a carrier's control:

- flight disruptions to locations that are covered by a government advisory against travel or unnecessary travel due to COVID-19;
- employee quarantine or self-isolation due to COVID-19;
- employee refusal to work under Part II of the *Canada Labour Code*, R.S.C, 1985, c. L-2, (or equivalent law) due to COVID-19; and
- additional hygiene or passenger health screening processes put in place due to COVID-19.

[9] Beyond such situations, air carriers may make decisions that are influenced by the pandemic, including decisions to cancel and consolidate flights due to dropping passenger volumes. Whether such situations are within or outside carrier control would have to be assessed on a case-by-case basis. If the disruption was within the air carrier's control, the air carrier would be subject to more onerous obligations.

[10] In the extraordinary context of this pandemic, reasonable expectations regarding air travel have changed, taking into account government travel bans, restrictions, and advisories; public health practices; and impacts on travel demand and air carrier operations.

## CONCLUSION

[11] The Agency finds that, in the context of the significant declines in passenger volumes and disruptions to air carrier operations caused by the COVID-19 pandemic, temporary exemptions to the APPR should be made to provide air carriers with increased flexibility to adjust flight schedules without facing prohibitive costs.

[12] Specifically, the Agency finds it undesirable, in the current extraordinary circumstances, that carriers be obligated to provide compensation for inconvenience to passengers who were informed of a flight delay or a flight cancellation more than 72 hours before their original scheduled departure or to passengers who were delayed at destination by less than six hours. The Agency further finds it undesirable that carriers be required to offer alternative travel arrangements that include flights on other air carriers with which they have no commercial agreement.

## ORDER

[13] The Agency orders that all air carriers be exempted from:

- the obligation, under paragraphs 19(1)(a) and 19(1)(b) of the APPR, to pay compensation for inconvenience

- if the flight delay or the flight cancellation is communicated to passengers more than 72 hours before the departure time indicated on the passengers' original ticket; or,
- if the flight delay or the flight cancellation is communicated to the passengers within 72 hours of the departure time indicated on the original ticket, on condition that the carrier pays the passengers the following compensation for inconvenience; in the case of a large carrier,
  - in the case of a large carrier,
    - \$400, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by six hours or more, but less than nine hours, or
    - \$700, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by nine hours or more; and
  - in the case of a small carrier,
    - \$125, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by six hours or more, but less than nine hours, or
    - \$250, if the arrival of the passenger's flight at the destination that is indicated on the original ticket is delayed by nine hours or more.
- the obligation, under subsection 19(2) of the APPR to pay compensation for inconvenience to passengers who opted to obtain a refund instead of alternative travel arrangement, if the flight delay or the flight cancellation is communicated to passengers more than 72 hours before the departure time indicated on the passengers' original ticket;
- the obligation, under paragraphs 17(1)(a)(ii), 17(1)(a)(iii), and 18(1)(a)(ii) of the APPR to provide a confirmed reservation on a flight operated by a carrier with which the carrier does not have any commercial agreement.

[14] The exemption is effective immediately, will remain valid until April 30, 2020, and may be extended by a further determination of the Agency, if required.

## Member(s)

Scott Streiner  
Elizabeth C. Barker

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**Date modified:**  
2020-03-13

**This is Exhibit "F" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be 'D. J. M.', written over a horizontal line.

**A Commissioner for Taking Affidavits**



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## Determination No. A-2020-47

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March 25, 2020

**DETERMINATION by the Canadian Transportation Agency relating to COVID-19 pandemic – Additional temporary exemptions to certain provisions of the *Air Passenger Protection Regulations*, SOR/2019-150 (APPR) and extension of the temporary exemption period.**

**Case number:** 20-03254

[1] On March 11, 2020, the World Health Organization assessed the outbreak of COVID-19 as a pandemic.

[2] On March 13, 2020, the Canadian Transportation Agency (Agency) found in Determination No. [A-2020-42](#) that it is undesirable that carriers be obligated to follow certain requirements of the APPR in these circumstances.

[3] Specifically, in the context of the significant declines in passenger volumes and disruptions to air carrier operations caused by the COVID-19 pandemic, the Agency granted temporary exemptions from APPR requirements related to compensation for inconvenience and to rebooking with competitors, to provide air carriers with increased flexibility to adjust flight schedules without facing prohibitive costs.

[4] To allow air carriers to continue focusing on immediate and urgent operational demands, including bringing Canadians home from abroad, the Agency considers it temporarily undesirable for air carriers to have to meet the APPR's 30-day deadline to respond to passengers' claims for the payment of compensation for inconvenience.

[5] Further, considering that the major impacts of the COVID-19 pandemic on the air sector are unlikely to be resolved by April 30, 2020, the Agency finds it appropriate to extend the duration of the exemptions in Determination No. [A-2020-42](#).

### ORDER

[6] Pursuant to subsection 80(1) of the *Canada Transportation Act*, S.C., 1996, c. 10, as amended, the Agency orders that all air carriers be exempted from the requirement under subsection 19(4) of the APPR to respond to requests for compensation, on the condition that air carriers respond to such requests within 120 day of the expiry of this order.

[7] This Order is effective immediately and will remain valid until June 30, 2020.

[8] The Agency further orders that the exemptions granted by Determination No. A-2020-42 remain valid until June 30, 2020.

[9] Exemptions granted under this determination and Determination No. A-2020-42 may be extended by a further determination of the Agency, if required.

## Member(s)

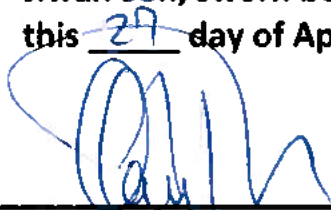
Scott Streiner  
Elizabeth C. Barker

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**Date modified:**  
2020-03-25

**This is Exhibit "G" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be "Ray", written over a horizontal line.

**A Commissioner for Taking Affidavits**



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# Order No. 2020-A-32

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March 18, 2020

**IN THE MATTER OF an immediate and temporary stay of all dispute proceedings involving air carriers.**

**Case number:** 20-02915

On March 11, 2020, the World Health Organization assessed the outbreak of COVID-19 as a pandemic. Since the outbreak of the virus, a number of countries, including Canada, have imposed travel bans, restrictions, or advisories. On March 13, 2020, in Determination No. ~~A-2020-42~~, the Agency ordered that all air carriers be temporarily exempted from certain provisions of the *Air Passenger Protection Regulations*, SOR/2019-150. On March 16, 2020, the Government of Canada announced several new COVID 19 responses which directly affect air carriers. Air carriers are now required to conduct a basic health assessment of all passengers, and to deny boarding for international flights to Canada to passengers who present COVID-19 symptoms, and to many non citizens and non-residents. As of March 18, 2020, arrivals of international flights are restricted to four airports in Canada.

The impact of the COVID-19 pandemic on air carriers and passengers is significant and continues to evolve. Air carrier resources are highly stretched as carriers work to bring Canadians home from abroad, implement new Government of Canada directions, and adjust to rapidly dropping passenger volumes and travel restrictions.

The Agency finds that in light of these extraordinary circumstances, it would be just and reasonable to temporarily stay dispute proceedings involving air carriers to permit them to focus on immediate and urgent operational demands.

## ORDER

Pursuant to subsection 5(2), paragraph 41(1)(d), and section 6 of the *Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings)*, SOR/2014-104, the Agency, on its own motion, orders that all dispute proceedings before the Agency involving air carriers be stayed until April 30, 2020. The stay is effective immediately and applies to all current applications currently before the Agency, as well as any applications received for dispute adjudication during the stay

period. On or before April 30, 2020, the Agency will determine if the stay should end on that date or be extended to a later date. In exceptional circumstances, the Agency may lift the stay on individual cases sooner, where necessary in the interests of justice.

## Member(s)

Scott Streiner  
Elizabeth C. Barker  
J. Mark MacKeigan  
Heather Smith  
Mary Tobin Oates  
Gerald Dickie  
Lenore Duff

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**Date modified:**  
2020-03-18



This is Exhibit "H" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 22 day of April, 2020

A handwritten signature in blue ink, appearing to be "S. J. Son", written over a horizontal line.

A Commissioner for Taking Affidavits



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## Order No. 2020-A-37

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March 25, 2020

**IN THE MATTER OF an extension of the stay of proceedings ordered in Order No. 2020-A-32.**

**Case number:** 20-03246

On March 11, 2020, the World Health Organization assessed the outbreak of COVID-19 as a pandemic.

On March 18, 2020, the Canadian Transportation Agency (Agency) found that in light of these extraordinary circumstances related to the pandemic, it would be just and reasonable to temporarily stay dispute proceedings involving air carriers to permit them to focus on immediate and urgent operational demands.

Considering that the major impacts of the COVID-19 pandemic on the air sector are unlikely to be resolved by April 30, 2020, the Agency finds it is just and reasonable to extend the duration of the stay of proceedings ordered in Order No. 2020 A-32 until June 30, 2020.

### ORDER

Pursuant to subsection 5(2), paragraph 41(1)(d), and section 6 of the Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings), SOR/2014-104, the Agency, on its own motion, orders that all dispute proceedings before the Agency involving air carriers be stayed until June 30, 2020, including any applications received for dispute adjudication during the stay period.

On or before June 30, 2020, the Agency will determine if the stay should end on that date or be extended to a later date. In exceptional circumstances, the Agency may lift the stay on individual cases sooner, where necessary in the interests of justice.

### Member(s)

Scott Streiner

Elizabeth C. Barker

J. Mark MacKeigan

Mary Tobin Oates

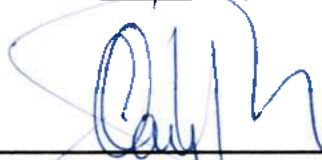
Heather Smith  
Gerald Dickie  
Lenore Duff

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**Date modified:**  
2020-03-25

**This is Exhibit "I" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 29 day of April, 2020**



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**A Commissioner for Taking Affidavits**



**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some transportation-related measures and guidance. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please contact us by email.

For information on COVID-19 updates, please visit Canada.ca/coronavirus.

## Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19

From: Transport Canada

Whereas the annexed *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19* is required to deal with a significant risk, direct or indirect, to aviation safety or the safety of the public;

Whereas the provisions of the annexed Order may be contained in a regulation made pursuant to sections 4.71 <sup>a</sup> and 4.9 <sup>b</sup>, paragraphs 7.6(1)(a) <sup>c</sup> and (b) <sup>d</sup> and section 7.7 <sup>e</sup> of the *Aeronautics Act* <sup>f</sup>;

And whereas, pursuant to subsection 6.41(1.2) <sup>g</sup> of that Act, the Minister of Transport has consulted with the persons and organizations that the Minister considers appropriate in the circumstances before making the annexed Order;

Therefore, the Minister of Transport, pursuant to subsection 6.41(1) <sup>g</sup> of the *Aeronautics Act* <sup>f</sup>, makes the annexed *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19*.

Ottawa, , 2020

Le ministre des Transports,

Marc Garneau

Minister of Transport

## **Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19**

### **Interpretation**

#### **Definition of *Regulations***

**1 (1)** In this Interim Order, ***Regulations*** means the *Canadian Aviation Regulations*.

#### **Interpretation**

**(2)** Unless the context requires otherwise, all other words and expressions used in this Interim Order have the same meaning as in the *Regulations*.

#### **Conflict**

**(3)** In the event of a conflict between this Interim Order and the *Regulations*, the Interim Order prevails.

### **Application**

#### **Application – boarding denied to foreign nationals**

**2 (1)** Sections 3 to 5 of this Interim Order apply to air carriers operating flights to Canada and that operate an aircraft under Part VII of the *Regulations*, except an air carrier that operates an aircraft under Subpart 2 of Part VII of the *Regulations*.

#### **Application – health check**

**(2)** Sections 6 to 10 of this Interim Order apply to the following air carriers operating flights to Canada and to their passengers:

- (a)** an air carrier that operates an aircraft with a passenger seating configuration of 20 or more, excluding pilot seats, under Subpart 1 of Part VII of the Regulations; and
- (b)** an air carrier that operates an aircraft under Subpart 5 of Part VII of the Regulations.

### **Boarding Denied to Foreign Nationals**

#### **Definitions**

**3** The following definitions apply in sections 4 and 5.

***foreign national*** means a person who is not a Canadian citizen or a permanent resident, and includes a stateless person. (*étranger*)

***immediate family member***, in respect of a person means

- (a)** the spouse or common-law partner of the person;
- (b)** a dependent child of the person or of the person's spouse or common-law partner; or
- (c)** a dependent child of a dependent child referred to in paragraph (b). (*membre de la famille immédiate*)

#### **Prohibition**

**4** An air carrier is prohibited from permitting a foreign national to board an aircraft for an international flight to Canada.

#### **Non-application**

**5** Section 4 does not apply to the following persons:

- (a) a person who has been only in the United States or Canada during the period of 14 days before the day on which they board;
- (b) an immediate family member of a Canadian citizen or of a **permanent resident** as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*;
- (c) a person registered as an Indian under the *Indian Act*;
- (d) a person who is authorized, in writing, by a consular officer of the Government of Canada to enter Canada for the purpose of reuniting immediate family members;
- (e) a crew member;
- (f) a person who is exempt from the requirement to obtain a temporary resident visa under paragraph 190(2)(a) of the *Immigration and Refugee Protection Regulations* and the immediate family members of that person;
- (g) a person who enters Canada at the invitation of the Minister of Health for the purpose of assisting in the COVID-19 coronavirus disease response;
- (h) a person who arrives by means of an aircraft operated by the Canadian Forces or the Department of National Defence;
- (i) a member of the Canadian Forces or a **visiting force** as defined in section 2 of the *Visiting Forces Act* and the immediate family members of that member;
- (j) a protected person within the meaning of subsection 95(2) of the *Immigration and Refugee Protection Act*;
- (k) a French citizen who resides in Saint-Pierre-et-Miquelon and has been only in Saint-Pierre-et-Miquelon, the United States or Canada



during the period of 14 days before the day on which they board;

**(l)** a person or any person in a class of persons who, in the opinion of Chief Public Health Officer appointed under subsection 6(1) of the *Public Health Agency of Canada Act*

**(i)** does not pose a risk of significant harm to public health, or

**(ii)** will provide an essential service while in Canada;

**(m)** a person whose presence in Canada, in the opinion of the Minister of Foreign Affairs, the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest; or

**(n)** a person in transit through Canada to another country.

### **Health Check Before Boarding**

#### **Health check – air carriers**

**6** Subject to section 8, an air carrier must conduct, at the boarding gate, a health check of every person prior to their boarding an aircraft for a flight to Canada.

#### **Health check**

**7 (1)** An air carrier conducting the health check must ask questions of every person regarding any signs and symptoms of illness suggesting respiratory infection referred to in the World Health Organization's document entitled *Management of ill travellers at points of entry – international airports, ports and ground crossings – in the context of the COVID-19 outbreak*, in particular the following symptoms:

**(a)** a fever higher than 38°C or feeling feverish;

**(b)** a cough; and

**(c) breathing difficulties.**

**Additional question**

**(2)** In addition to the health check, the air carrier must ask every person if they have been refused boarding in the past 14 days due to a medical reason related to COVID-19.

**False declaration – obligation for air carrier**

**(3)** The air carrier must advise every person not to provide answers to the health check or the additional question in a way they know to be false or misleading.

**Exception**

**8** The air carrier is not required to conduct the health check for the following persons:

**(a)** a crew member; or

**(b)** a person who provides a medical certificate certifying that symptoms referred to in subsection 7(1) are not related to COVID-19.

**Refusal to Board**

**Prohibition**

**9** The air carrier is prohibited from allowing a person to board an aircraft if

**(a)** the person's answers to the health check indicate that they may have signs or symptoms of COVID-19;

**(b)** the air carrier's observations during the health check indicate that the person may have signs or symptoms of COVID-19;

**(c)** the person's answer to the additional question asked to them under subsection 7(2) is in the affirmative; or

**(d)** the person is a competent adult and refuses to answer any questions asked of them under subsections 7(1) or (2).

#### **Wait period of 14 days**

**10** A person who is prohibited from boarding under section 9 is not permitted to board an aircraft for the purpose of being transported for a period of 14 days after the refusal, unless they have a medical certificate certifying that any symptoms referred to in subsection 7(1) are not related to COVID-19.

#### **Designated Provisions**

##### **Designation**

**11 (1)** The provisions of this Interim Order set out in column 1 of the schedule are designated as provisions the contravention of which may be dealt with under and in accordance with the procedure set out in sections 7.7 to 8.2 of the Act.

##### **Maximum amounts**

**(2)** The amounts set out in column 2 of the schedule are the maximum amounts of the penalty payable in respect of a contravention of the designated provisions set out in column 1.

##### **Notice**

**(3)** A notice referred to in subsection 7.7(1) of the Act must be in writing and must specify

**(a)** the particulars of the alleged contravention;

**(b)** that the person on whom the notice is served or to whom it is sent has the option of paying the amount specified in the notice or filing

with the Tribunal a request for a review of the alleged contravention or the amount of the penalty;

**(c)** that payment of the amount specified in the notice will be accepted by the Minister in satisfaction of the amount of the penalty for the alleged contravention and that no further proceedings under Part I of the Act will be taken against the person on whom the notice in respect of that contravention is served or to whom it is sent;

**(d)** that the person on whom the notice is served or to whom it is sent will be provided with an opportunity consistent with procedural fairness and natural justice to present evidence before the Tribunal and make representations in relation to the alleged contravention if the person files a request for a review with the Tribunal; and

**(e)** that the person on whom the notice is served or to whom it is sent will be considered to have committed the contravention set out in the notice if they fail to pay the amount specified in the notice and fail to file a request for a review with the Tribunal within the prescribed period.

### **Coming into Force**

**March 18, 2020**

**12 (1)** Subject to subsection (2), this Interim Order comes into force at noon Eastern Daylight Time on March 18, 2020.

**March 19, 2020**

**(2)** Sections 6 to 10 come into force at 00:00:01 a.m. Eastern Daylight Time on March 19, 2020.

### **Schedule**

**(Subsections 11(1) and (2))**

## Designated Provisions

Column I Designated Provision	Column II Maximum Amount of Penalty (\$)	
	Individual	Corporation
Section 4		25,000
Section 6		25,000
Subsection 7(1)		25,000
Subsection 7(2)		25,000
Subsection 7(3)		25,000
Section 9		25,000
Section 10	5,000	

## Footnotes

- a** S.C. 2004, c. 15, s. 5
- b** S.C. 2014, c. 39, s. 144
- c** S.C. 2015, c. 20, s. 12
- d** S.C. 2004, c. 15, s. 18
- e** S.C. 2001, c. 29, s. 39

f R.S., c. A-2

g S.C. 2004, c. 15, s. 11(1)

**Date modified:** 2020-03-23

**This is Exhibit "J" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be "Ralph", written over a horizontal line.

**A Commissioner for Taking Affidavits**



[Home](#) > [Orders in Council Division](#) > Orders In Council - Search

**PC Number:** 2020-0157

**Date:** 2020-03-18

Whereas the Governor in Council is of the opinion that

- (a) based on the declaration of a pandemic by the World Health Organisation, there is an outbreak of a communicable disease, namely COVID-19 coronavirus disease, in the majority of foreign countries;
- (b) the introduction or spread of the disease would pose an imminent and severe risk to public health in Canada;
- (c) the entry of persons into Canada who have recently been in a foreign country may introduce or contribute to the spread of the disease in Canada; and
- (d) no reasonable alternatives to prevent the introduction or spread of the disease are available;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to section 58 of the *Quarantine Act*, makes the annexed *Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada)*.



Attendu que la gouverneure en conseil est d'avis :

- a) que, compte tenu de la déclaration de pandémie de l'Organisation mondiale de la santé, la majorité des pays étrangers est aux prises avec l'apparition d'une maladie transmissible, soit la maladie à coronavirus COVID-19;
- b) que l'introduction ou la propagation de cette maladie présenterait un danger grave et imminent pour la santé publique au Canada;
- c) que l'entrée au Canada de personnes qui ont récemment séjourné dans ces pays favoriserait l'introduction ou la propagation de la maladie au Canada;
- d) qu'il n'existe aucune autre solution raisonnable permettant de prévenir l'introduction ou la propagation de la maladie au Canada;

À ces causes, sur recommandation de la ministre de la Santé et en vertu de l'article 58 de la *Loi sur la mise en quarantaine*, Son Excellence la Gouverneure générale en conseil prend le *Décret visant la réduction du risque d'exposition à la maladie à coronavirus COVID-19 au Canada (interdiction d'entrée au Canada)*, ci-après.

## **Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada)**

**Definition of *immediate family member***

1 In this Order, *immediate family member*, in respect of a person means

- (a) the spouse or common-law partner of the person;
- (b) a dependent child of the person or of the person's spouse or common-law partner; or
- (c) a dependent child of a dependent child referred to in paragraph (b).

**Prohibition**

2 Any *foreign national*, as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, is prohibited from entering Canada if they arrive by means of an aircraft from a foreign country.

**Non-application**

3 Section 2 does not apply to

- (a) a person who has been only in the United States or Canada during the period of 14 days before the day on which they arrived in Canada;
- (b) an immediate family member of a Canadian citizen or of a *permanent resident* as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*;
- (c) a person registered as an Indian under the *Indian Act*;
- (d) a person who is authorized, in writing, by a consular officer of the Government of Canada to enter Canada for the purpose of reuniting immediate family members;

- (e)** a *crew member* as defined in subsection 101.01(1) of the *Canadian Aviation Regulations*;
- (f)** a person who is exempt from the requirement to obtain a temporary resident visa under paragraph 190(2)(a) of the *Immigration and Refugee Protection Regulations* and the immediate family members of that person;
- (g)** a person who enters Canada at the invitation of the Minister of Health for the purpose of assisting in the COVID-19 coronavirus disease response;
- (h)** a person who arrives by means of an aircraft operated by the Canadian Forces or the Department of National Defence;
- (i)** a member of the Canadian Forces or a *visiting force* as defined in section 2 of the *Visiting Forces Act* and the immediate family members of that member;
- (j)** a protected person within the meaning of subsection 95(2) of the *Immigration and Refugee Protection Act*;
- (k)** a French citizen who resides in Saint-Pierre-et-Miquelon and has been only in Saint-Pierre-et-Miquelon, the United States or Canada during the period of 14 days before the day on which they arrived in Canada;
- (l)** a person or any person in a class of persons who, in the opinion of Chief Public Health Officer appointed under subsection 6(1) of the *Public Health Agency of Canada Act*
- (i)** does not pose a risk of significant harm to public health, or
- (ii)** will provide an essential service while in Canada;

**(m)** a person whose presence in Canada, in the opinion of the Minister of Foreign Affairs, the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest; or

**(n)** a person who arrives by means of an aircraft, if the scheduled arrival in Canada according to the flight plan is before 11:59 p.m. Eastern Daylight Time on March 18, 2020.

### **Powers and obligations**

**4** For greater certainty, this Order does not affect any of the powers and obligations set out in the *Quarantine Act*.

### **Effective period**

**5** This Order has effect for the period beginning at noon Eastern Daylight Time on March 18, 2020 and ending at noon Eastern Daylight Time on June 30, 2020.

## **Décret visant la réduction du risque d'exposition à la maladie à coronavirus COVID-19 au Canada (interdiction d'entrée au Canada)**

### **Définition de *membre de la famille immédiate***

**1** Dans le présent décret, *membre de la famille immédiate* s'entend, à l'égard d'une personne :

**a)** de son époux ou conjoint de fait;

- b)** de tout enfant qui est à sa charge ou à la charge de son époux ou conjoint de fait;
- c)** de l'enfant à charge d'un enfant à charge visé à l'alinéa b).

## **Interdiction**

**2** Il est interdit à tout *étranger* au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés* d'entrer au Canada s'il arrive à bord d'un aéronef en provenance d'un pays étranger.

## **Non-application**

**3** L'article 2 ne s'applique pas aux personnes suivantes :

- a)** la personne qui a séjourné uniquement aux États-Unis ou au Canada durant la période de quatorze jours précédant le jour de son arrivée au Canada;
- b)** le membre de la famille immédiate d'un citoyen canadien ou d'un *résident permanent* au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*;
- c)** la personne qui est inscrite au registre des Indiens en vertu de la *Loi sur les Indiens*;
- d)** la personne qui est autorisée, par écrit, par un agent consulaire du gouvernement du Canada d'entrer au Canada dans le but de réunir les membres d'une famille immédiate;
- e)** le *membre d'équipage* au sens du paragraphe 101.01(1) du *Règlement de l'aviation canadien*;

- f)** la personne qui est dispensée de l'obligation d'obtenir un visa de résident temporaire en application de l'alinéa 190(2)a) du *Règlement sur l'immigration et la protection des réfugiés* ainsi que les membres de sa famille immédiate;
- g)** la personne qui entre au Canada à l'invitation de la ministre de la Santé afin de participer aux efforts de lutte contre la maladie à coronavirus COVID-19;
- h)** la personne qui arrive à bord d'un aéronef exploité par les Forces canadiennes ou le ministère de la Défense nationale;
- i)** le membre des Forces canadiennes ou d'une *force étrangère présente au Canada* au sens de l'article 2 de la *Loi sur les forces étrangères présentes au Canada* ainsi que les membres de sa famille immédiate;
- j)** la personne protégée au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*;
- k)** le citoyen français qui réside à Saint-Pierre-et-Miquelon et qui a séjourné uniquement à Saint-Pierre-et-Miquelon, aux États-Unis ou au Canada durant la période de quatorze jours précédant le jour de son arrivée au Canada;
- l)** la personne qui, individuellement ou au titre de son appartenance à une catégorie déterminée de personnes, selon l'administrateur en chef nommé en application du paragraphe 6(1) de la *Loi sur l'Agence de la santé publique du Canada* :
- (i)** soit ne présente pas de danger grave pour la santé publique,
  - (ii)** soit fournira un service essentiel durant son séjour au Canada;

**m)** la personne dont la présence au Canada est, de l'avis du ministre des Affaires étrangères, du ministre de la Citoyenneté et de l'Immigration ou du ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national;

**n)** la personne qui arrive à bord d'un aéronef dont le plan de vol prévoit une arrivée au Canada avant 23 h 59, le 18 mars 2020, heure avancée de l'Est.

### **Pouvoirs et obligations**

**4** Il est entendu que le présent décret ne porte pas atteinte aux pouvoirs et aux obligations prévus par la *Loi sur la mise en quarantaine*.

### **Durée**

**5** Le présent décret s'applique pendant la période commençant à midi, le 18 mars 2020, heure avancée de l'Est, et se terminant à midi, le 30 juin 2020, heure avancée de l'Est.

[Back to Form](#)

**Date modified:** 2017-04-31

**This is Exhibit "K" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be "Clayton", written over a horizontal line.

**A Commissioner for Taking Affidavits**



**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some transportation-related measures and guidance. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please contact us by email.

For information on COVID-19 updates, please visit Canada.ca/coronavirus.

## Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 2

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**From:** Transport Canada

Whereas the annexed *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 2* is required to deal with a significant risk, direct or indirect, to aviation safety or the safety of the public;

Whereas the provisions of the annexed Order may be contained in a regulation made pursuant to sections 4.71 <sup>a</sup> and 4.9 <sup>b</sup>, paragraphs 7.6(1)(a) <sup>c</sup> and (b) <sup>d</sup> and section 7.7 <sup>e</sup> of the *Aeronautics Act* <sup>f</sup>;

And whereas, pursuant to subsection 6.41(1.2) <sup>g</sup> of that Act, the Minister of Transport has consulted with the persons and organizations that the Minister considers appropriate in the circumstances before making the annexed Order;

Therefore, the Minister of Transport, pursuant to subsection 6.41(1) <sup>g</sup> of the *Aeronautics Act* <sup>f</sup>, makes the annexed *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 2*.

Ottawa, March 20, 2020

119

Original signed by  
Le ministre des Transports,  
Marc Garneau  
Minister of Transport

## Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 2

### Interpretation

#### Definitions

**1 (1)** The following definitions apply in this Interim Order.

**COVID-19** means the coronavirus disease 2019. (*COVID-19*)

**foreign national** means a person who is not a Canadian citizen or a permanent resident, and includes a stateless person. (*étranger*)

**immediate family member**, in respect of a person, means

- (a) the spouse or common-law partner of the person;
- (b) a dependent child of the person or of the person's spouse or common-law partner;
- (c) a dependent child of a dependent child referred to in paragraph (b);
- (d) the parent or step-parent of the person or of the person's spouse or common-law partner; or
- (e) the guardian or tutor of the person. (*membre de la famille immédiate*)

**Regulations** means the *Canadian Aviation Regulations*. (*Règlement*)

### Interpretation

**(2)** Unless the context requires otherwise, all other words and expressions <sup>119</sup> used in this Interim Order have the same meaning as in the Regulations.

#### **Conflict**

**(3)** In the event of a conflict between this Interim Order and the Regulations, the Interim Order prevails.

#### **Application**

##### **Application – international flights other than flights from the United States**

**(1)** Sections 3 and 4 of this Interim Order apply to air carriers operating flights to Canada from any country other than the United States and that operate an aircraft under Part VII of the Regulations, except an air carrier that operates an aircraft under Subpart 2 of Part VII of the Regulations.

##### **Application – flights from the United States**

**(2)** Sections 5 and 6 of this Interim Order apply to air carriers operating flights to Canada from the United States and that operate an aircraft under Part VII of the Regulations, except an air carrier that operates an aircraft under Subpart 2 of Part VII of the Regulations, and to their passengers.

##### **Application – health check for all passengers to Canada**

**(3)** Sections 7 to 11 of this Interim Order apply to the following air carriers operating flights to Canada and to their passengers:

- (a) an air carrier that operates an aircraft with a passenger seating configuration of 20 or more, excluding pilot seats, under Subpart 1 of Part VII of the Regulations; and
- (b) an air carrier that operates an aircraft under Subpart 5 of Part VII of the Regulations.

## International Flights except Flights from the United States

120

### Prohibition

**3** An air carrier is prohibited from permitting a foreign national to board an aircraft for a flight to Canada departing from any country other than the United States.

### Non-application

**4** Section 3 does not apply to the following persons:

- (a) an immediate family member of a Canadian citizen or of a **permanent resident** as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*;
- (b) a person registered as an Indian under the *Indian Act*;
- (c) a person who is authorized, in writing, by a consular officer of the Government of Canada to enter Canada for the purpose of reuniting immediate family members;
- (d) a crew member;
- (e) a person who is exempt from the requirement to obtain a temporary resident visa under paragraph 190(2)(a) of the *Immigration and Refugee Protection Regulations* and the immediate family members of that person;
- (f) a person who enters Canada at the invitation of the Minister of Health for the purpose of assisting in the COVID-19 response;
- (g) a person who arrives by means of an aircraft operated by the Canadian Forces or the Department of National Defence;
- (h) a member of the Canadian Forces or a **visiting force**, as defined in section 2 of the *Visiting Forces Act*, and the immediate family members of that member;

- (i) a protected person within the meaning of subsection 95(2) of the *Immigration and Refugee Protection Act*; 121
- (j) a French citizen who resides in Saint-Pierre-et-Miquelon and has been only in Saint-Pierre-et-Miquelon, the United States or Canada during the period of 14 days before the day on which they board;
- (k) a person or any person in a class of persons who, in the opinion of the Chief Public Health Officer appointed under subsection 6(1) of the *Public Health Agency of Canada Act*
- (i) does not pose a risk of significant harm to public health, or
  - (ii) will provide an essential service while in Canada;
- (l) a person whose presence in Canada, in the opinion of the Minister of Foreign Affairs, the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest; or
- (m) a person in transit through Canada to another country.

## Flights from the United States

### Notification

**5** An air carrier must notify every foreign national that they may be prohibited from entering Canada under any of the emergency orders made under the *Quarantine Act* listed in Schedule 1.

### Confirmation

**6** Before boarding a flight, a foreign national must confirm that they have read the emergency orders made under the *Quarantine Act* listed in Schedule 1 and that, to the best of their knowledge, they are not prohibited from entering Canada under any of those orders.

## Health Check of All Passengers to Canada

122

### Health check – air carriers

**7** Subject to section 9, an air carrier must conduct, at the boarding gate, a health check of every person prior to their boarding an aircraft for a flight to Canada.

### Health check

**8 (1)** An air carrier conducting the health check must ask questions of every person to verify if they exhibit the following symptoms:

- (a) a fever;
- (b) a cough; and
- (c) breathing difficulties.

### Additional question

**(2)** In addition to the health check, the air carrier must ask every person if they have been refused boarding in the past 14 days due to a medical reason related to COVID-19.

### False declaration – obligation for air carrier

**(3)** The air carrier must advise every person not to provide answers to the health check or the additional question in a way they know to be false or misleading.

### Exception

**9** The air carrier is not required to conduct the health check for the following persons:

- (a) a crew member; or

(b) a person who provides a medical certificate certifying that <sup>123</sup> symptoms referred to in subsection 8(1) are not related to COVID-19.

### Prohibition

**10** The air carrier is prohibited from allowing a person to board an aircraft if

- (a) the person's answers to the health check indicate that they exhibit
  - (i) a fever and cough, or
  - (ii) a fever and breathing difficulties;
- (b) the air carrier observes, during the health check, that the person is exhibiting
  - (i) a fever and cough, or
  - (ii) a fever and breathing difficulties;
- (c) the person's answer to the additional question asked to them under subsection 8(2) is in the affirmative; or
- (d) the person is a competent adult and refuses to answer any questions asked of them under subsection 8(1) or (2).

### Wait period of 14 days

**11** A person who is prohibited from boarding under section 10 is not permitted to board an aircraft for the purpose of being transported for a period of 14 days after the refusal, unless they have a medical certificate certifying that any symptoms referred to in subsection 8(1) that the person is exhibiting are not related to COVID-19.

## Designated Provisions

### Designation

**12 (1)** The provisions of this Interim Order set out in column 1 of Schedule 2 are designated as provisions the contravention of which may be dealt with under and in accordance with the procedure set out in sections 7.7 to 8.2 of the Act. 124

#### Maximum amounts

**(2)** The amounts set out in column 2 of Schedule 2 are the maximum amounts of the penalty payable in respect of a contravention of the designated provisions set out in column 1.

#### Notice

**(3)** A notice referred to in subsection 7.7(1) of the Act must be in writing and must specify

(a) the particulars of the alleged contravention;

(b) that the person on whom the notice is served or to whom it is sent has the option of paying the amount specified in the notice or filing with the Tribunal a request for a review of the alleged contravention or the amount of the penalty;

(c) that payment of the amount specified in the notice will be accepted by the Minister in satisfaction of the amount of the penalty for the alleged contravention and that no further proceedings under Part I of the Act will be taken against the person on whom the notice in respect of that contravention is served or to whom it is sent;

(d) that the person on whom the notice is served or to whom it is sent will be provided with an opportunity consistent with procedural fairness and natural justice to present evidence before the Tribunal and make representations in relation to the alleged contravention if the person files a request for a review with the Tribunal; and



(e) that the person on whom the notice is served or to whom it is sent <sup>125</sup> will be considered to have committed the contravention set out in the notice if they fail to pay the amount specified in the notice and fail to file a request for a review with the Tribunal within the prescribed period.

## Repeal

**13 The *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19*, made on March 17, 2020, is repealed.**

## Coming into Force

March 21, 2020

**14 (1)** Subject to subsection (2), this Interim Order comes into force at 00:00:01 a.m. Eastern Daylight Time on March 21, 2020.

March 27, 2020

**(2)** Section 6 comes into force at noon Eastern Daylight Time on March 27, 2020.

## Schedule 1

(Sections 5 and 6)

## Emergency Orders made under the Quarantine Act

*(1) Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*

## Schedule 2

(Subsections 12(1) and (2))

**Designated Provisions**

126

<b>Column I</b> <b>Designated Provision</b>	<b>Column II</b> <b>Maximum Amount of Penalty (\$)</b>	
	<b>Individual</b>	<b>Corporation</b>
Section 3		25,000
Section 5		25,000
Section 6	5,000	
Subsection 7		25,000
Subsection 8(1)		25,000
Subsection 8(2)		25,000
Subsection 8(3)		25,000
Section 10		25,000
Section 10	5,000	

**Footnotes**

- a** S.C. 2004, c. 15, s. 5
- b** S.C. 2014, c. 39, s. 144
- c** S.C. 2015, c. 20, s. 12
- d** S.C. 2004, c. 15, s. 18
- e** S.C. 2001, c. 29, s. 39

f R.S., c. A-2

g S.C. 2004, c. 15, s. 11(1)

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**Date modified:** 2020-03-24

This is Exhibit "L" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 29 day of April, 2020

A handwritten signature in blue ink, appearing to be "J. Son", written over a horizontal line.

A Commissioner for Taking Affidavits



[Home](#) > [Orders in Council Division](#) > Orders In Council - Search

**PC Number:** 2020-0161

**Date:** 2020-03-20

Whereas the Governor in Council is of the opinion that

- (a) based on the declaration of a pandemic by the World Health Organization, there is an outbreak of a communicable disease, namely coronavirus disease 2019 (COVID-19), in the majority of foreign countries;
- (b) the introduction or spread of the disease would pose an imminent and severe risk to public health in Canada;
- (c) the entry of persons into Canada who have recently been in a foreign country may introduce or contribute to the spread of the disease in Canada; and
- (d) no reasonable alternatives to prevent the introduction or spread of the disease are available;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to section 58 of the *Quarantine Act*, makes the annexed *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*.

Attendu que la gouverneure en conseil est d'avis :

- a) que, compte tenu de la déclaration de pandémie de l'Organisation mondiale de la santé, la majorité des pays étrangers est aux prises avec l'apparition d'une maladie transmissible, soit la maladie à coronavirus 2019 (COVID-19);
- b) que l'introduction ou la propagation de cette maladie présenterait un danger grave et imminent pour la santé publique au Canada;
- c) que l'entrée au Canada de personnes qui ont récemment séjourné dans un pays étranger favoriserait l'introduction ou la propagation de la maladie au Canada;
- d) qu'il n'existe aucune autre solution raisonnable permettant de prévenir l'introduction ou la propagation de la maladie au Canada,

À ces causes, sur recommandation de la ministre de la Santé et en vertu de l'article 58 de la *Loi sur la mise en quarantaine*, Son Excellence la Gouverneure générale en conseil prend le *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance des États-Unis)*, ci-après.

## **Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)**

### **Definition of *foreign national***

**1** In this Order, a ***foreign national*** means a person who is not a Canadian citizen or a permanent resident, and includes a stateless person.

### **Prohibition — signs and symptoms**

**2 (1)** A foreign national is prohibited from entering Canada from the United States if they exhibit the following signs and symptoms:

- (a)** a fever and cough; or
- (b)** a fever and breathing difficulties.

### **Non-application — certain persons**

**(2)** Subsection (1) does not apply to persons referred to in subsection 4(2) who seek to enter Canada from the United States for the purpose of making a claim for refugee protection.

### **Prohibition — optional or discretionary purpose**

**3 (1)** A foreign national is prohibited from entering Canada from the United States unless

- (a)** they are not entering for an optional or discretionary purpose, including tourism, recreation and entertainment; and

**(b)** they have been only in the United States or Canada during the period of 14 days before the day on which they seek to enter Canada.

### **Non-application — certain persons**

**(2)** Paragraph (1)(b) does not apply to persons referred to in

**(a)** paragraphs 4(2)(a) to (d); or

**(b)** paragraphs 3(1)(a) to (o) of the *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any country other than the United States)*.

### **Prohibition — claim for refugee protection**

**4 (1)** A foreign national is prohibited from entering Canada from the United States for the purpose of making a claim for refugee protection.

### **Non-application — certain persons**

**(2)** Subsection (1) does not apply to

**(a)** a citizen of the United States;

**(b)** a stateless habitual resident of the United States;

**(c)** a mother, father or legal guardian within the meaning of the *Immigration and Refugee Protection Regulations* of a person who

**(i)** has not attained the age of 18 years,

**(ii)** is a citizen of the United States, and



(iii) who seeks to enter Canada for the purpose of making a claim for refugee protection; or

(d) a person who

(i) has not attained the age of 18 years and is not accompanied by their mother, father or legal guardian within the meaning of the *Immigration and Refugee Protection Regulations*,

(ii) has neither a spouse nor a common-law partner within the meaning of those Regulations, and

(iii) has neither a mother or father nor a legal guardian within the meaning of those Regulations in the United States.

### **Non-application — order**

5 (1) This Order does not apply to

(a) a person registered as an Indian under the *Indian Act*;

(b) a person who, in the opinion of the Chief Public Health Officer appointed under subsection 6(1) of the *Public Health Agency of Canada Act*, does not pose a risk of significant harm to public health; or

(c) a protected person within the meaning of subsection 95(2) of the *Immigration and Refugee Protection Act*.

### **Non-application — aircraft**

(2) Section 2 does not apply to a person who arrives by means of an aircraft, if the scheduled arrival in Canada according to the flight plan is before 11:59 a.m. Eastern Daylight Time on March 21, 2020.

## **Powers and obligations**

**6** For greater certainty, this Order does not affect any of the powers and obligations set out in the *Quarantine Act*.

## **Effective period**

**7** This Order has effect for the period beginning at 00:00:01 a.m. Eastern Daylight Time on March 21, 2020, and ending at 00:00:01 a.m. Eastern Daylight Time on April 21, 2020.

## **Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance des États-Unis)**

### **Définition de *étranger***

**1** Dans le présent décret, *étranger* s'entend d'une personne autre qu'un citoyen canadien ou un résident permanent; la présente définition vise également les apatrides.

### **Interdiction — signes et symptômes**

**2 (1)** Il est interdit à tout étranger d'entrer au Canada en provenance des États-Unis s'il présente les signes et les symptômes suivants :

- a)** soit une fièvre et de la toux;
- b)** soit une fièvre et des difficultés respiratoires.

## **Non-application — certaines personnes**

(2) Le paragraphe (1) ne s'applique pas aux personnes visées au paragraphe 4(2) qui cherchent à entrer au Canada en provenance des États-Unis afin de faire une demande d'asile.

## **Interdiction — fins optionnelles ou discrétionnaires**

3 (1) Il est interdit à tout étranger d'entrer au Canada en provenance des États-Unis à moins de satisfaire aux conditions suivantes :

- a) il entre à des fins autre que des fins de nature optionnelle ou discrétionnaire telle le tourisme, les loisirs ou le divertissement;
- b) il a séjourné uniquement aux États-Unis ou au Canada durant la période de quatorze jours précédant la date à laquelle il cherche à entrer au Canada.

## **Non-application — certaines personnes**

(2) L'alinéa (1)b) ne s'applique pas aux personnes suivantes :

- a) celles visées aux alinéas 4(2)a) à d);
- b) celles visées aux alinéas 3(1)a) à o) du *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance d'un pays étranger autre que les États-Unis)*.

## **Interdiction — demande d'asile**

**4 (1)** Il est interdit à l'étranger d'entrer au Canada en provenance des États-Unis afin de faire une demande d'asile.

### **Non-application — certaines personnes**

**(2)** Le paragraphe (1) ne s'applique pas :

- a)** au citoyen des États-Unis;
- b)** à l'apatride qui a sa résidence habituelle aux États-Unis;
- c)** à la mère, au père ou au tuteur légal au sens du *Règlement sur l'immigration et la protection des réfugiés* d'une personne qui :
  - (i)** a moins de dix-huit ans,
  - (ii)** est un citoyen des États-Unis,
  - (iii)** cherche à entrer au Canada pour faire une demande d'asile;
- d)** à la personne qui satisfait aux exigences suivantes :
  - (i)** elle a moins de dix-huit ans et n'est pas accompagnée par son père, sa mère ou son tuteur légal au sens du *Règlement sur l'immigration et la protection des réfugiés*,
  - (ii)** elle n'a ni époux ni conjoint de fait au sens de ce règlement,
  - (iii)** elle n'a ni père, ni mère, ni tuteur légal au sens de ce règlement aux États-Unis.

### **Non-application — décret**

**5 (1)** Le présent décret ne s'applique pas :

- a) à la personne qui est inscrite au registre des Indiens en vertu de la *Loi sur les Indiens*;
- b) à la personne qui, selon l'administrateur en chef nommé en application du paragraphe 6(1) de la *Loi sur l'Agence de la santé publique du Canada*, ne présente pas de danger grave pour la santé publique;
- c) à la personne protégée au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*.

### **Non-application — aéronef**

(2) L'article 2 ne s'applique pas à la personne qui arrive à bord d'un aéronef dont le plan de vol prévoit une arrivée au Canada avant 11 h 59, heure avancée de l'Est, le 21 mars 2020.

### **Pouvoirs et obligations**

6 Il est entendu que le présent décret ne porte pas atteinte aux pouvoirs et aux obligations prévus par la *Loi sur la mise en quarantaine*.

### **Durée**

7 Le présent décret s'applique pendant la période commençant à 0 h 0 min 1 s, heure avancée de l'Est, le 21 mars 2020, et se terminant à 0 h 0 min 1 s, heure avancée de l'Est, le 21 avril 2020.

[Back to Form](#)

**Date modified:** 2017-04-31

**This is Exhibit "M" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be "S. J. K.", written over a horizontal line.

**A Commissioner for Taking Affidavits**



[Home](#) > [Orders in Council Division](#) > Orders In Council - Search

**PC Number:** 2020-0162

**Date:** 2020-03-22

Whereas the Governor in Council is of the opinion that

- (a) based on the declaration of a pandemic by the World Health Organization, there is an outbreak of a communicable disease, namely coronavirus disease 2019 (COVID-19), in the majority of foreign countries;
- (b) the introduction or spread of the disease would pose an imminent and severe risk to public health in Canada;
- (c) the entry of persons into Canada who have recently been in a foreign country may introduce or contribute to the spread of the disease in Canada; and
- (d) no reasonable alternatives to prevent the introduction or spread of the disease are available;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to section 58 of the *Quarantine Act*, makes the annexed *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any country other than the United States)*.



Attendu que la gouverneure en conseil est d'avis :

- a) que, compte tenu de la déclaration de pandémie de l'Organisation mondiale de la santé, la majorité des pays étrangers est aux prises avec l'apparition d'une maladie transmissible, soit la maladie à coronavirus 2019 (COVID-19);
- b) que l'introduction ou la propagation de cette maladie présenterait un danger grave et imminent pour la santé publique au Canada;
- c) que l'entrée au Canada de personnes qui ont récemment séjourné dans un pays étranger favoriserait l'introduction ou la propagation de la maladie au Canada;
- d) qu'il n'existe aucune autre solution raisonnable permettant de prévenir l'introduction ou la propagation de la maladie au Canada,

À ces causes, sur recommandation de la ministre de la Santé et en vertu de l'article 58 de la *Loi sur la mise en quarantaine*, Son Excellence la Gouverneure générale en conseil prend le *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance d'un pays étranger autre que les États-Unis)*, ci-après.

## **Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any country other than the United States)**

### **Definition of *immediate family member***

**1** In this Order, *immediate family member*, in respect of a person means

- (a)** the spouse or common-law partner of the person;
- (b)** a dependent child of the person or of the person's spouse or common-law partner;
- (c)** a dependent child of a dependent child referred to in paragraph (b);
- (d)** the parent or step-parent of the person or of the person's spouse or common-law partner; or
- (e)** the guardian or tutor of the person.

### **Prohibition**

**2** Any *foreign national*, as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, is prohibited from entering Canada if they arrive from a foreign country other than the United States.

### **Non-application**

**3 (1)** Section 2 does not apply to

- (a)** an immediate family member of a Canadian citizen or of a *permanent resident* as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*;

- (b)** a person registered as an Indian under the *Indian Act*;
- (c)** a person who is authorized, in writing, by a consular officer of the Government of Canada to enter Canada for the purpose of reuniting immediate family members;
- (d)** a *crew member* as defined in subsection 101.01(1) of the *Canadian Aviation Regulations*;
- (e)** a *member of a crew* as defined in subsection 3(1) of the *Immigration and Refugee Protection Regulations*;
- (f)** a person who is exempt from the requirement to obtain a temporary resident visa under paragraph 190(2)(a) of the *Immigration and Refugee Protection Regulations* and the immediate family members of that person;
- (g)** a person who enters Canada at the invitation of the Minister of Health for the purpose of assisting in the COVID-19 response;
- (h)** a person who arrives by any means of a conveyance operated by the Canadian Forces or the Department of National Defence;
- (i)** a member of the Canadian Forces or a *visiting force*, as defined in section 2 of the *Visiting Forces Act*, and the immediate family members of that member;
- (j)** a protected person within the meaning of subsection 95(2) of the *Immigration and Refugee Protection Act*;
- (k)** a French citizen who resides in Saint-Pierre-et-Miquelon and has been only in Saint-Pierre-et-Miquelon, the United States or Canada during the period of 14 days before the day on which they arrived in Canada;

- (l) a person or any person in a class of persons who, in the opinion of the Chief Public Health Officer appointed under subsection 6(1) of the *Public Health Agency of Canada Act*
- (i) does not pose a risk of significant harm to public health, or
- (ii) will provide an essential service while in Canada;
- (m) a person whose presence in Canada, in the opinion of the Minister of Foreign Affairs, the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest;
- (n) a person who arrives by means of an aircraft, if the scheduled arrival in Canada according to the flight plan is no later than the day following the day on which this Order is made; or
- (o) a person who arrives by means of a *vessel* as defined in section 2 of the *Canada Shipping Act, 2001*, if the vessel departed no later than the day on which this Order is made and had a scheduled destination of Canada upon its departure.

### **Exception — signs and symptoms**

(2) Despite subsection (1), a person who is referred to in paragraphs (1)(a), (c) to (i) or (k) to (o) is prohibited from entering Canada from a foreign country other than the United States if they exhibit the following signs and symptoms:

- (a) a fever and cough; or
- (b) a fever and breathing difficulties.

### **Exception — optional or discretionary purpose**

**(3)** Despite subsection (1), a person referred to in paragraph (1)(a), (d) to (f) or (k) or subparagraph (1)(l)(i) who seeks to enter Canada for an optional or discretionary purpose, including tourism, recreation and entertainment, is prohibited from entering Canada from a foreign country other than the United States.

### **Powers and obligations**

**4** For greater certainty, this Order does not affect any of the powers and obligations set out in the *Quarantine Act*.

### **Repeal of P.C. 2020-0157**

**5** The *Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada)* is repealed.

### **Effective period**

**6** This Order has effect for the period beginning on the day on which it is made and ending on June 30, 2020.

**Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance d'un pays étranger autre que les États-Unis)**

**Définition de *membre de la famille immédiate***

**1** Dans le présent décret, *membre de la famille immédiate* s'entend, à l'égard d'une personne :

- a) de son époux ou conjoint de fait;
- b) de tout enfant qui est à sa charge ou à la charge de son époux ou conjoint de fait;
- c) de l'enfant à charge d'un enfant à charge visé à l'alinéa b);
- d) de son parent ou de son beau-parent ou du parent ou beau-parent de son époux ou conjoint de fait;
- e) de son tuteur.

### **Interdiction**

**2** Il est interdit à tout *étranger* au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés* d'entrer au Canada en provenance de tout pays étranger autre que les États-Unis.

### **Non-application**

**3 (1)** L'article 2 ne s'applique pas aux personnes suivantes :

- a) le membre de la famille immédiate d'un citoyen canadien ou d'un *résident permanent* au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*;
- b) la personne qui est inscrite au registre des Indiens en vertu de la *Loi sur les Indiens*;

- c)** la personne qui est autorisée, par écrit, par un agent consulaire du gouvernement du Canada à entrer au Canada dans le but de réunir les membres d'une famille immédiate;
- d)** le *membre d'équipage* au sens du paragraphe 101.01(1) du *Règlement de l'aviation canadien*;
- e)** le *membre d'équipage* au sens du paragraphe 3(1) du *Règlement sur l'immigration et la protection des réfugiés*;
- f)** la personne qui est dispensée de l'obligation d'obtenir un visa de résident temporaire en application de l'alinéa 190(2)a) du *Règlement sur l'immigration et la protection des réfugiés* ainsi que les membres de sa famille immédiate;
- g)** la personne qui entre au Canada à l'invitation de la ministre de la Santé afin de participer aux efforts de lutte contre la COVID-19;
- h)** la personne qui arrive à bord d'un véhicule exploité par les Forces canadiennes ou le ministère de la Défense nationale;
- i)** le membre des Forces canadiennes ou d'une *force étrangère présente au Canada* au sens de l'article 2 de la *Loi sur les forces étrangères présentes au Canada* ainsi que les membres de sa famille immédiate;
- j)** la personne protégée au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*;
- k)** le citoyen français qui réside à Saint-Pierre-et-Miquelon et qui a séjourné uniquement à Saint-Pierre-et-Miquelon, aux États-Unis ou au Canada durant la période de quatorze jours précédant le jour de son arrivée au Canada;

l) la personne qui, individuellement ou au titre de son appartenance à une catégorie déterminée de personnes, selon l'administrateur en chef nommé en application du paragraphe 6(1) de la *Loi sur l'Agence de la santé publique du Canada* :

(i) soit ne présente pas de danger grave pour la santé publique,

(ii) soit fournira un service essentiel durant son séjour au Canada;

m) la personne dont la présence au Canada est, de l'avis du ministre des Affaires étrangères, du ministre de la Citoyenneté et de l'Immigration ou du ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national;

n) la personne qui arrive à bord d'un aéronef dont le plan de vol prévoit une arrivée au Canada au plus tard le jour suivant le jour de la prise du présent décret;

o) la personne qui arrive à bord d'un *bâtiment* au sens de la *Loi de 2001 sur la marine marchande du Canada*, à condition que le bâtiment ait quitté son point de départ à destination du Canada au plus tard le jour de la prise du présent décret.

### **Exception — signes et symptômes**

(2) Malgré le paragraphe (1), il est interdit à la personne visée à l'un des alinéas (1)a), c) à i) et k) à o) d'entrer au Canada en provenance de tout pays étranger autre que les États-Unis si elle présente les signes et les symptômes suivants :

a) soit une fièvre et de la toux;

b) soit une fièvre et des difficultés respiratoires.



## **Exception — fins de nature optionnelle ou discrétionnaire**

**(3)** Malgré le paragraphe (1), il est interdit à la personne visée à l'un des alinéas (1)a), d) à f), et k) et au sous-alinéa (1)l)(i) qui cherche à entrer au Canada à des fins de nature optionnelle ou discrétionnaire, tels le tourisme, les loisirs ou le divertissement, d'entrer au Canada en provenance de tout pays étranger autre que les États-Unis.

## **Pouvoirs et obligations**

**4** Il est entendu que le présent décret ne porte pas atteinte aux pouvoirs et aux obligations prévus par la *Loi sur la mise en quarantaine*.

## **Abrogation du C.P. 2020-0157**

**5** Le *Décret visant la réduction du risque d'exposition à la maladie à coronavirus COVID-19 au Canada (interdiction d'entrée au Canada)* est abrogé.

## **Durée**

**6** Le présent décret s'applique pendant la période commençant à la date de sa prise et se terminant le 30 juin 2020.

[Back to Form](#)

**Date modified:** 2017-04-31

**This is Exhibit "N" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be "Clayton", written over a horizontal line.

**A Commissioner for Taking Affidavits**

**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some transportation-related measures and guidance. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please contact us by email.

For information on COVID-19 updates, please visit [Canada.ca/coronavirus](https://Canada.ca/coronavirus).

## Repealed - Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 3

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**From: Transport Canada**

Whereas the annexed *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 3* is required to deal with a significant risk, direct or indirect, to aviation safety or the safety of the public;

Whereas the provisions of the annexed Order may be contained in a regulation made pursuant to sections 4.71 <sup>a</sup> and 4.9 <sup>b</sup>, paragraphs 7.6(1)(a) <sup>c</sup> and (b) <sup>d</sup> and section 7.7 <sup>e</sup> of the *Aeronautics Act* <sup>f</sup>;

And whereas, pursuant to subsection 6.41(1.2) <sup>g</sup> of that Act, the Minister of Transport has consulted with the persons and organizations that the Minister considers appropriate in the circumstances before making the annexed Order;

Therefore, the Minister of Transport, pursuant to subsection 6.41(1) <sup>g</sup> of the *Aeronautics Act* <sup>f</sup>, makes the annexed *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 3*.

Ottawa, March 24, 2020

Approved by the Minister of Transport,  
Marc Garneau  
Minister of Transport

## Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 3

### Interpretation

#### Definitions

**1 (1)** The following definitions apply in this Interim Order.

**COVID-19** means the coronavirus disease 2019. (*COVID-19*)

**foreign national** means a person who is not a Canadian citizen or a permanent resident, and includes a stateless person. (*étranger*)

**Regulations** means the *Canadian Aviation Regulations*. (*Règlement*)

### Interpretation

**(2)** Unless the context requires otherwise, all other words and expressions used in this Interim Order have the same meaning as in the Regulations.

#### Conflict

**(3)** In the event of a conflict between this Interim Order and the Regulations, the Interim Order prevails.

### Application

**Application – international flights other than flights from the United States**

**2 (1)** Sections 3 and 4 of this Interim Order apply to air carriers operating flights to Canada from any country other than the United States and that operate an aircraft under Part VII of the Regulations, except an air carrier that operates an aircraft under Subpart 2 of Part VII of the Regulations. 153

**Application – flights from the United States**

**(2)** Sections 5 to 8 of this Interim Order apply to air carriers operating flights to Canada from the United States and that operate an aircraft under Part VII of the Regulations, except an air carrier that operates an aircraft under Subpart 2 of Part VII of the Regulations, and to their passengers.

**Application – health check for all passengers to Canada**

**(3)** Sections 9 to 13 of this Interim Order apply to the following air carriers operating flights to Canada and to their passengers:

- (a) an air carrier that operates an aircraft with a passenger seating configuration of 20 or more, excluding pilot seats, under Subpart 1 of Part VII of the Regulations; and
- (b) an air carrier that operates an aircraft under Subpart 5 of Part VII of the Regulations.

**International Flights except Flights from the United States**

**Prohibition**

**3** An air carrier is prohibited from permitting a foreign national to board an aircraft for a flight to Canada departing from any country other than the United States.

**Non-application**

**4** Section 3 does not apply to

- (a) a foreign national who is permitted to enter Canada under the <sup>154</sup> emergency order made by the Governor General in Council, pursuant to the *Quarantine Act*, entitled *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any country other than the United States)*; or
- (b) a foreign national in transit through Canada to another country.

## Flights from the United States

### Notification

**5** An air carrier must notify every foreign national that they may be prohibited from entering Canada under the emergency order made by the Governor General in Council, pursuant to the *Quarantine Act*, entitled *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*.

### Confirmation

**6** Before boarding a flight, a foreign national must confirm that they have read the emergency order referred to in section 5 and that, to the best of their knowledge, they are not prohibited from entering Canada under the order.

### Prohibition

**7** An air carrier is prohibited from permitting a foreign national to board an aircraft for a flight to Canada if the foreign national is a competent adult and does not provide, or refuses to provide, the confirmation referred to in section 6.

### False declaration

**8** A foreign national must not provide a confirmation under section 6 that they know to be false or misleading. <sup>155</sup>

## Health Check of All Passengers to Canada

### Health check — air carriers

**9** Subject to section 11, an air carrier must conduct, at the boarding gate, a health check of every person prior to their boarding an aircraft for a flight to Canada.

### Health check

**10 (1)** An air carrier conducting the health check must ask questions of every person to verify if they exhibit the following symptoms:

- (a) a fever;
- (b) a cough; and
- (c) breathing difficulties.

### Additional question

**(2)** In addition to the health check, the air carrier must ask every person if they have been refused boarding in the past 14 days due to a medical reason related to COVID-19.

### False declaration — obligation for air carrier

**(3)** The air carrier must advise every person not to provide answers to the health check or the additional question in a way they know to be false or misleading.

### Exceptions

**11** The air carrier is not required to conduct the health check for the following persons:

- (a) a crew member; or
- (b) a person who provides a medical certificate certifying that symptoms referred to in subsection 10(1) are not related to COVID-19.

### **Prohibition**

**12** The air carrier is prohibited from allowing a person to board an aircraft if

- (a) the person's answers to the health check indicate that they exhibit
  - (i) a fever and cough, or
  - (ii) a fever and breathing difficulties;
- (b) the air carrier observes, during the health check, that the person is exhibiting
  - (i) a fever and cough, or
  - (ii) a fever and breathing difficulties;
- (c) the person's answer to the additional question asked to them under subsection 10(2) is in the affirmative; or
- (d) the person is a competent adult and refuses to answer any questions asked of them under subsection 10(1) or (2).

### **Wait period of 14 days**

**13** A person who is prohibited from boarding under section 12 is not permitted to board an aircraft for the purpose of being transported for a period of 14 days after the refusal, unless they have a medical certificate certifying that any symptoms referred to in subsection 10(1) that the person is exhibiting are not related to COVID-19.

### **Designated Provisions**

#### **Designation**



**14 (1)** The provisions of this Interim Order set out in column 1 of the Schedule are designated as provisions the contravention of which may be dealt with under and in accordance with the procedure set out in sections 7.7 to 8.2 of the Act. 157

#### Maximum amounts

**(2)** The amounts set out in column 2 of the Schedule are the maximum amounts of the penalty payable in respect of a contravention of the designated provisions set out in column 1.

#### Notice

**(3)** A notice referred to in subsection 7.7(1) of the Act must be in writing and must specify

(a) the particulars of the alleged contravention;

(b) that the person on whom the notice is served or to whom it is sent has the option of paying the amount specified in the notice or filing with the Tribunal a request for a review of the alleged contravention or the amount of the penalty;

(c) that payment of the amount specified in the notice will be accepted by the Minister in satisfaction of the amount of the penalty for the alleged contravention and that no further proceedings under Part I of the Act will be taken against the person on whom the notice in respect of that contravention is served or to whom it is sent;

(d) that the person on whom the notice is served or to whom it is sent will be provided with an opportunity consistent with procedural fairness and natural justice to present evidence before the Tribunal and make representations in relation to the alleged contravention if the person files a request for a review with the Tribunal; and

(e) that the person on whom the notice is served or to whom it is sent will be considered to have committed the contravention set out in the notice if they fail to pay the amount specified in the notice and fail to file a request for a review with the Tribunal within the prescribed period.

## Repeal

**15 The *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 2*, made on March 20, 2020, is repealed.**

## Coming into Force

March 24, 2020

**16 (1) Subject to subsection (2), this Interim Order comes into force at noon Eastern Daylight Time on March 24, 2020.**

March 27, 2020

**(2) Sections 6 to 8 comes into force at noon Eastern Daylight Time on March 27, 2020.**

## Schedule

(Subsections 14(1) and (2))

## Designated Provisions

### Column I

### Column II

### Designated Provision

### Maximum Amount of Penalty (\$)

### Individual

### Corporation

Section 3

25,000

<b>Column I</b>	<b>Column II</b>	
	<b>Maximum Amount of Penalty (\$)</b>	
<b>Designated Provision</b>	<b>Individual</b>	<b>Corporation</b>
Section 5		25,000
Section 6	5,000	
Section 7		25,000
Section 8	5,000	
Section 9		25,000
Subsection 10(1)		25,000
Subsection 10(2)		25,000
Subsection 10(3)		25,000
Section 12		25,000
Section 13	5,000	

## Footnotes

- a** S.C. 2004, c. 15, s. 5
- b** S.C. 2014, c. 39, s. 144
- c** S.C. 2015, c. 20, s. 12
- d** S.C. 2004, c. 15, s. 18
- e** S.C. 2001, c. 29, s. 39

f R.S., c. A-2

g S.C. 2004, c. 15, s. 11(1)

**Date modified:** 2020-04-08

**This is Exhibit "O" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

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**A Commissioner for Taking Affidavits**



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**PC Number:** 2020-0175

**Date:** 2020-03-24

Whereas the Governor in Council is of the opinion that

- (a) based on the declaration of a pandemic by the World Health Organization, there is an outbreak of a communicable disease, namely coronavirus disease 2019 (COVID-19), in the majority of foreign countries;
- (b) the introduction or spread of the disease would pose an imminent and severe risk to public health in Canada;
- (c) the entry of persons into Canada who have recently been in a foreign country may introduce or contribute to the spread of the disease in Canada; and
- (d) no reasonable alternatives to prevent the introduction or spread of the disease are available;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to section 58 of the *Quarantine Act*, makes the annexed *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Mandatory Isolation)*.

Attendu que la gouverneure en conseil est d'avis :

- a) que, compte tenu de la déclaration de pandémie de l'Organisation mondiale de la santé, la majorité des pays étrangers est aux prises avec l'apparition d'une maladie transmissible, soit la maladie à coronavirus 2019 (COVID-19);
- b) que l'introduction ou la propagation de cette maladie présenterait un danger grave et imminent pour la santé publique au Canada;
- c) que l'entrée au Canada de personnes qui ont récemment séjourné dans un pays étranger favoriserait l'introduction ou la propagation de la maladie au Canada;
- d) qu'il n'existe aucune autre solution raisonnable permettant de prévenir l'introduction ou la propagation de la maladie au Canada,

À ces causes, sur recommandation de la ministre de la Santé et en vertu de l'article 58 de la *Loi sur la mise en quarantaine*, Son Excellence la Gouverneure générale en conseil prend le *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (obligation de s'isoler)*, ci-après.

## **Minimizing the Risk of Exposure to COVID-19 in Canada Order (Mandatory Isolation)**

### **Interpretation**

**1** The following definitions apply in this Order.

**Chief Public Health Officer** means the Chief Public Health Officer appointed under subsection 6(1) of the *Public Health Agency of Canada Act*. (*administrateur en chef*)

**quarantine facility** means a place that is designated under section 7 of the *Quarantine Act* or that is deemed to be designated under subsection 8(2) of that Act. (*installation de quarantaine*)

**vulnerable person** means a person who

- (a) has an underlying medical condition;
- (b) has a compromised immune system from a medical condition or treatment; or
- (c) is 65 years of age or older. (*personne vulnérable*)

## **Requirements**

**2 (1)** Any person entering Canada must

- (a) isolate themselves without delay in accordance with instructions provided by a screening officer or a quarantine officer and remain in isolation until the expiry of the 14-day period that begins on the day on which the person enters Canada; and
- (b) monitor for signs and symptoms of COVID-19 until the expiry of the 14-day period and, if they develop any signs or symptoms of COVID-19, follow instructions provided by the public health authority specified by a screening officer or quarantine officer.

## **Non-application — symptomatic persons**

**(2)** Paragraph (1)(b) does not apply to persons referred to in section 4.



## **Non-application**

**3** The requirements referred to in paragraph 2(1)(a) do not apply to

- (a)** a *crew member* as defined in subsection 101.01(1) of the *Canadian Aviation Regulations* or a person who enters Canada only to become such as crew member;
- (b)** a *member of a crew* as defined in subsection 3(1) of the *Immigration and Refugee Protection Regulations* or a person who enters Canada only to become such as crew member;
- (c)** a person who enters Canada at the invitation of the Minister of Health for the purpose of assisting in the COVID-19 response;
- (d)** a member of the *Canadian Forces* or a *visiting force* as defined in section 2 of the *Visiting Forces Act*;
- (e)** a person or any person in a class of persons who, in the opinion of the Chief Public Health Officer will provide an essential service while in Canada;
- (f)** a person whose presence in Canada, in the opinion of the Minister of Foreign Affairs, the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest;
- (g)** a person permitted to work in Canada as a provider of emergency services under paragraph 186(t) of the *Immigration and Refugee Protection Regulations*;
- (h)** a person who enters Canada for the purpose of providing medical care or transporting essential medical equipment, supplies, or means of treatment; or

**(i)** a person who enters Canada for the purpose of receiving essential medical services or treatments, other than services or treatments related to COVID-19.

### **Requirements — symptomatic persons**

**4** Any person entering Canada who has a fever and a cough or a fever and difficulty breathing, or who has reasonable grounds to suspect they have these symptoms, must

**(a)** disclose that fact to a screening officer or quarantine officer; and

**(b)** during the period of isolation, undergo any health assessments that a quarantine officer requires, monitor their signs and symptoms and report to the public health authority specified by a screening officer or quarantine officer if they require additional medical care.

### **Unable to self-isolate**

**5 (1)** A person referred to in section 4 is considered as unable to self-isolate if they meet the following conditions:

**(a)** the person has to use a public means of transportation, including aircraft, bus, train, taxi, subway, a ride-sharing service, from the place where they enter Canada to arrive at the place where they will isolate themselves; or

**(b)** the person cannot isolate themselves for a period of 14 days in a place where they will not

**(i)** be in contact with vulnerable persons, or

**(ii)** have access to the necessities of life.

### **Requirements**

(2) A person who meets one of the conditions set out in paragraph (1)(a) or (b) must

(a) board any means of transportation provided by the Government of Canada for the purpose of transporting them to a quarantine facility or transferring them between quarantine facilities chosen by the Chief Public Health Officer, including at any time during the 14-day period referred to in paragraph (b);

(b) remain in isolation at the quarantine facility until the expiry of the 14-day period that begins on the day on which they entered Canada; and

(c) while the person remains at the quarantine facility, undergo any health assessments that a quarantine officer requires.

### **Choice of quarantine facility**

6 In choosing a quarantine facility for the purposes of this Order, the Chief Public Health Officer must consider the following factors:

(a) the risk to public health posed by COVID-19;

(b) the feasibility of controlling access to and egress from the quarantine facility;

(c) the capacity of the quarantine facility;

(d) the feasibility of isolating persons; and

(e) any other factor that the Chief Public Health Officer considers relevant.

### **Non-application — medical emergency**

7 (1) The requirement to remain in isolation as referred to in paragraphs 2(1)(a) and 5(2)(a) and (b) does not apply for the duration of any medical emergency that requires a person to visit or be taken to a health care

facility which, in the case of a person referred to in subsection 5(2), is outside the quarantine facility referred to in paragraph 5(2)(a).

### **Non-application — other grounds**

(2) The requirement to remain in isolation as referred to in paragraphs 2(1)(a) and 5(2)(a) and (b) does not apply to a person if

(a) the person becomes the subject of a provincial or local public health order that is inconsistent with those requirements;

(b) the requirement is inconsistent with another requirement imposed on them under the *Quarantine Act*; or

(c) the Chief Public Health Officer determines that the person does not pose a risk of significant harm to public health.

### **Powers and obligations**

8 For greater certainty, this Order does not affect any of the powers and obligations set out in the *Quarantine Act*.

### **Effective period**

9 This Order has effect for the period beginning at 00:00.01 a.m. Eastern Daylight Time on March 25, 2020 and ending at 00:00:01 a.m. Eastern Daylight Time on June 30, 2020.

## **Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (obligation de s'isoler)**

### **Définitions**

1 Les définitions qui suivent s'appliquent au présent décret.

**administrateur en chef** L'administrateur en chef de la santé publique, nommé en application du paragraphe 6(1) de la *Loi sur l'Agence de la santé publique du Canada*. (*Chief Public Health Officer*)

**installation de quarantaine** Lieu désigné en vertu de l'article 7 de la *Loi sur la mise en quarantaine* ou réputé être désigné au titre du paragraphe 8(2) de cette loi. (*quarantine facility*)

### **personne vulnérable**

- a) personne qui a un problème de santé sous-jacent;
- b) personne dont le système immunitaire est affaibli en raison d'un problème de santé ou d'un traitement;
- c) personne qui a soixante-cinq ans ou plus. (*vulnerable person*)

### **Obligations**

**2 (1)** Toute personne qui entre au Canada doit :

- a) s'isoler sans délai conformément aux instructions de l'agent de contrôle ou de l'agent de quarantaine et rester isolée jusqu'à l'expiration de la période de quatorze jours commençant le jour de son entrée au Canada;
- b) vérifier, jusqu'à l'expiration de la période de quatorze jours commençant le jour de son entrée au Canada, la présence de signes et de symptômes de la COVID-19 et suivre les instructions de l'autorité sanitaire précisées par l'agent de contrôle ou l'agent de quarantaine si ces symptômes apparaissent.

### **Non-application — personne qui présente des symptômes**

**(2)** L'alinéa (1)b) ne s'applique pas à la personne visée par l'article 4.

### **Non-application**

**3** Les obligations prévues à l'alinéa 2(1)a) ne s'appliquent pas aux personnes suivantes :

- a)** le *membre d'équipage* au sens du paragraphe 101.01(1) du *Règlement de l'aviation canadien* ou la personne qui entre au Canada dans le seul but d'occuper la fonction de membre d'équipage;
- b)** le *membre d'équipage* au sens du paragraphe 3(1) du *Règlement sur l'immigration et la protection des réfugiés* ou la personne qui entre au Canada dans le seul but d'occuper la fonction de membre d'équipage;
- c)** la personne qui entre au Canada à l'invitation du ministre de la Santé afin de participer aux efforts de lutte contre la COVID-19;
- d)** le membre des *Forces canadiennes* ou d'une *force étrangère présente au Canada* au sens de l'article 2 de la *Loi sur les forces étrangères présentes au Canada*;
- e)** la personne qui, individuellement ou au titre de son appartenance à une catégorie déterminée de personnes, selon l'administrateur en chef, fournira un service essentiel durant son séjour au Canada;
- f)** la personne dont la présence au Canada est, de l'avis du ministre des Affaires étrangères, du ministre de la Citoyenneté et de l'Immigration ou du ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national;
- g)** la personne qui peut travailler au Canada en vertu de l'alinéa 186t) du *Règlement sur l'immigration et la protection des réfugiés* afin d'offrir des services d'urgence;
- h)** la personne qui entre au Canada pour afin d'y fournir des soins médicaux ou pour y apporter de l'équipement, du matériel ou des moyens de traitement médicaux essentiels;

i) la personne qui entre au Canada afin d'y recevoir des services ou des traitements médicaux essentiels autres que des services ou des traitements liés à la COVID-19.

### **Obligations — personne qui présente des symptômes**

4 Toute personne qui entre au Canada et qui présente de la fièvre et de la toux ou de la fièvre et des difficultés respiratoires, ou qui a des motifs raisonnables de soupçonner qu'elle présente ces symptômes :

- a) en informe l'agent de contrôle ou l'agent de quarantaine;
- b) pendant la période d'isolement, subit tout contrôle médical exigé par l'agent de quarantaine, vérifie les signes et symptômes qu'elle présente et communique avec l'autorité sanitaire précisée par l'agent de contrôle ou l'agent de quarantaine si elle nécessite des soins additionnels.

### **Incapacité de s'isoler**

5 (1) La personne visée à l'article 4 est considérée comme n'ayant pas la capacité de s'isoler si elle remplit l'une des conditions suivantes :

- a) elle doit prendre un moyen de transport public, notamment un aéronef, un autocar, un train, un taxi, le métro ou un service de covoiturage, pour se rendre à son lieu d'isolement depuis le lieu de son entrée au Canada;
- b) elle ne peut s'isoler durant une période de quatorze jours :
  - (i) soit sans entrer en contact avec des personnes vulnérables,
  - (ii) soit sans interrompre son isolement pour se procurer des objets de première nécessité.

### **Obligations**

**(2)** La personne qui remplit l'une des conditions prévues aux alinéas (1)a) ou b) est tenue :

- a)** de prendre tout moyen de transport fourni par le gouvernement du Canada pour se rendre à l'installation de quarantaine choisie par l'administrateur en chef ou pour être transférée entre des telles installations de quarantaine, y compris durant la période de quatorze jours visée à l'alinéa b);
- b)** de rester en isolement à l'installation de quarantaine durant une période de quatorze jours qui commence le jour de son entrée au Canada;
- c)** de subir, pendant qu'elle reste en isolement à l'installation de quarantaine, tout contrôle médical exigé par l'agent de quarantaine.

### **Choix de l'installation de quarantaine**

**6** Lorsqu'il choisit une installation de quarantaine pour l'application du présent décret, l'administrateur en chef tient compte des facteurs suivants :

- a)** le danger pour la santé publique que présente la COVID-19;
- b)** la faisabilité de contrôler les allées et venues à l'installation;
- c)** la capacité de l'installation;
- d)** la faisabilité d'isoler des personnes;
- e)** tout autre facteur qu'il juge pertinent.

### **Non-application — urgence médicale**

**7 (1)** L'obligation de rester isolé prévue aux alinéas 2(1)a) et 5(2)a) et b) ne s'applique pas durant toute urgence médicale qui force la personne visée à se rendre ou à être amenée à un établissement de santé qui, dans le cas de



la personne visée au paragraphe 5(2), est situé à l'extérieur de l'installation de quarantaine visée à l'alinéa 5(2)a).

### **Non-application — autres cas**

(2) L'obligation de rester isolé prévue aux alinéas 2(1)a) et 5(2)a) et b) ne s'applique pas à la personne :

- a) qui fait l'objet d'une ordonnance de santé publique provinciale ou locale incompatible;
- b) à qui est imposée, sous le régime de la *Loi sur la mise en quarantaine*, une obligation incompatible;
- c) qui, selon l'administrateur en chef, ne présente pas de danger grave pour la santé publique.

### **Pouvoirs et obligations**

8 Il est entendu que le présent décret ne porte pas atteinte aux pouvoirs et aux obligations prévus par la *Loi sur la mise en quarantaine*.

### **Durée**

9 Le présent décret s'applique pendant la période commençant à 0 h 0 min 1 s, heure avancée de l'Est, le 25 mars 2020, et se terminant à 0 h 0 min 1 s, heure avancée de l'Est, le 30 juin 2020.

[Back to Form](#)

**Date modified:** 2017-04-31

This is Exhibit "P" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 25 day of April, 2020

A handwritten signature in blue ink, appearing to be "Clay R", is written over a horizontal line.

A Commissioner for Taking Affidavits



[Home](#) > [Orders in Council Division](#) > Orders In Council - Search

**PC Number:** 2020-0184

**Date:** 2020-03-26

Whereas the Governor in Council is of the opinion that

- (a) based on the declaration of a pandemic by the World Health Organization, there is an outbreak of a communicable disease, namely coronavirus disease 2019 (COVID-19), in the majority of foreign countries;
- (b) the introduction or spread of the disease would pose an imminent and severe risk to public health in Canada;
- (c) the entry of persons into Canada who have recently been in a foreign country may introduce or contribute to the spread of the disease in Canada; and
- (d) no reasonable alternatives to prevent the introduction or spread of the disease are available;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to section 58 of the *Quarantine Act*, makes the annexed *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any Country other than the United States)*.

Attendu que la gouverneure en conseil est d'avis :

- a) que, compte tenu de la déclaration de pandémie de l'Organisation mondiale de la santé, la majorité des pays étrangers est aux prises avec l'apparition d'une maladie transmissible, soit la maladie à coronavirus 2019 (COVID-19);
- b) que l'introduction ou la propagation de cette maladie présenterait un danger grave et imminent pour la santé publique au Canada;
- c) que l'entrée au Canada de personnes qui ont récemment séjourné dans un pays étranger favoriserait l'introduction ou la propagation de la maladie au Canada;
- d) qu'il n'existe aucune autre solution raisonnable permettant de prévenir l'introduction ou la propagation de la maladie au Canada,

À ces causes, sur recommandation de la ministre de la Santé et en vertu de l'article 58 de la *Loi sur la mise en quarantaine*, Son Excellence la Gouverneure générale en conseil prend le *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance d'un pays étranger autre que les États-Unis)*, ci-après.

## **Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any Country other than the United States)**

### **Definition of *immediate family member***

**1** In this Order, *immediate family member*, in respect of a person means

- (a)** the spouse or common-law partner of the person;
- (b)** a dependent child, as defined in section 2 of the *Immigration and Refugee Protection Regulations*, of the person or of the person's spouse or common-law partner;
- (c)** a dependent child, as defined in section 2 of the *Immigration and Refugee Protection Regulations*, of a dependent child referred to in paragraph (b);
- (d)** the parent or step-parent of the person or of the person's spouse or common-law partner; or
- (e)** the guardian or tutor of the person.

### **Prohibition**

**2** Any *foreign national*, as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, is prohibited from entering Canada if they arrive from a foreign country other than the United States.

### **Non-application**

**3 (1)** Section 2 does not apply to

- (a)** an immediate family member of a Canadian citizen or of a *permanent resident* as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*;
- (b)** a person who is authorized, in writing, by an officer designated under subsection 6(1) of the *Immigration and Refugee Protection Act* or by a consular officer of the Government of Canada, to enter Canada for the purpose of reuniting immediate family members;
- (c)** a *crew member* as defined in subsection 101.01(1) of the *Canadian Aviation Regulations* or a person who seeks to enter Canada only to become such a crew member;
- (d)** a *member of a crew* as defined in subsection 3(1) of the *Immigration and Refugee Protection Regulations* or a person who seeks to enter Canada only to become such a member of a crew;
- (e)** a person who is exempt from the requirement to obtain a temporary resident visa under paragraph 190(2)(a) of the *Immigration and Refugee Protection Regulations* and the immediate family members of that person;
- (f)** a person who seeks to enter Canada at the invitation of the Minister of Health for the purpose of assisting in the COVID-19 response;
- (g)** a person who arrives by any means of a conveyance operated by the Canadian Forces or the Department of National Defence;
- (h)** a member of the Canadian Forces or a *visiting force*, as defined in section 2 of the *Visiting Forces Act*, and the immediate family members of that member;

- (i)** a French citizen who resides in Saint-Pierre-et-Miquelon and has been only in Saint-Pierre-et-Miquelon, the United States or Canada during the period of 14 days before the day on which they arrived in Canada;
- (j)** a person or any person in a class of persons who, in the opinion of the Chief Public Health Officer appointed under subsection 6(1) of the *Public Health Agency of Canada Act*
- (i)** does not pose a risk of significant harm to public health, or
- (ii)** will provide an essential service while in Canada;
- (k)** a person whose presence in Canada, in the opinion of the Minister of Foreign Affairs, the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness, is in the national interest;
- (l)** a person who arrives by means of a *vessel* as defined in section 2 of the *Canada Shipping Act, 2001*, if the vessel departed before 00:00:01 am Eastern Daylight Time on March 21, 2020 and had a scheduled destination of Canada upon its departure;
- (m)** the holder of a valid *work permit* or a *study permit* as defined in section 2 of the *Immigration and Refugee Protection Regulations*;
- (n)** a person whose application for a work permit referred to in paragraph (m) was approved under the *Immigration and Refugee Protection Act* and who has received written notice of the approval, but who has not yet been issued the permit;
- (o)** a person whose application for a study permit referred to in paragraph (m) was approved under the *Immigration and Refugee Protection Act*, and who received written notice of the approval before noon, Eastern Daylight Time on March 18, 2020, but who has not yet been issued the permit;

- (p) a person permitted to work in Canada as a student in a health field under paragraph 186(p) of the *Immigration and Refugee Protection Regulations*;
- (q) a person permitted to work in Canada as a provider of emergency services under paragraph 186(t) of the *Immigration and Refugee Protection Regulations*.
- (r) a licensed health care professional with proof of employment in Canada;
- (s) a person who seeks to enter Canada for the purpose of delivering, maintaining, or repairing medically-necessary equipment or devices;
- (t) a person who seeks to enter Canada for the purpose of making medical deliveries of cells, blood and blood products, tissues, organs or other body parts, that are required for patient care in Canada during or within a reasonable period of time after the expiry of the Order;
- (u) a person whose application for permanent residence was approved under the *Immigration and Refugee Protection Act*, and who received written notice of the approval before noon, Eastern Daylight Time on March 18, 2020, but who has not yet become a permanent resident under that Act; or
- (v) a worker in the marine transportation sector who is essential for the movement of goods by *vessel*, as defined in section 2 of the *Canada Shipping Act, 2001*, and who seeks to enter Canada for the purpose of performing their duties in that sector.

### **Exception — signs and symptoms**



**(2)** Despite subsection (1), a foreign national is prohibited from entering Canada from a foreign country other than the United States if they exhibit the following signs and symptoms:

- (a)** a fever and cough, or
- (b)** a fever and breathing difficulties.

### **Exception — optional or discretionary purpose**

**(3)** Despite subsection (1), a person who seeks to enter Canada for an optional or discretionary purpose, such as tourism, recreation or entertainment, is prohibited from entering Canada from a foreign country other than the United States.

### **Non-application — order**

**4** This Order does not apply to

- (a)** a person registered as an Indian under the *Indian Act*; or
- (b)** a protected person within the meaning of subsection 95(2) of the *Immigration and Refugee Protection Act*.

### **Powers and obligations**

**5** For greater certainty, this Order does not affect any of the powers and obligations set out in the *Quarantine Act*.

## **Repeal of P.C. 2020-0162**

**6** The *Minimizing the Risk of Exposure to COVID-19 Coronavirus Disease in Canada Order (Prohibition of Entry into Canada from any country other than the United States)* is repealed.

## **Effective period**

**7** This Order has effect for the period beginning on the day on which it is made and ending on June 30, 2020.

**Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance d'un pays étranger autre que les États-Unis)**

## **Définition de *membre de la famille immédiate***

**1** Dans le présent décret, *membre de la famille immédiate* s'entend, à l'égard d'une personne :

- a)** de son époux ou conjoint de fait;
- b)** de son *enfant à charge* au sens de l'article 2 du *Règlement sur l'immigration et la protection des réfugiés* ou de celui de son époux ou conjoint de fait;
- c)** de l'*enfant à charge* au sens de l'article 2 du *Règlement sur l'immigration et la protection des réfugiés* d'un enfant à charge visé à l'alinéa b);

- d) de son parent ou de son beau-parent ou du parent ou beau-parent de son époux ou conjoint de fait;
- e) de son tuteur.

## **Interdiction**

**2** Il est interdit à tout *étranger* au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés* d'entrer au Canada en provenance de tout pays étranger autre que les États-Unis.

## **Non-application**

**3 (1)** L'article 2 ne s'applique pas aux personnes suivantes :

- a) le membre de la famille immédiate d'un citoyen canadien ou d'un *résident permanent* au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*;
- b) la personne qui est autorisée, par écrit, par un agent désigné en vertu du paragraphe 6(1) de la *Loi sur l'immigration et la protection des réfugiés* ou par un agent consulaire du gouvernement du Canada à entrer au Canada dans le but de réunir les membres d'une famille immédiate;
- c) le *membre d'équipage* au sens du paragraphe 101.01(1) du *Règlement de l'aviation canadien* ou la personne qui cherche à entrer au Canada seulement pour devenir un tel membre d'équipage;
- d) le *membre d'équipage* au sens du paragraphe 3(1) du *Règlement sur l'immigration et la protection des réfugiés* ou la personne qui cherche à entrer au Canada seulement pour devenir un tel membre d'équipage;

- e) la personne qui est dispensée de l'obligation d'obtenir un visa de résident temporaire en application de l'alinéa 190(2)a) du *Règlement sur l'immigration et la protection des réfugiés* ainsi que les membres de sa famille immédiate;
- f) la personne qui cherche à entrer au Canada à l'invitation de la ministre de la Santé afin de participer aux efforts de lutte contre la COVID-19;
- g) la personne qui arrive à bord d'un véhicule exploité par les Forces canadiennes ou le ministère de la Défense nationale;
- h) le membre des Forces canadiennes ou d'une *force étrangère présente au Canada* au sens de l'article 2 de la *Loi sur les forces étrangères présentes au Canada* ainsi que les membres de sa famille immédiate;
- i) le citoyen français qui réside à Saint-Pierre-et-Miquelon et qui a séjourné uniquement à Saint-Pierre-et-Miquelon, aux États-Unis ou au Canada durant la période de quatorze jours précédant le jour de son arrivée au Canada;
- j) la personne qui, individuellement ou au titre de son appartenance à une catégorie déterminée de personnes, selon l'administrateur en chef nommé en application du paragraphe 6(1) de la *Loi sur l'Agence de la santé publique du Canada* :
- (i) soit ne présente pas de danger grave pour la santé publique,
- (ii) soit fournira un service essentiel durant son séjour au Canada;
- k) la personne dont la présence au Canada est, de l'avis du ministre des Affaires étrangères, du ministre de la Citoyenneté et de l'Immigration ou du ministre de la Sécurité publique et de la Protection civile, dans l'intérêt national;

- l)** la personne qui arrive à bord d'un *bâtiment* au sens de la *Loi de 2001 sur la marine marchande du Canada*, à condition que le bâtiment ait quitté son point de départ à destination du Canada avant 0 h 0 min 1 s, heure avancée de l'Est, le 21 mars 2020;
- m)** le titulaire d'un *permis de travail* ou d'un *permis d'études*, au sens de l'article 2 du *Règlement sur l'immigration et la protection des réfugiés*, valides;
- n)** la personne qui, bien qu'ayant été avisée par écrit que sa demande visant à obtenir le permis de travail visé à l'alinéa m) a été approuvée sous le régime de la *Loi sur l'immigration et la protection des réfugiés*, ne s'est pas encore vue délivrer le permis de travail;
- o)** la personne qui, bien qu'ayant été avisée par écrit avant midi, heure avancée de l'Est, le 18 mars 2020 que sa demande visant à obtenir le permis d'études visé à l'alinéa m) a été approuvée sous le régime de la *Loi sur l'immigration et la protection des réfugiés*, ne s'est pas encore vue délivrer le permis d'études;
- p)** la personne qui peut travailler au Canada à titre d'étudiant en vertu de l'alinéa 186p) du *Règlement sur l'immigration et la protection des réfugiés* dans un domaine relié à la santé;
- q)** la personne qui peut travailler au Canada en vertu de l'alinéa 186t) du *Règlement sur l'immigration et la protection des réfugiés* afin d'offrir des services d'urgence;
- r)** le professionnel de la santé titulaire d'une licence ou d'un permis d'exercice qui détient une preuve d'emploi au Canada;
- s)** la personne qui cherche à entrer au Canada afin d'y faire des livraisons d'équipements ou d'instruments qui sont nécessaires du point de vue médical ou afin de faire leur entretien ou de les réparer;

- t) la personne qui cherche à entrer au Canada afin d'y faire des livraisons médicales de cellules souches, de sang ou de produits sanguins, de tissus, d'organes ou d'autres parties du corps qui sont requis par des patients au Canada pendant la durée d'application du présent décret ou pendant un délai raisonnable après la fin de son application;
- u) la personne qui, bien qu'ayant été avisée par écrit avant midi, heure avancée de l'Est, le 18 mars 2020 que sa demande de résidence permanente a été approuvée sous le régime de la *Loi sur l'immigration et la protection des réfugiés*, n'est pas encore devenue résident permanent sous le régime de cette loi;
- v) la personne qui travaille dans le secteur maritime des transports qui est essentielle au transport de marchandises par *bâtiment*, au sens de la *Loi de 2001 sur la marine marchande du Canada*, et qui cherche à entrer au Canada afin d'exécuter des tâches dans ce secteur.

### **Exception — signes et symptômes**

(2) Malgré le paragraphe (1), il est interdit à toute personne d'entrer au Canada en provenance de tout pays étranger autre que les États-Unis si elle présente les signes et les symptômes suivants :

- a) soit une fièvre et de la toux;
- b) soit une fièvre et des difficultés respiratoires.

### **Exception — fins de nature optionnelle ou discrétionnaire**

(3) Malgré le paragraphe (1), il est interdit à la personne qui cherche à entrer au Canada à des fins de nature optionnelle ou discrétionnaire, telles que le tourisme, les loisirs ou le divertissement, d'entrer au Canada en

provenance de tout pays étranger autre que les États-Unis.

### **Non-application — décret**

**4** Le présent décret ne s'applique pas :

- a)** à la personne qui est inscrite au registre des Indiens en vertu de la *Loi sur les Indiens*;
- b)** à la personne protégée au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*.

### **Pouvoirs et obligations**

**5** Il est entendu que le présent décret ne porte pas atteinte aux pouvoirs et aux obligations prévus par la *Loi sur la mise en quarantaine*.

### **Abrogation du C.P. 2020-0162**

**6** Le *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance d'un pays étranger autre que les États-Unis)* est abrogé.

### **Durée**

**7** Le présent décret s'applique pendant la période commençant à la date de sa prise et se terminant le 30 juin 2020.


[Back to Form](#)

**Date modified:** 2017-04-31





This is Exhibit "Q" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020



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A Commissioner for Taking Affidavits



[Home](#) > [Orders in Council Division](#) > Orders In Council - Search

**PC Number:** 2020-0185

**Date:** 2020-03-26

Whereas the Governor in Council is of the opinion that

- (a) based on the declaration of a pandemic by the World Health Organization, there is an outbreak of a communicable disease, namely coronavirus disease 2019 (COVID-19), in the majority of foreign countries;
- (b) the introduction or spread of the disease would pose an imminent and severe risk to public health in Canada;
- (c) the entry of persons into Canada who have recently been in a foreign country may introduce or contribute to the spread of the disease in Canada; and
- (d) no reasonable alternatives to prevent the introduction or spread of the disease are available;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Health, pursuant to section 58 of the *Quarantine Act*, makes the annexed *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*.

Attendu que la gouverneure en conseil est d'avis :

- a) que, compte tenu de la déclaration de pandémie de l'Organisation mondiale de la santé, la majorité des pays étrangers est aux prises avec l'apparition d'une maladie transmissible, soit la maladie à coronavirus 2019 (COVID-19);
- b) que l'introduction ou la propagation de cette maladie présenterait un danger grave et imminent pour la santé publique au Canada;
- c) que l'entrée au Canada de personnes qui ont récemment séjourné dans un pays étranger favoriserait l'introduction ou la propagation de la maladie au Canada;
- d) qu'il n'existe aucune autre solution raisonnable permettant de prévenir l'introduction ou la propagation de la maladie au Canada,

À ces causes, sur recommandation de la ministre de la Santé et en vertu de l'article 58 de la *Loi sur la mise en quarantaine*, Son Excellence la Gouverneure générale en conseil prend le *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance des États-Unis)*, ci-après.

# Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)

192

## Definition of *foreign national*

1 In this Order, *foreign national* has the same meaning as in subsection 2(1) of the *Immigration and Refugee Protection Act*.

## Prohibition — signs and symptoms

2 (1) A foreign national is prohibited from entering Canada from the United States if they exhibit the following signs and symptoms:

- (a) a fever and cough; or
- (b) a fever and breathing difficulties.

## Non-application — certain persons

(2) Subsection (1) does not apply to persons referred to in subsection 5(2) who seek to enter Canada from the United States for the purpose of making a claim for refugee protection.

## Prohibition — optional or discretionary purpose

3 A foreign national is prohibited from entering Canada from the United States if they seek to enter for an optional or discretionary purpose, such as tourism, recreation or entertainment.

## Prohibition — been outside Canada or the United States

**4 (1)** A foreign national who seeks to enter Canada from the United States for a purpose other than an optional or discretionary purpose is nonetheless prohibited from entering Canada if they have been outside Canada and the United States during the period of 14 days before the day on which they seek to enter Canada.

### **Non-application — certain persons**

**(2)** Subsection (1) does not apply to a person

**(a)** referred to in subsection 5(2) who seeks to enter Canada from the United States for the purpose of making a claim for refugee protection; or

**(b)** referred to in subsection 3(1) of the *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any country other than the United States)*.

### **Prohibition — claim for refugee protection**

**5 (1)** A foreign national is prohibited from entering Canada from the United States for the purpose of making a claim for refugee protection.

### **Non-application — certain persons**

**(2)** Subsection (1) does not apply to

**(a)** a citizen of the United States;

**(b)** a stateless habitual resident of the United States;

**(c)** a mother, father or legal guardian within the meaning of the *Immigration and Refugee Protection Regulations* of a person who

(i) has not attained the age of 18 years,

(ii) is a citizen of the United States, and

(iii) who seeks to enter Canada for the purpose of making a claim for refugee protection; or

(d) a person who

(i) has not attained the age of 18 years and is not accompanied by their mother, father or legal guardian within the meaning of the *Immigration and Refugee Protection Regulations*,

(ii) has neither a spouse nor a common-law partner within the meaning of those Regulations, and

(iii) has neither a mother or father nor a legal guardian within the meaning of those Regulations in the United States.

### **Non-application — order**

**6** This Order does not apply to

(a) a person registered as an Indian under the *Indian Act*;

(b) a person who, in the opinion of the Chief Public Health Officer appointed under subsection 6(1) of the *Public Health Agency of Canada Act*, does not pose a risk of significant harm to public health; or

(c) a protected person within the meaning of subsection 95(2) of the *Immigration and Refugee Protection Act*.

### **Powers and obligations**

7 For greater certainty, this Order does not affect any of the powers and obligations set out in the *Quarantine Act*.

### **Repeal of P.C. 2020-0161**

8 The *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*<sup>1</sup> is repealed.

### **Effective period**

9 This Order has effect for the period beginning on the day on which it is made and ending on April 21, 2020.

## **Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance des États-Unis)**

### **Définition de *étranger***

1 Dans le présent décret, ***étranger*** s'entend au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés*.

### **Interdiction — signes et symptômes**

2 (1) Il est interdit à tout étranger d'entrer au Canada en provenance des États-Unis s'il présente les signes et les symptômes suivants :

a) soit une fièvre et de la toux;

b) soit une fièvre et des difficultés respiratoires.

### **Non-application — certaines personnes**

(2) Le paragraphe (1) ne s'applique pas aux personnes visées au paragraphe 5(2) qui cherchent à entrer au Canada en provenance des États-Unis afin de faire une demande d'asile.

### **Interdiction — fins optionnelles ou discrétionnaires**

3 Il est interdit à tout étranger d'entrer au Canada en provenance des États-Unis s'il cherche à y entrer à des fins de nature optionnelle ou discrétionnaire telles que le tourisme, les loisirs ou le divertissement.

### **Interdiction — séjour ailleurs qu'aux États-Unis ou au Canada**

4 (1) Il est pas ailleurs interdit à l'étranger qui cherche à entrer au Canada en provenance des États-Unis à des fins autre que des fins de nature optionnelle ou discrétionnaire d'entrer au Canada s'il a séjourné ailleurs qu'aux États-Unis ou qu'au Canada durant la période de quatorze jours précédant la date à laquelle il cherche à entrer au Canada.

### **Non-application — certaines personnes**

(2) Le paragraphe (1) ne s'applique pas aux personnes suivantes :

a) celles visées au paragraphe 5(2) qui cherchent à entrer au Canada en provenance des États-Unis afin de faire une demande d'asile;



**b)** celles visées au paragraphe 3(1) du *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance d'un pays étranger autre que les États-Unis)*.

### **Interdiction — demande d'asile**

**5 (1)** Il est interdit à l'étranger d'entrer au Canada en provenance des États-Unis afin de faire une demande d'asile.

### **Non-application — certaines personnes**

**(2)** Le paragraphe (1) ne s'applique pas :

**a)** au citoyen des États-Unis;

**b)** à l'apatride qui a sa résidence habituelle aux États-Unis;

**c)** à la mère, au père ou au tuteur légal au sens du *Règlement sur l'immigration et la protection des réfugiés* d'une personne qui :

**(i)** a moins de dix-huit ans,

**(ii)** est un citoyen des États-Unis,

**(iii)** cherche à entrer au Canada pour faire une demande d'asile;

**d)** à la personne qui satisfait aux exigences suivantes :

**(i)** elle a moins de dix-huit ans et n'est pas accompagnée par son père, sa mère ou son tuteur légal au sens du *Règlement sur l'immigration et la protection des réfugiés*,

**(ii)** elle n'a ni époux ni conjoint de fait au sens de ce règlement,

(iii) elle n'a ni père, ni mère, ni tuteur légal au sens de ce règlement aux États-Unis.

### **Non-application — décret**

6 Le présent décret ne s'applique pas :

- a) à la personne qui est inscrite au registre des Indiens en vertu de la *Loi sur les Indiens*;
- b) à la personne qui, selon l'administrateur en chef nommé en application du paragraphe 6(1) de la *Loi sur l'Agence de la santé publique du Canada*, ne présente pas de danger grave pour la santé publique;
- c) à la personne protégée au sens du paragraphe 95(2) de la *Loi sur l'immigration et la protection des réfugiés*.

### **Pouvoirs et obligations**

7 Il est entendu que le présent décret ne porte pas atteinte aux pouvoirs et aux obligations prévus par la *Loi sur la mise en quarantaine*.

### **Abrogation du C.P. 2020-0161**

8 Le *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance des États-Unis)*<sup>1</sup> est abrogé.

### **Durée**

**9** Le présent décret s'applique pendant la période commençant à la date de sa prise et se terminant le 21 avril 2020.

[Back to Form](#)

**Date modified:** 2017-04-31

**This is Exhibit "R" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**

A handwritten signature in blue ink, appearing to be "S. Ray", is written over a horizontal line.

**A Commissioner for Taking Affidavits**

**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some transportation-related measures and guidance. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please contact us by email.

For information on COVID-19 updates, please visit [Canada.ca/coronavirus](https://Canada.ca/coronavirus).

## Repealed - Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19

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From: Transport Canada

Whereas the annexed *Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19* is required to deal with a significant risk, direct or indirect, to aviation safety or the safety of the public;

Whereas the provisions of the annexed Order may be contained in a regulation made pursuant to sections 4.71 <sup>a</sup> and 4.9 <sup>b</sup>, paragraphs 7.6(1)(a) <sup>c</sup> and (b) <sup>d</sup> and section 7.7 <sup>e</sup> of the *Aeronautics Act* <sup>f</sup>;

And whereas, pursuant to subsection 6.41(1.2) <sup>g</sup> of that Act, the Minister of Transport has consulted with the persons and organizations that the Minister considers appropriate in the circumstances before making the annexed Order;

Therefore, the Minister of Transport, pursuant to subsection 6.41(1) <sup>g</sup> of the *Aeronautics Act* <sup>f</sup>, makes the annexed *Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19*.

Ottawa, March 27, 2020

202

Le ministre des Transports,  
Marc Garneau  
Minister of Transport

## **Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19**

### **Interpretation**

#### **Definitions**

**1 (1)** The following definitions apply in this Interim Order.

**COVID-19** means the coronavirus disease 2019. (**COVID-19**)

**Regulations** means the *Canadian Aviation Regulations*. (**Règlement**)

#### **Interpretation**

**(2)** Unless the context requires otherwise, all other words and expressions used in this Interim Order have the same meaning as in the Regulations.

#### **Conflict**

**(3)** In the event of a conflict between this Interim Order and the Regulations or the *Canadian Aviation Security Regulations, 2012*, this Interim Order prevails.

### **Application**

#### **Flights departing an aerodrome in Canada**

**2 (1)** Subject to subsection (2), this Interim Order applies to the following operators who operate a flight, other than a cargo flight without passengers, from an aerodrome in Canada and to their passengers:

**(a)** the holder of a private operator registration document issued 203  
under Subpart 4 of Part VI of the Regulations in respect of flights  
operated using an aircraft with a passenger seating configuration of 10  
or more, excluding pilot seats;

**(b)** the holder of a certificate issued under Subpart 1 of Part VII of the  
Regulations in respect of flights operated using an aircraft with a  
passenger seating configuration of 10 or more, excluding pilot seats;

**(c)** the holder of a certificate issued under Subpart 4 or 5 of Part VII of  
the Regulations.

#### **Exception**

**(2)** Section 3 does not apply to the holder of a certificate issued under  
Subpart 1 of Part VII of the Regulations.

#### **Provincial and Territorial Measures**

##### **Notification**

**3** Beginning on March 30, 2020, at 12:00 p.m. Eastern Daylight Time, before  
boarding an aircraft for a domestic flight that an operator operates, the  
operator must notify its passengers that they may be subject to a measure  
to prevent the spread of COVID-19 taken by the provincial or territorial  
government with jurisdiction at the destination aerodrome for that flight.

#### **Health Check Before Boarding**

##### **Health check – operator**

**4** Beginning on March 30, 2020, at 12:00 p.m. Eastern Daylight Time,  
subject to section 6, an operator must conduct, at the boarding gate, a  
health check of every passenger before the passenger boards an aircraft  
for a flight that the operator operates.

**Health check**

204

**5 (1)** An operator conducting a health check must ask questions of every passenger to verify whether they exhibit the following symptoms:

- (a)** a fever;
- (b)** a cough; and
- (c)** breathing difficulties.

**Additional questions**

**(2)** In addition to the health check, the operator must ask every passenger

- (a)** whether they have been refused boarding in the past 14 days due to a medical reason related to COVID-19, and
- (b)** whether they are the subject of a provincial or local public health order.

**False declaration – obligation of operator**

**(3)** The operator must advise every passenger not to provide answers to the health check questions or the additional questions that they know to be false or misleading.

**False declaration – obligation of passenger**

**(4)** A passenger who is subjected to a health check or is asked the additional questions must not provide answers that are false or misleading.

**Exceptions**

**6** The operator is not required to conduct a health check for the following persons:

- (a)** a crew member; or



**(b)** a passenger who provides a medical certificate certifying that any symptoms referred to in subsection 5(1) that they are exhibiting are not related to COVID-19. 205

### **Prohibition**

**7** Beginning on March 30, 2020, at 12:00 p.m. Eastern Daylight Time, an operator is prohibited from allowing a passenger to board an aircraft for a flight that the operator operates if

**(a)** the passenger's answers to the health check questions indicate that they exhibit

**(i)** a fever and cough, or

**(ii)** a fever and breathing difficulties;

**(b)** the operator observes, during the health check, that the passenger is exhibiting

**(i)** a fever and cough, or

**(ii)** a fever and breathing difficulties;

**(c)** the passenger's answer to any of the additional questions asked of them under subsection 5(2) is in the affirmative; or

**(d)** the passenger is a competent adult and refuses to answer any of the questions asked of them under subsection 5(1) or (2).

### **Waiting period of 14 days**

**8** A passenger who is prohibited from boarding an aircraft under section 7 is not permitted to board another aircraft for the purpose of being transported for a period of 14 days after the prohibition, unless they provide a medical certificate certifying that any symptoms referred to in subsection 5(1) that they are exhibiting are not related to COVID-19.

## Designated Provisions

206

### Designation

**9 (1)** The provisions of this Interim Order set out in column 1 of the schedule are designated as provisions the contravention of which may be dealt with under and in accordance with the procedure set out in sections 7.7 to 8.2 of the Act.

### Maximum amounts

**(2)** The amounts set out in column 2 of the schedule are the maximum amounts of the penalty payable in respect of a contravention of the designated provisions set out in column 1.

### Notice

**(3)** A notice referred to in subsection 7.7(1) of the Act must be in writing and must specify

**(a)** the particulars of the alleged contravention;

**(b)** that the person on whom the notice is served or to whom it is sent has the option of paying the amount specified in the notice or filing with the Tribunal a request for a review of the alleged contravention or the amount of the penalty;

**(c)** that payment of the amount specified in the notice will be accepted by the Minister in satisfaction of the amount of the penalty for the alleged contravention and that no further proceedings under Part I of the Act in respect of that notice will be taken against the person on whom the notice is served or to whom it is sent;

**(d)** that the person on whom the notice is served or to whom it is sent will be provided with an opportunity consistent with

procedural fairness and natural justice to present evidence before the Tribunal and make representations in relation to the alleged contravention if the person files a request for a review with the Tribunal; and

(e) that the person on whom the notice is served or to whom it is sent will be considered to have committed the contravention set out in the notice if they fail to pay the amount specified in the notice or fail to file a request for a review with the Tribunal within the prescribed period.

## Schedule

(Subsections 9(1) and (2))

### Designated Provisions

Column I Designated Provision	Column II Maximum Amount of Penalty (\$)	
	Individual	Corporation
Section 3		25,000
Section 4		25,000
Subsection 5(1)		25,000
Subsection 5(2)		25,000
Subsection 5(3)		25,000
Subsection 5(4)	5,000	
Section 7		25,000
Section 8	5,000	

**Footnotes**

208

- a** S.C. 2004, c. 15, s. 5
- b** S.C. 2014, c. 39, s. 144
- c** S.C. 2015, c. 20, s. 12
- d** S.C. 2004, c. 15, s. 18
- e** S.C. 2001, c. 29, s. 39
- f** R.S., c. A-2
- g** S.C. 2004, c. 15, s. 11(1)

**Date modified:** 2020-04-09

**This is Exhibit "S" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 29 day of April, 2020**



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**A Commissioner for Taking Affidavits**



**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some transportation-related measures and guidance. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please contact us by email.

For information on COVID-19 updates, please visit Canada.ca/coronavirus.

## Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 6

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**From: Transport Canada**

Whereas the annexed *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 6* is required to deal with a significant risk, direct or indirect, to aviation safety or the safety of the public;

Whereas the provisions of the annexed Order may be contained in a regulation made pursuant to sections 4.71 <sup>a</sup> and 4.9 <sup>b</sup>, paragraphs 7.6(1)(a) <sup>c</sup> and (b) <sup>d</sup> and section 7.7 <sup>e</sup> of the *Aeronautics Act* <sup>f</sup>;

And whereas, pursuant to subsection 6.41(1.2) <sup>g</sup> of that Act, the Minister of Transport has consulted with the persons and organizations that the Minister considers appropriate in the circumstances before making the annexed Order;

Therefore, the Minister of Transport, pursuant to subsection 6.41(1) <sup>g</sup> of the *Aeronautics Act* <sup>f</sup>, makes the annexed *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 6*.

Ottawa, April 17, 2020

211

Le ministre des Transports,

Marc Garneau

Minister of Transport

## **Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 6**

### **Interpretation**

#### **Definitions**

**1 (1)** The following definitions apply in this Interim Order.

**COVID-19** means the coronavirus disease 2019. (*COVID-19*)

**foreign national** means a person who is not a Canadian citizen or a permanent resident, and includes a stateless person. (*étranger*)

**Regulations** means the *Canadian Aviation Regulations*. (*Règlement*)

#### **Interpretation**

**(2)** Unless the context requires otherwise, all other words and expressions used in this Interim Order have the same meaning as in the Regulations.

#### **Conflict**

**(3)** In the event of a conflict between this Interim Order and the Regulations, the Interim Order prevails.

#### **Application**

**2** This Interim Order applies to the following private operators and air carriers operating flights to Canada, and to their passengers:

- (a) a private operator that operates an aircraft under Subpart 4 of Part VI of the Regulations; and
- (b) an air carrier that operates an aircraft under Subpart 1, 3, 4 or 5 of Part VII of the Regulations.

### **International Flights except Flights from the United States**

#### **Prohibition**

**3** A private operator or air carrier is prohibited from permitting a foreign national to board a flight to Canada departing from any country other than the United States.

#### **Non-application**

**4** Section 3 does not apply to

- (a) a foreign national who is permitted to enter Canada under the emergency order made by the Governor General in Council, pursuant to the *Quarantine Act*, entitled *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from any country other than the United States)*; or
- (b) a foreign national in transit through Canada to another country.

### **Flights from the United States**

#### **Notification**

**5** A private operator or air carrier operating a flight to Canada departing from the United States must notify every foreign national that they may be prohibited from entering Canada under the emergency order made by the Governor General in Council, pursuant to the *Quarantine Act*, entitled *Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*.



**Confirmation**

**6** Before boarding a flight departing from the United States, a foreign national must confirm that they have read the emergency order referred to in section 5 and that, to the best of their knowledge, they are not prohibited from entering Canada under the order.

**Prohibition**

**7** A private operator or air carrier is prohibited from permitting a foreign national to board a flight to Canada departing from the United States if the foreign national is a competent adult and does not provide, or refuses to provide, the confirmation referred to in section 6.

**False declaration**

**8** A foreign national must not provide a confirmation under section 6 that they know to be false or misleading.

**Health Check****Health check – private operator or air carrier**

**9** Subject to section 11, a private operator or air carrier must conduct a health check of every person boarding a flight to Canada that the private operator or air carrier operates.

**Health check**

**10 (1)** A private operator or air carrier conducting a health check must ask questions of every person to verify whether they exhibit the following symptoms:

- (a)** a fever;
- (b)** a cough; and
- (c)** breathing difficulties.

**Additional question**

214

**(2)** In addition to the health check, the private operator or air carrier must ask every person whether they have been refused boarding in the past 14 days due to a medical reason related to COVID-19.

**False declaration – obligation of private operator or air carrier**

**(3)** The private operator or air carrier must advise every person not to provide answers to the health check and the additional question that they know to be false or misleading.

**False declaration – obligation of person**

**(4)** A person who, pursuant to subsections (1) and (2), is subjected to a health check and is asked the additional question must

**(a)** answer all questions; and

**(b)** not provide answers that they know to be false or misleading.

**Observations – private operator or air carrier**

**(5)** During the boarding process for a flight to Canada that the private operator or air carrier operates, the private operator or air carrier must observe whether any person boarding the flight is exhibiting any symptoms referred to in subsection (1).

**Exceptions**

**11** The private operator or air carrier is not required to conduct a health check for the following persons:

**(a)** a crew member; or

**(b)** a person who provides a medical certificate certifying that any symptoms referred to in subsection 10(1) that they are exhibiting are not related to COVID-19.

## Prohibition

**12** A private operator or air carrier is prohibited from allowing a person to board a flight to Canada that the private operator or air carrier operates if

**(a)** the person's answers to the health check questions indicate that they exhibit

**(i)** a fever and cough, or

**(ii)** a fever and breathing difficulties;

**(b)** the private operator or air carrier observes, during the boarding process, that the person is exhibiting

**(i)** a fever and cough, or

**(ii)** a fever and breathing difficulties;

**(c)** the person's answer to the additional question asked of them under subsection 10(2) is in the affirmative; or

**(d)** the person is a competent adult and refuses to answer any questions asked of them under subsection 10(1) or (2).

## Waiting period of 14 days

**13** A person who is prohibited from boarding pursuant to section 12 is not permitted to board another aircraft for the purpose of being transported for a period of 14 days after the day of the refusal, unless they provide a medical certificate certifying that any symptoms referred to in subsection 10(1) that they are exhibiting are not related to COVID-19.

## Face Masks

### Application

**14 (1)** Subject to subsection (2), sections 15 to 22 apply beginning on April 20, 2020 at 12:00 p.m. Eastern Daylight Time.

**Non-application**

216

**(2) Sections 15 to 22 do not apply to**

- (a) an infant;**
- (b) a person who has breathing difficulties unrelated to COVID-19;**
- (c) a person who is unconscious; or**
- (d) a person who is unable to remove a face mask without assistance.**

**Definition of *face mask***

**(3) For the purposes of sections 15 to 22, a *face mask* means any non-medical mask or face covering that is made of at least two layers of tightly woven material such as cotton or linen, is large enough to completely and comfortably cover a person's nose and mouth without gaping and can be secured to a person's head with ties or ear loops.**

**Notification**

**15 A private operator or air carrier must notify every person who intends to board a flight to Canada that is operated by that private operator or air carrier that**

- (a) the person must be in possession of a face mask prior to boarding;**
- (b) the person must wear the face mask at all times during the flight when they are 2 m or less from another person, unless both persons are occupants of the same dwelling-house or place that serves this purpose; and**
- (c) the person must comply with any instructions given by a crew member with respect to wearing a face mask.**

**Confirmation**

**16** Every person must confirm to the private operator or air carrier prior to boarding a flight to Canada that they are in possession of a face mask.

#### **False declaration**

**17** A person must not provide a confirmation under section 16 that they know to be false or misleading.

#### **Verification**

**18** During the boarding process for a flight to Canada that the private operator or air carrier operates, the private operator or air carrier must verify that every person boarding the flight is in possession of a face mask.

#### **Wearing of face mask**

**19 (1)** A private operator or air carrier must require a person, other than a crew member, to wear a face mask at all times during a flight to Canada that the private operator or air carrier operates when the person is 2 m or less from another person, unless both persons are occupants of the same dwelling-house or place that serves this purpose.

#### **Exceptions**

**(2)** Subsection (1) does not apply

**(a)** when the safety of the person could be endangered by wearing a face mask;

**(b)** when the person is eating, drinking or taking oral medications; or

**(c)** when a crew member authorizes the removal of the face mask to address the person's special needs or unforeseen circumstances.

#### **Compliance**

**20** A person must comply with any instructions given by a crew member with respect to wearing a face mask.

**Prohibition – private operator or air carrier**

**21** A private operator or air carrier is prohibited from permitting a person to board a flight to Canada that the private operator or air carrier operates if

- (a)** the person is a competent adult and does not provide, or refuses to provide, the confirmation referred to in section 16;
- (b)** the private operator or air carrier cannot verify under section 18 that the person is in possession of a face mask; or
- (c)** the person refuses to comply with an instruction given by a crew member in accordance with section 20.

**Refusal to comply**

**22** If, during a flight to Canada that a private operator or air carrier operates, a person refuses to comply with an instruction given by a crew member with respect to wearing a face mask, the private operator or air carrier must

- (a)** keep a record of
  - (i)** the date and flight number,
  - (ii)** the person's name and contact information,
  - (iii)** the person's seat number on the flight, and
  - (iv)** the circumstances related to the refusal to comply; and
- (b)** inform the Minister as soon as feasible of any record created under paragraph (a).

**Designated Provisions****Designation**

**23 (1)** The provisions of this Interim Order set out in column 1 of the schedule are designated as provisions the contravention of which may be dealt with under and in accordance with the procedure set out in sections 7.7 to 8.2 of the Act.

#### **Maximum amounts**

**(2)** The amounts set out in column 2 of the schedule are the maximum amounts of the penalty payable in respect of a contravention of the designated provisions set out in column 1.

#### **Notice**

**(3)** A notice referred to in subsection 7.7(1) of the Act must be in writing and must specify

**(a)** the particulars of the alleged contravention;

**(b)** that the person on whom the notice is served or to whom it is sent has the option of paying the amount specified in the notice or filing with the Tribunal a request for a review of the alleged contravention or the amount of the penalty;

**(c)** that payment of the amount specified in the notice will be accepted by the Minister in satisfaction of the amount of the penalty for the alleged contravention and that no further proceedings under Part I of the Act will be taken against the person on whom the notice in respect of that contravention is served or to whom it is sent;

**(d)** that the person on whom the notice is served or to whom it is sent will be provided with an opportunity consistent with procedural fairness and natural justice to present evidence before the Tribunal and make representations in relation to the alleged contravention if the person files a request for a review with the Tribunal; and

(e) that the person on whom the notice is served or to whom it is sent will be considered to have committed the contravention set out in the notice if they fail to pay the amount specified in the notice and fail to file a request for a review with the Tribunal within the prescribed period.

## Repeal

**24 The *Interim Order to Prevent Certain Persons from Boarding Flights to Canada due to COVID-19, No. 5*, made on April 9, 2020, is repealed.**

## Schedule

(Subsections 23(1) and (2))

<b>Column I</b> <b>Designated Provision</b>	<b>Column II</b> <b>Maximum Amount of Penalty (\$)</b>	
	<b>Individual</b>	<b>Corporation</b>
Section 3	5,000	25,000
Section 5	5,000	25,000
Section 6	5,000	
Section 7	5,000	25,000
Section 8	5,000	
Section 9	5,000	25,000
Subsection 10 (1)	5,000	25,000
Subsection 10 (2)	5,000	25,000
Subsection 10 (3)	5,000	25,000



<b>Column I</b> <b>Designated Provision</b>	<b>Column II</b> <b>Maximum Amount of Penalty (\$)</b>	
	<b>Individual</b>	<b>Corporation</b>
Subsection 10 (4)	5,000	
Subsection 10 (5)	5,000	25,000
Section 12	5,000	25,000
Section 13	5,000	
Section 15	5,000	25,000
Section 16	5,000	
Section 17	5,000	
Section 18	5,000	25,000
Subsection 19 (1)	5,000	25,000
Section 20	5,000	
Section 21	5,000	

## Footnotes

- a** S.C. 2004, c. 15, s. 5
- b** S.C. 2014, c. 39, s. 144
- c** S.C. 2015, c. 20, s. 12

d S.C. 2004, c. 15, s. 18

222

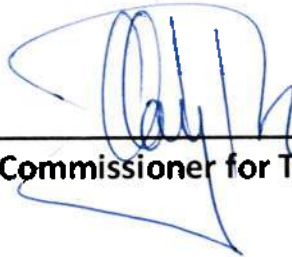
e S.C. 2001, c. 29, s. 39

f R.S., c. A-2

g S.C. 2004, c. 15, s. 11(1)

**Date modified:** 2020-04-21

**This is Exhibit "T" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 29 day of April, 2020**

A handwritten signature in blue ink, appearing to be "Ralph", is written over a horizontal line.

**A Commissioner for Taking Affidavits**



**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some transportation-related measures and guidance. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please contact us by email.

For information on COVID-19 updates, please visit [Canada.ca/coronavirus](https://Canada.ca/coronavirus).

## Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 3

**From: Transport Canada**

Whereas the annexed *Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 3* is required to deal with a significant risk, direct or indirect, to aviation safety or the safety of the public;

Whereas the provisions of the annexed Order may be contained in a regulation made pursuant to sections 4.71 <sup>a</sup> and 4.9 <sup>b</sup>, paragraphs 7.6(1)(a) <sup>c</sup> and (b) <sup>d</sup> and section 7.7 <sup>e</sup> of the *Aeronautics Act* <sup>f</sup>;

And whereas, pursuant to subsection 6.41(1.2) <sup>g</sup> of that Act, the Minister of Transport has consulted with the persons and organizations that that Minister considers appropriate in the circumstances before making the annexed Order;

Therefore, the Minister of Transport, pursuant to subsection 6.41(1) <sup>g</sup> of the *Aeronautics Act* <sup>f</sup>, makes the annexed *Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 3*.

Ottawa, April 17, 2020

Le ministre des Transports,

Marc Garneau

Minister of Transport

## Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 3

### Interpretation

#### Definitions

**1 (1)** The following definitions apply in this Interim Order.

**COVID-19** means the coronavirus disease 2019. (*COVID-19*)

**face mask** means any non-medical mask or face covering that is made of at least two layers of tightly woven material such as cotton or linen, is large enough to completely and comfortably cover a person's nose and mouth without gaping and can be secured to a person's head with ties or ear loops. (*masque*)

**non-passenger screening checkpoint** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*point de contrôle des non-passagers*)

**passenger screening checkpoint** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*point de contrôle des passagers*)

**Regulations** means the *Canadian Aviation Regulations*. (*Règlement*)

**restricted area** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (*zone réglementée*)

**screening authority** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (administration de contrôle)

**screening officer** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (agent de contrôle)

**sterile area** has the same meaning as in section 3 of the *Canadian Aviation Security Regulations, 2012*. (zone stérile)

#### Interpretation

**(2)** Unless the context requires otherwise, all other words and expressions used in this Interim Order have the same meaning as in the Regulations.

#### Conflict

**(3)** In the event of a conflict between this Interim Order and the Regulations or the *Canadian Aviation Security Regulations, 2012*, this Interim Order prevails.

#### Application

##### Flights departing an aerodrome in Canada

**2 (1)** Subject to subsection (2), sections 3 to 17 apply to the following operators who operate a flight, other than a cargo flight without passengers, from an aerodrome in Canada and to their passengers:

**(a)** the holder of a private operator registration document issued under Subpart 4 of Part VI of the Regulations; and

**(b)** the holder of a certificate issued under Subpart 1, 3, 4 or 5 of Part VII of the Regulations.

#### Exception

**(2)** Section 3 does not apply to the holder of a certificate issued under Subpart 1 of Part VII of the Regulations.

### Screening authority

**(3)** Beginning on April 20, 2020, at 12:00 p.m. Eastern Daylight Time, sections 18 to 20 apply to the screening authority at an aerodrome set out in the schedule to the *CATSA Aerodrome Designation Regulations* or at any other place designated by the Minister under subsection 6(1.1) of the *Canadian Air Transport Security Authority Act*.

### Provincial and Territorial Measures

#### Notification

**3** Before boarding an aircraft for a domestic flight that an operator operates, the operator must notify its passengers that they may be subject to a measure to prevent the spread of COVID-19 taken by the provincial or territorial government with jurisdiction at the destination aerodrome for that flight.

#### Health Check

##### Health check – operator

**4** Subject to section 6, an operator must conduct a health check of every passenger before the passenger boards an aircraft for a flight that the operator operates.

##### Health check

**5 (1)** An operator conducting a health check must ask questions of every passenger to verify whether they exhibit the following symptoms:

- (a)** a fever;
- (b)** a cough; and
- (c)** breathing difficulties.

#### Additional questions

- (2)** In addition to the health check, the operator must ask every passenger
- (a)** whether they have been refused boarding in the past 14 days due to a medical reason related to COVID-19; and
  - (b)** whether they are the subject of a mandatory quarantine order as a result of recent travel or as a result of an order issued by a provincial or local public health authority.

**False declaration – obligation of operator**

- (3)** The operator must advise every passenger not to provide answers to the health check questions and the additional questions that they know to be false or misleading.

**False declaration – obligation of passenger**

- (4)** A passenger who, under subsections (1) and (2), is subjected to a health check and is asked the additional questions must
- (a)** answer all questions; and
  - (b)** not provide answers that they know to be false or misleading.

**Observation – operator**

- (5)** Before passengers board an aircraft for a flight that the operator operates, the operator must observe whether any passenger is exhibiting any symptoms referred to in subsection (1).

**Exceptions**

- 6** The operator is not required to conduct a health check for the following persons:
- (a)** a crew member; or
  - (b)** a passenger who provides a medical certificate certifying that any symptoms referred to in subsection 5(1) that they are exhibiting are



not related to COVID-19.

### Prohibition

**7** An operator must refuse to allow a passenger to board an aircraft for a flight that the operator operates if

**(a)** the passenger's answers to the health check questions indicate that they exhibit

**(i)** a fever and cough, or

**(ii)** a fever and breathing difficulties;

**(b)** the operator observes, before a passenger boards an aircraft, that the passenger is exhibiting

**(i)** a fever and cough, or

**(ii)** a fever and breathing difficulties;

**(c)** the passenger's answer to any of the additional questions asked of them under subsection 5(2) is in the affirmative; or

**(d)** the passenger is a competent adult and refuses to answer any of the questions asked of them under subsection 5(1) or (2).

### Waiting period of 14 days

**8** A passenger who is refused boarding of an aircraft under section 7 is not permitted to board another aircraft for the purpose of being transported for a period of 14 days after the refusal, unless they provide a medical certificate certifying that any symptoms referred to in subsection 5(1) that they are exhibiting are not related to COVID-19.

### Face Masks

#### Application:

**9 (1)** Subject to subsection (2), sections 10 to 17 apply beginning on April 20, 2020, at 12:00 p.m. Eastern Daylight Time.

#### Exception

**(2)** Sections 10 to 17 do not apply to the following passengers:

- (a)** an infant;
- (b)** a person who has breathing difficulties unrelated to COVID-19;
- (c)** a person who is unconscious; or
- (d)** a person who is unable to remove a face mask without assistance.

#### Notification

**10** An operator must notify every passenger that intends to board an aircraft for a flight that the operator operates that

- (a)** the passenger must be in possession, prior to boarding, of a face mask;
- (b)** the passenger must wear the face mask at all times during the flight when they are 2 m or less from another person unless both persons live in the same private dwelling-house or other place that serves that purpose; and
- (c)** the passenger must comply with any instructions given by a crew member with respect to wearing a face mask.

#### Confirmation

**11** Every passenger must confirm to the operator prior to boarding an aircraft for a flight that the operator operates that they are in possession of a face mask.

#### False declaration

**12** A passenger must not provide a confirmation under section 11 that they know to be false or misleading.

#### Verification

**13** During the boarding process for a flight that the operator operates, the operator must verify that every passenger boarding the aircraft is in possession of a face mask.

#### Wearing of face mask

**14 (1)** An operator must require a passenger to wear a face mask at all times during a flight the operator operates when the passenger is 2 m or less from another person unless both persons live in the same private dwelling-house or other place that serves that purpose.

#### Exceptions

**(2)** Subsection (1) does not apply

- (a)** when the safety of the person could be endangered by wearing a face mask;
- (b)** when the person is eating, drinking or taking oral medications; or
- (c)** when a crew member authorizes the removal of the face mask to address the passenger's special needs or unforeseen circumstances.

#### Compliance – passenger

**15** A passenger must comply with any instructions given by a crew member with respect to wearing a face mask.

#### Prohibition – operator

**16** An operator is prohibited from permitting a passenger to board an aircraft for a flight that the operator operates if

- (a) the passenger is a competent adult and does not provide, or refuses to provide, the confirmation referred to in section 11;
- (b) the operator cannot verify under section 13 that the passenger is in possession of face mask; or
- (c) the passenger refuses to comply with instructions given by a crew member with respect to wearing a face mask.

**Refusal to comply**

**17** If, during a flight that an operator operates, a passenger refuses to comply with an instruction given by a crew member with respect to wearing a face mask, the operator must

- (a) keep a record of
  - (i) the date and flight number,
  - (ii) the passenger’s name and contact information,
  - (iii) the passenger’s seat number on the flight, and
  - (iv) the circumstances related to the refusal to comply; and
- (b) inform the Minister as soon as feasible of any record created under paragraph (a).

**Screening Authority**

**Requirement – passenger screening checkpoint**

**18 (1)** A screening authority must advise a person who is subject to screening at a passenger screening checkpoint under the *Canadian Aviation Security Regulations, 2012* to wear a face mask at all times during screening.

**Requirement – non-passenger screening checkpoint**

**(2)** A person who is screened at a non-passenger screening checkpoint under the *Canadian Aviation Security Regulations, 2012*, must wear a face mask if advised to do so by a screening officer.

#### Requirement to wear

**(3)** A person who has been advised to wear a face mask under subsections (1) or (2) must do so.

#### Exception

**(4)** Despite subsections (1) to (3), a person who is listed in any of paragraphs 9(2)(a) to (d) is not required to wear a face mask.

#### Removing face mask

**19** Despite section 18, a person who is required by a screening officer to remove their face mask during screening must do so.

#### Prohibition – refusal

**20** A screening authority must not permit a person, other than a person listed in any of paragraphs 9(2)(a) to (d), who has been advised to wear a face mask and refuses to do so, to pass beyond a screening checkpoint into a restricted area, including a sterile area.

#### Designated Provisions

##### Designation

**21 (1)** The provisions of this Interim Order set out in column 1 of the schedule are designated as provisions the contravention of which may be dealt with under and in accordance with the procedure set out in sections 7.7 to 8.2 of the Act.

#### Maximum amounts

**(2)** The amounts set out in column 2 of the schedule are the maximum amounts of the penalty payable in respect of a contravention of the designated provisions set out in column 1.

#### Notice

**(3)** A notice referred to in subsection 7.7(1) of the Act must be in writing and must specify

**(a)** the particulars of the alleged contravention;

**(b)** that the person on whom the notice is served or to whom it is sent has the option of paying the amount specified in the notice or filing with the Tribunal a request for a review of the alleged contravention or the amount of the penalty;

**(c)** that payment of the amount specified in the notice will be accepted by the Minister in satisfaction of the amount of the penalty for the alleged contravention and that no further proceedings under Part I of the Act in respect of that notice will be taken against the person on whom the notice is served or to whom it is sent;

**(d)** that the person on whom the notice is served or to whom it is sent will be provided with an opportunity consistent with procedural fairness and natural justice to present evidence before the Tribunal and make representations in relation to the alleged contravention if the person files a request for a review with the Tribunal; and

**(e)** that the person on whom the notice is served or to whom it is sent will be considered to have committed the contravention set out in the notice if they fail to pay the amount specified in the notice or fail to file a request for a review with the Tribunal within the prescribed period.

#### Repeal

**22 The *Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19 No. 2*, made on April 9, 2020, is repealed.**

**Schedule**

(Subsections 21(1) and (2))

<b>Column I Designated Provision</b>	<b>Column II Maximum Amount of Penalty (\$)</b>	
	<b>Individual</b>	<b>Corporation</b>
Section 3	5,000	25,000
Section 4	5,000	25,000
Subsection 5 (1)	5,000	25,000
Subsection 5 (2)	5,000	25,000
Subsection 5 (3)	5,000	25,000
Subsection 5 (4)	5,000	
Subsection 5 (5)	5,000	25,000
Section 7	5,000	25,000
Section 8	5,000	
Section 10	5,000	25,000
Section 11	5,000	
Section 12	5,000	
Section 13	5,000	25,000

<b>Column I</b> <b>Designated Provision</b>	<b>Column II</b> <b>Maximum Amount of Penalty (\$)</b>	
	<b>Individual</b>	<b>Corporation</b>
Subsection 14 (1)	5,000	25,000
Section 15	5,000	
Section 16	5,000	25,000
Subsection 18 (1)		25,000
Subsection 18 (2)	5,000	
Section 20		25,000

### Footnotes

- a** S.C. 2004, c. 15, s. 5
- b** S.C. 2014, c. 39, s. 144
- c** S.C. 2015, c. 20, s. 12
- d** S.C. 2004, c. 15, s. 18
- e** S.C. 2001, c. 29, s. 39
- f** R.S., c. A-2
- g** S.C. 2004, c. 15, s. 11(1)



237

4/22/2020

Interim Order to Prevent Certain Persons from Boarding Flights in Canada due to COVID-19, No. 3 - Transport Canada

**Date modified:** 2020-04-17

This is Exhibit "U" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 29 day of April, 2020



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**A Commissioner for Taking Affidavits**



**i** Transport Canada is closely monitoring the COVID-19 situation. In response, we have issued some transportation-related measures and guidance. Please check if any of these measures apply to you.

You may experience longer than usual wait times or partial service interruptions. If you cannot get through, please contact us by email.

For information on COVID-19 updates, please visit Canada.ca/coronavirus.

## Aviation measures in response to COVID-19

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From: Transport Canada

### On this page

- Background
- Consolidation of international inbound flights to four major hubs only
- Banning entry of foreign nationals by air travel who have been outside the U.S. or Canada in the last 14 days
- Restrictions on transborder travel by air from the U.S.
- Domestic flights within Canada and Outbound flights from Canada
- Preventing symptomatic passengers from boarding a plane to Canada
- Getting Canadians home
- Strengthening medical procedures in-flight and medical screening immediately upon landing, with enhanced cleaning and disinfection at airports

- Mandatory 14-day self-isolation for all travellers arriving in Canada, except for those who are essential to the movement of goods and people

## Background

On March 13, 2020, the Public Health Agency of Canada advised Canadians to avoid all non-essential travel outside Canada because of the worldwide pandemic and the rapidly evolving situation globally; and to self-isolate for 14 days upon returning to Canada.

New health checks for passengers boarding international and transborder flights were introduced on March 19, 2020. Air carriers with flights coming into Canada are required to do a basic health assessment of all air travellers before they boarded a flight. This includes the operator asking simple health questions, and looking for visible signs of illness prior to boarding. In the event a traveller presents COVID-19 symptoms, the air carrier is required to refuse to board the passenger for travel for a period of 14 days and a demonstration that the traveller is non-symptomatic, or until a medical certificate is presented that confirms the patient does not carry the virus.

Effective March 25, 2020 the Minister of Health made this self-isolation mandatory for all returning travellers to Canada, with certain exemptions including:

- healthy workers in the trade and transportation sector who are important for the movement of goods and people across the border, such as truck drivers and crew on any plane, train or marine vessel crossing the border; or
- healthy people who have to cross the border to go to work, including health care providers and critical infrastructure workers

Effective March 30, 2020, the Government of Canada started applying measures, including the health checks, to the domestic transportation system, similar to those already in place for transborder and international inbound flights. This means that passengers showing signs of COVID-19 will be denied boarding on all domestic and international outbound flights, as well as on intercity passenger rail.

The Government of Canada is working with provincial and territorial partners to coordinate important efforts to slow the spread of COVID-19, by putting in place measures to support provincial, territorial and local efforts to restrict COVID-19 risk from travel within Canada.

### **Consolidation of international inbound flights to four major hubs only**

On March 18, 2020, the Government instructed airlines to redirect international passenger flights to four Canadian airports – Toronto Pearson International Airport, Vancouver International Airport, Montreal-Pierre Elliott Trudeau International Airport and Calgary International Airport.

Domestic flights, as well as flights from the United States, sun destinations such as Mexico, Central America, South America and the Caribbean, as well as from St. Pierre-et-Miquelon, are not affected by this measure and can continue to operate on their regular routes and land at current Canadian destinations. The Government is working closely with the airline industry and airports to avoid unnecessarily disrupting operations and minimize inconveniencing travellers.

Given existing international flight patterns, the vast majority of international flights were already arriving at these four airports. In light of the new direction, both the Canada Border Services Agency and the Public Health Agency of Canada are ensuring a sufficient increase in their resources at all four airports.

## **Banning entry of foreign nationals by air travel who have been outside the U.S. or Canada in the last 14 days**

Under the *Aeronautics Act*, the Minister of Transport requires air carriers on flights to deny boarding to any passenger who is not a Canadian citizen or permanent resident and certain foreign nationals.

For practical purposes, the denial of boarding applies to all foreign nationals, with some exceptions\*, on flights to Canada.

The measures came into effect on **Wednesday, March 18**. They do not apply to:

- a person who has been only in the United States or Canada during the period of 14 days before the day on which they board;
- an immediate family member of a Canadian citizen or of a permanent resident, i.e. spouse/common-law partner, child and/or a child of a child;
- a person registered as an Indian under the *Indian Act*;
- a person who is authorized in writing, by a consular officer of the Government of Canada to come to Canada for the purpose of reuniting immediate family members;
- a crew member;
- a person who is exempt from the requirement to obtain a temporary resident visa under the *Immigration and Refugee Protection Regulations* and the immediate family members of that person;
- a person who enters Canada at the invitation of the Minister of Health for the purpose of assisting in the COVID-19 coronavirus disease response;

- a person who arrives by means of an aircraft operated by the Canadian Forces or the Department of National Defence;
- a member of the Canadian forces or a visiting force and the immediate family of that member;
- a protected person (a person who has been determined to be either (a) a Convention Refugee, due to a well-founded fear of persecution in his or her country of origin due to race, religion, nationality, membership in a social group, or political opinion or (b) a person in need of protection due to a risk of torture or risk to their life or to cruel and unusual treatment or punishment);
- a French citizen who resides in Saint-Pierre-et-Miquelon and has been only in Saint-Pierre-et-Miquelon, the United States or Canada during the period of 14 days before the day on which they board;
- a person or any person in a class of persons whom the Chief Public Health Officer determines does not pose a risk of significant harm to public health or will provide an essential service while in Canada;
- a person whom the Minister of Foreign Affairs, the Minister of Citizenship and Immigration or the Minister of Public Safety and Emergency Preparedness determines their presence is in the national interest; and
- a person in transit through Canada to another country.

\*For a full list of exceptions, please refer to COVID-19 Emergency Orders made under the *Quarantine Act*, and approved by the Governor in Council: 2020-0184 and 2020-185.

### **Restrictions on transborder travel by air from the U.S.**

Further to the Prime Minister's announcement on March 20, additional restrictions between Canada and the U.S. came into effect on March 21, 2020 for travel by air from the U.S.

In addition to a health check for COVID-19 symptomatic travellers, air carriers are required to notify foreign nationals travelling from the United States of the new border measures, including the restrictions on discretionary or non-essential travel. Passengers must be advised that, even if they are permitted to board the aircraft, they may be prohibited from entering Canada under any emergency order made pursuant to the *Quarantine Act*.

Only Canadian citizens, permanent residents, and certain foreign nationals travelling for essential purposes are able to enter Canada by air at this time. Discretionary or optional travel for recreation, or tourism is not allowed.

These measures work in conjunction with restrictions being imposed at the Canada-U.S. border for travel by land and sea. For more information, go to:

<https://www.canada.ca/en/public-health/services/diseases/coronavirus-disease-covid-19.html>

### **Domestic flights within Canada and Outbound flights from Canada**

For all domestic flights, the Government of Canada has applies measures that are similar to the international and cross-border requirements. These measures, which came into effect on March 30, 2020, include:

- conducting health checks of all travellers before boarding based on guidance from the Public Health Agency of Canada. The health check is the same one used for travellers boarding flights to Canada;



- denial of boarding for symptomatic passengers, or passengers who have been refused boarding in the past 14 days due to a medical reason related to COVID-19 virus, or is the subject of a provincial or territorial or local public health order; and
- notification to travellers that they may be subject of measures by the provincial or territorial government such as self-isolation requirements to limit the spread of COVID-19.

If a traveller has been denied boarding by an air carrier or train operator, it is because there are actively showing COVID-19 symptoms including either a fever and cough, or fever and difficulty breathing.

Regardless of how they arrived at the airport/train station, symptomatic travellers need to go immediately to their place of isolation using **private transportation only**, such as a personal vehicle. At all times, they should practise physical distancing by staying two arm lengths (or approximately two metres) from others, where possible, and follow proper hand and respiratory (i.e., sneezing/coughing) hygiene measures. Where available, people with COVID-19 symptoms should be given a mask to wear in public settings.

Travellers are strongly encouraged to take the Public Health Agency of Canada's self-assessment test before setting out on their journey to the airport, so they can access information and services in their local area. The self-assessment test can be found at: <https://ca.thrive.health/covid19/en>

### **Pre-boarding identification requirements for domestic air travel**

In response to managing the COVID-19 outbreak, certain provincial governments are suspending services considered non-essential. Due to the restrictions on the movement of Canadians and the voluntary isolations in

the country, it is estimated that many Canadians will end up with invalid identification as they won't be able to renew it before it expires.

The Government of Canada is temporarily allowing, for domestic flights only, air carriers to accept government-issued identification that has expired after March 1, 2020. This temporary exemption is in effect until June 30, 2020. Passengers will need to show one of these documents at the boarding gate:

- one piece of photo identification issued by a Canadian federal, provincial or territorial government with their full name and date of birth or
- two pieces of identification issued by a Canadian federal, provincial or territorial government. Both must have your name and at least one must have their full name and date of birth.

Examples of Canadian government-issued identification documents are available at: [www.travel.gc.ca/air/identification-requirements](http://www.travel.gc.ca/air/identification-requirements).

Remember that the name on the passenger's identification must match the name on their airline ticket and boarding pass.

### **Preventing symptomatic passengers from boarding a plane to Canada**

Under the *Aeronautics Act*, the Minister of Transport requires air operators to deny boarding of a traveller who is symptomatic (regardless of citizenship status) and keep them from boarding an international flight to Canada, including a trans-border flight.

Air operators are required to do a health check for all air travellers before they board the flight based on guidance from the Public Health Agency of Canada. This would include the operator asking health questions and

looking for visible signs of a cough, fever, and difficulty breathing prior to boarding.

In the event the traveller presents COVID-19 symptoms, the air carrier is required to refuse to board the passenger for travel for a period of 14 days or until a medical certificate is presented that confirms the traveller's symptoms are not related to COVID-19.

The measures came into effect on **Thursday, March 19**.

While working to protect Canadians from COVID-19, we must ensure our airlines continue to fly, and that supply chains remain open. As such, these measures do not apply to domestic flights or cargo flights.

### **Getting Canadians home**

The Prime Minister announced on March 21 that the Government is working with Canadian airlines and foreign governments to provide access to commercial flights for Canadian travellers who want to return home.

The flights are only available to stranded travellers who are Canadian citizens, Canadian permanent residents, or their immediate family members. In addition, only travellers who have no COVID-related symptoms are allowed to board, and all travellers are required to self-isolate for 14 days upon arrival in Canada.

Canadian citizens, permanent residents and members of their immediate family holding a valid travel document will have priority to board these flights to Canada. Foreign nationals who have committed to working, studying or making Canada their home will also be permitted to board with valid travel documentation when these exemptions are implemented. Visit [IRCC's website](#) to get updated information as it becomes available.

Flights have already brought Canadians home from Morocco, Peru, Spain and other locations. We are currently working with Air Canada and are engaged with other airlines as we assess global needs.

The Government of Canada is working with Canadian airlines to ensure that stranded Canadians are offered a reasonable commercial price for their return ticket home.

Canadians who are unable to pay, and who have no available sources of funds to return home, are encouraged to apply for an emergency repayable loan through the [COVID-19 Emergency Loan Program for Canadians Abroad](#). This program was created to help Canadians return home and to cover basic essential needs while they work towards their return.

All Canadians abroad are strongly encouraged to [register with Global Affairs Canada](#). This will allow the Government of Canada to provide information to them as soon as it becomes available.

Canadians in need of emergency consular assistance from anywhere in the world can call the 24/7 Emergency Watch and Response Centre in Ottawa at +1 613-996-8885 (collect calls are accepted where available) or email [sos@international.gc.ca](mailto:sos@international.gc.ca)

### **Strengthening medical procedures in-flight and medical screening immediately upon landing, with enhanced cleaning and disinfection at airports**

Transport Canada has been and continues to work with air carriers to strengthen current practices. If a traveller demonstrates COVID-related symptoms in-flight, air carriers will isolate the passenger quickly according to international standards, and flight crews will wear appropriate personal protective equipment. In addition, the flight crew would notify air traffic control of a passenger presenting COVID-19 symptoms.

Symptomatic passengers will be segregated immediately upon deplaning, so they do not mingle with other passengers in the arrivals area and customs hall.

Strengthened screening measures at airports include stronger and more visible messaging, health screening questions at kiosks, roving Canada Border Services Agency (CBSA) officers checking on arriving passengers, and CBSA officers checking passengers upon departure from the customs hall to ensure delivery and reinforcement of public health messaging.

Airport operators have been asked to perform enhanced cleaning and disinfection of high-traffic areas and facilities, to contain the spread of COVID-19, consistent with Public Health Agency of Canada and international guidance.

### **Mandatory 14-day self-isolation for all travellers arriving in Canada, except for those who are essential to the movement of goods and people**

Effective March 26, 2020, the Government of Canada put in place mandatory 14-day self-isolation for all persons entering Canada, even if they do not have COVID-19 symptoms. Many provinces and territories are also asking all travellers, with some exceptions for essential services, to undergo self-isolation to help limit the spread of COVID-19 in Canada.

The continued global movement of goods and people and the ongoing delivery of essential services will be important for Canada's response to COVID-19.

### **Exceptions**

Consequently, an exception to the order to self-isolate for 14 days is being provided to workers who are essential to the movement of goods and people. For example, this exemption would apply to:

- healthy workers in the trade and transportation sector who are important for the movement of goods and people across the border, such as truck drivers and crew on any plane, train or marine vessel crossing the border; or
- healthy people who have to cross the border to go to work, including health care providers and critical infrastructure workers.

Workers in these sectors should:

- practice social distancing (maintain a distance of 2 metres from others)
- closely **self-monitor**; and
- self-isolate and contact their local public health authority should they exhibit any symptoms.

It is recommended that employers in these sectors conduct active daily monitoring of their staff for COVID-19 symptoms (checking for cough, fever or shortness of breath). Guidance material for the air operators, their crew members, and the aviation industry has been prepared and is available at:

[https://www.tc.gc.ca/en/initiatives/covid-19-measures-updates-guidance-tc.html#toc\\_1](https://www.tc.gc.ca/en/initiatives/covid-19-measures-updates-guidance-tc.html#toc_1)

### Related links

- [COVID-19 measures, updates, and guidance issued by Transport Canada](#)
- [COVID-19: Guidance material for managing travellers during the check-in procedure at international airports](#)
- [COVID-19: Guidance material for air carriers managing travellers during the check-in procedure at transborder \(U.S.\) airports](#)
- [Information on Mandatory Self-Isolation for Individuals Entering Canada](#)

**Date modified:** 2020-04-02

**This is Exhibit "V" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**



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**A Commissioner for Taking Affidavits**



Court File No.: T-428-20

**PROPOSED CLASS PROCEEDING**

Action No: T-\_\_\_\_-20

**FEDERAL COURT**

BETWEEN:

**Janet Donaldson**

Plaintiff

AND:

**Swoop Inc.****Westjet Airlines Ltd.****Air Canada****Air Transat A.T. Inc.****Sunwing Airlines Inc.**

Defendant

**STATEMENT OF CLAIM TO THE DEFENDANTS**

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the Federal Courts Rules serve it on the plaintiff's solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, WITHIN 30 DAYS after this statement of claim is served on you, if you are served

e-document	T-428-20	
F I L E D	FEDERAL COURT COUR FÉDÉRALE  Mar 27, 2020	D E P O S É
Kimberly Lalonde		
Ottawa, ONT		

within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the Federal Court Rules information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

March 27, 2020

Issued by: \_\_\_\_\_  
(Registry Officer)

Address of local office: Thomas D'Arcy McGee Building  
90 Sparks Street, 5th floor  
Ottawa, Ontario  
K1A 0H9

TO: **Swoop Inc.**  
c/o AHBL Corporate Services Ltd.  
2700 - 700 West Georgia Street  
Vancouver, BC, V7Y 1B8

**Westjet Airlines Ltd.**  
c/o AHBL Corporate Services Ltd.  
2700 - 700 West Georgia Street  
Vancouver, BC, V7Y 1B8

**Air Canada**  
c/o AHBL Corporate Services Ltd.  
2700 - 700 West Georgia Street  
Vancouver, BC, V7Y 1B8

**Air Transat A.T. Inc.**  
c/o David Edinger  
1200 - 925 West Georgia Street  
Vancouver, BC V6C 3L2

**Sunwing Airlines Inc.**  
c/o MacKenzie Fujisawa LLP  
1600-1095 West Pender Street  
Vancouver, BC V6E 2M6

## **OVERVIEW**

1. This is a consumer protection class action seeking to enforce each passengers' rights to a refund for monies paid for their air tickets, when they are not able to travel for reasons outside of the control of the passengers. The Defendants should not be permitted to hold the Class Members' monies indefinitely for a purchase that the Class Members may or may not wish to make in the future.

## **CLAIM**

2. The Plaintiff claims, on her own behalf and on behalf of the Class Members (as defined below):
  - a. an Order pursuant to Rules 334.16(1) and 334.17 of the *Federal Courts Rules* (the "**Rules**") certifying this action as a class proceeding and providing any ancillary directions;
  - b. an Order pursuant to Rules 334.12(3), 334.16(1)(e) and 334.17(b) appointing the Plaintiff as the representative plaintiff for the Class;
  - c. an interim Order that any of the Defendants' communications with the Class Members, including messages posted publicly on their own websites must prominently refer to the fact that there is a pending class action seeking various relief including: refund for the monies paid and punitive damages;
  - d. an Order under Rule 377 (or alternatively Rules 373 and/or 374) that the monies received by the Defendants in relation to the Class Members' Contracts of Carriage (defined further below) be paid into Court pending final disposition;
  - e. a declaration that the Contracts of Carriage between each of the Class Members and a Defendant have been terminated pursuant to the doctrine of frustration on March 13, 2020;
  - f. further, or in the alternative, a declaration that the Contracts of Carriage between each of the Class Members and a Defendant include an expressed or implied term that Class Members are entitled to a full refund if carriage is no longer possible for reasons outside the control of the Class Member, and that each of the Defendants have breached this term;

- g. further, or in the alternative, a declaration that the Defendants have breached the duty to perform the Contracts of Carriage in good faith;
- h. an Order that the Defendants refund to the original form of payment the monies received in relation to the Class Members' Contracts of Carriage;
- i. further, or in the alternative, an Order that the Defendants pay damages to each Class Member including: special damages, general damages, nominal damages, and/or punitive damages;
- j. an Order pursuant to Rule 334.28(1) and (2) for the aggregate assessment of the refund of monies to the Class Members;
- k. an Order pursuant to Rule 334.26-334.27 and 334.28(3) for individual assessment of compensatory damages to members of the Class and the appointment of a special referee for assessing each individual case using special modes of proof as directed by the Court;
- l. pre-judgment and post-judgment interest pursuant to sections 36 and 37 of the *Federal Courts Act*, RSC 1985, c. F-7; and
- m. such further and other relief as this Honourable Court deems just.

### **THE PARTIES**

- 3. The representative plaintiff, Janet Donaldson, is a resident of the province of British Columbia.
- 4. The Defendant, Swoop Inc., is a body corporate incorporated in Alberta and extra-provincially registered in British Columbia with an attorney in British Columbia at: AHBL Corporate Services Ltd., 2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8 (hereafter "**Swoop**").
- 5. The Defendant, Westjet Airlines Ltd., is a body corporate incorporated in Alberta and extra-provincially registered in British Columbia with an attorney in British Columbia at: AHBL Corporate Services Ltd., 2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8 (hereafter "**WestJet**").
- 6. The Defendant, Air Canada, is a body corporate incorporated under the laws of Canada and extra-provincially registered in British Columbia with an attorney in British Columbia at: AHBL Corporate Services Ltd., 2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8 (hereafter "**Air Canada**").

- 7. The Defendant, Air Transat A.T. Inc., is a body corporate incorporated under the laws of Canada and extra-provincially registered in British Columbia with an attorney in British Columbia at: David Edinger, 1200-925 West Georgia Street, Vancouver, BC V6C 3L2 (hereafter "Air Transat").
- 8. The Defendant, Sunwing Airlines Inc., is a body corporate incorporated in Ontario and extra-provincially registered in British Columbia with an attorney in British Columbia at: MacKenzie Fujisawa LLP, 1600-1095 West Pender Street, Vancouver, BC, V6E 2M6 (hereafter "Sunwing").
- 9. Each of the Defendants are commercial airlines based in Canada licensed under the *Canada Transportation Act*, S.C. 1996, c. 10 and the accompanying regulations, operating domestic flights, international flights, and transborder (USA) flights.

**THE CLASS**

10. The representative plaintiff brings this action on her own behalf and on behalf of all persons as follows (hereafter the "Class" or "Class Member(s)"):

All persons, residing anywhere in the world, who before March 11, 2020 entered into a Contract of Carriage (defined below) with any of the Defendants for travel on a flight operated by a Defendant on a trip that was scheduled to commence between March 13, 2020 until the date the Government of Canada withdraws travel advisories for COVID-19, and have not received a refund in the original form of payment:

A further subclass of Class Members whose flights from March 13, 2020 until the dates listed below were cancelled and/or suspended by the Defendant in response to the COVID-19 situation (hereafter the **Cancellation Sub-Class**).

- May 31, 2020 (for Westjet and Swoop);
- April 30, 2020 (for Sunwing, Air Transat, and Air Canada); or
- Any other date to be determined by the Court.

11. The representative Plaintiff is a member of the Class (including the Cancellation Sub-Class).

12. It is estimated that the Class includes tens of thousands (if not hundreds of thousands) of affected passengers.

### **THE DEFENDANT'S FLIGHT OFFERINGS**

13. Each of the Defendants offers the following categories of flights:

- a. Domestic;
- b. Transborder (USA); and
- c. International.

14. Under section 67 of the *Canada Transportation Act*, each of the Defendants are required to publish a tariff providing for the terms and conditions applicable to domestic carriage (hereafter the "**Domestic Tariffs**").

15. Section 67(3) mandates that each of the Defendants must comply with the terms of its own Domestic Tariffs.

16. Under sections 110-112 of the *Air Transportation Regulations*, SOR/88-58, each of the Defendants are required to publish and file a tariff providing for the terms and conditions applicable to international, including transborder, carriage (hereafter the "**International Tariffs**").

17. Sections 110-112 also mandates that each of the Defendants must comply with the terms of its own International Tariffs.

18. When a person purchases an air ticket for travel on a flight with any of the Defendants, the terms of the applicable Domestic Tariff or International Tariff, as the case may be, are incorporated into the terms of the transaction between that person and the Defendant (hereafter the "**Contract of Carriage**").

19. It is an express and/or implied term of each of the Defendants' Domestic Tariffs, International Tariffs, and/or Contract of Carriage that passengers have a fundamental right to a refund of the monies paid if the air carrier is unable to transport them for any reason that is outside the passengers' control and that the carrier cannot keep the fare paid by the passengers and refuse to provide a refund on the basis that its inability to provide transportation was due to certain events.

## **THE PLAINTIFF'S AND THE CLASS MEMBERS' CIRCUMSTANCES**

20. On or about January 14, 2020, the Plaintiff booked a flight with another friend for travel with WestJet via an online travel agent (Expedia for TD) to travel to New York as follows:
- a. WestJet Flight 710 on April 17, 2020 from Vancouver to Toronto, with a connecting flight WestJet 1216 the same day from Toronto to New York.
  - b. WestJet Flight 1211 on April 23, 2020 from New York to Toronto, with a connecting flight WestJet 719 the same day from Toronto to Vancouver.
- (the "Booking")
21. The total cost of the Booking was \$361.39 CAD, which was paid to WestJet on or about January 14, 2020 using her credit card.
22. At the time of making the Booking, a Contract of Carriage was entered into between the Plaintiff and the Defendant Westjet.
23. Each of the Class Members before March 11, 2020 (a key date described below), entered into a Contract of Carriage with a Defendant for travel that is set to begin on or after March 13, 2020 (another key date described further below).
24. Individuals who commenced travel before March 13, 2020 or entered into their Contract of Carriage after March 11, 2020 are not included in this action.
25. The coronavirus (hereinafter "**COVID-19**") is a highly contagious virus that originated from the province of Hubei of the Peoples Republic of China, and began spreading outside of the Peoples Republic of China on or around February 2020.
26. On or about March 11, 2020, the World Health Organization declared COVID-19 as a global pandemic. Individuals that entered into the Contract of Carriage prior to March 11, 2020 would not be aware that a global pandemic would be declared by the World Health Organization.
27. On or about March 13, 2020, the Government of Canada issued a blanket travel advisory advising against non-essential travel outside of Canada until further notice and restricting entry of foreign nationals into Canada, akin to a "declaration of war" against COVID-19, and that those in Canada should stay home except if

absolutely necessary (hereafter the "**Declaration**").

28. Prior to March 13, 2020, there was no indication from the Government of Canada that there would be any forthcoming restriction on international travel or that the Declaration would be issued.
29. The provisions of the *Canada Transportation Act* (and accompanying regulations such as the *Air Passenger Protection Regulations*) and the written terms of the Domestic Tariffs and the International Tariffs only contemplated situations involving relatively localized and short-term delays, cancellations, and/or disruptions to flights. They never contemplated situations where the Declaration would be issued against a global pandemic of the scale of COVID-19.
30. The COVID-19 situation is outside of the Class Members' control.
31. Upon issuance of the Declaration, the Class Members complied with the guidance of the Government of Canada and did not commence the itineraries that they had booked prior to March 11, 2020.
32. Shortly after the issuance of the Declaration, the Defendants on their own initiative cancelled and/or suspended numerous flights up to and including May 31, 2020 (for Westjet and Swoop) and April 30, 2020 (for Sunwing, Air Transat, and Air Canada), with further cancellations and suspensions expected to be announced in the near future.
33. Regardless whether the flights were cancelled/suspended by the Defendants, or the Class Members adhering to the Declaration to not commence their itineraries, all of the Defendants failed to provide the Class Members with refunds of the monies they paid to a Defendant under their respective Contracts of Carriage.
34. Instead, all of the Defendants implemented new policies (that were never part of the International Tariffs, Domestic Tariffs, or Contracts of Carriage) seeking to keep all of the Class Members monies, and in exchange issue (or offer to issue) "travel credits" that are subject to various restrictions (detailed below).
35. In effect, each of the Defendants are forcing the Class Members to forego their fundamental right to a refund and to spend their monies with the same Defendant in the future to purchase travel that the Class Members may not wish to undertake any longer, and likely at a substantially different price.
36. In the case of Swoop, all international and transborder flights have been



suspended as of March 23, 2020, with substantial reductions to domestic flights, and Swoop would issue to the Class Members a non-transferable credit that is valid for 24 months from the cancellation date. In the case of itineraries containing more than one traveller, the non-transferable credit will be issued in the name of one of the travellers only and must be used in the future by that traveller only.

37. In the case of WestJet, all international and transborder flights have been suspended as of March 22, 2020, with substantial reductions to domestic flights, and WestJet would issue to the Class Members a transferable credit that is valid for 24 months from the cancellation date.
38. In the case of Air Canada, substantial reductions were implemented for domestic, international and transborder flights. Air Canada would issue to the Class Members a non-transferable credit that is valid for 24 months from the cancellation date. If the new booking is cheaper than the non-transferable credit, the monetary difference will be completely forfeited to Air Canada.
39. In the case of Air Transat, substantial reductions were implemented for domestic, international and transborder flights. Air Transat would issue to the Class Members a non-transferable credit that is valid for 24 months from the cancellation date. If the new booking is cheaper than the non-transferable credit, the remaining amount will be completely forfeited to Air Transat.
40. In the case of Sunwing, all international and transborder flights have been suspended as of March 17, 2020, with substantial reductions to domestic flights, and Sunwing would issue to the Class Members a non-transferable, non-refundable credit with no cash value that is valid for 24 months from the original departure date. It is not clear if the remaining amount will be forfeited to Sunwing if the new booking is cheaper than the non-transferable credit.
41. On or about March 24, 2020, WestJet (which includes its wholly owned subsidiary Swoop) officially announced that it will layoff 50% of its staff members amounting to 6,900 employees.
42. On or about March 20, 2020, Air Canada officially announced that it will layoff 5,000 of its staff members, mostly flight attendants and pilots.
43. On or about March 20, 2020, Air Transat officially announced that it will layoff 2,000 of its staff members, mostly flight attendants and pilots.
44. On or about March 17, 2020, Sunwing officially announced that it will layoff all of its flight attendants and pilots and suspend operations in the near term.

- 45. As a result of the layoffs above, the Defendants would not incur various operating costs associated with operating their flights, for example, labour, fuel, and landing fees.
- 46. It would be unconscionable and unreasonable for the Defendants to not provide the services, and also not having to incur the key operational costs for procuring the services, on the one hand, while seeking on the other hand that 100% of the monies paid by the Class Members to the Defendants be forfeited for the promise of a "credit" to be redeemed within two years.
- 47. It would also be unconscionable and unreasonable because the Class Members would bear the risk of any of the Defendants becoming insolvent, and as a result the "credits" becoming worthless.
- 48. The Defendants' conduct is high handed, lax and completely disregards the fundamental right of (and legitimate expectations of) the Class Members to a monetary refund when services could not (or will not) be rendered for reasons completely outside the control of the Class Members.
- 49. Each of the Defendants are experienced commercial airlines that have, or ought to have, proper contingency or financial planning to account for situations like COVID-19. In the alternative, each of the Defendants ought to have acquired proper business interruption insurance policies to limit their exposure to situations like COVID-19.

**THE CLASS MEMBERS' BASIS FOR CLAIM**

- 50. The Class Members are in the same or similar situation as the Plaintiff in that all of the Class Members:
  - a. entered into a Contract of Carriage containing the same or similar terms, including an express and/or implied term providing for the absolute right to a refund in circumstances outside of the Class Members' control; and
  - b. their travel plans were all disrupted from the COVID-19 situation.

**Frustration of the Contracts of Carriage**

- 51. The doctrine of frustration rests upon a term or a condition implied into the contract *ab initio*.  
*Cheong Yue Steamship Company v. Hirji Mulji*, 1926 CanLII 523 (UK JCPC) at p. 922

52. By applying the doctrine the law is only doing what the parties really meant to do themselves and would have inserted into the contract had the situation occurred to them, on the basis of what is fair and reasonable and the main object of the contract.

*Cheong Yue Steamship Company v. Hirji Mulji*, 1926 CanLII 523 (UK JCPC) at pp. 922 and 927

53. The changed circumstances brought about by COVID-19 and the Declaration altered the fundamental nature of the Contracts of Carriage between each of the Class Members and the Defendants, frustrating the object of same and making performance as intended, impossible or radically different.

54. The main object of the Contracts of Carriage was:

- a. to carry the Class Member to their destination on the dates and times stipulated in their Contract of Carriage, with the allowance for short and reasonable delays; and
- b. that the carriage was to occur during "peace times" and not during global "war times" like the COVID-19 situation.

55. Irrespective of whether the Class Members would want to travel or not, the COVID-19 situation is clearly a prolonged situation that is not expected to subside in a reasonable time, and therefore the Contracts of Carriage could not be performed (as previously contemplated) within a reasonable time.

56. Upon the Government of Canada's Declaration on or about March 13, 2020, the Contracts of Carriage have been frustrated since that moment, as a matter of law.

*Cheong Yue Steamship Company v. Hirji Mulji*, 1926 CanLII 523 (UK JCPC) at p. 923

57. The parties never meant to allow the Defendants to keep the monies received under the Contracts of Carriage when a situation like COVID-19 occurs. Furthermore, it is not just and reasonable to permit the Defendants to keep those monies, as the fundamental nature of the contract is altered in light of the changed circumstances.

58. The Class Members are entitled to a refund of the monies paid to the Defendants under the Contracts of Carriage.

*Fibrosa Spolka Akcyjna v Fairbairn Lawson Combe Barbour Ltd*, [1942] UKHL 4; cited with approval in *Cahan v. Fraser*, 1951 CanLII 253 (BC CA)

The Defendants' Breach of Contract

- 59. Each of the Domestic Tariffs and/or International Tariffs includes an express and/or implied term that each Class Member has a right to a refund of the monies paid if a Defendant is unable to transport them for any reason that is outside the Class Member's control and that the Defendant cannot keep the monies paid by the Class Member and refuse to provide a refund on the basis that its inability to provide transportation was due to certain events.
- 60. The Defendants' have breached the terms of the Contracts of Carriage by refusing to provide the refunds in accordance with the express and/or implied terms for a refund.
- 61. The Defendants have further breached the terms of the Contracts of Carriage by the imposition of a "new policy" that deprives the Class Members of their right to a refund and in exchange issues to the Class Members a future credit.
- 62. The Defendants' conduct is also a breach of the duty to perform contractual obligations in good faith, including the duty to properly inform the Class Members.
- 63. The Defendants are entitled to damages in an amount equivalent to the monies previously paid, plus special, general, nominal, and punitive damages for the Defendants' breach of the Contract of Carriage.

**JURISDICTION**

- 64. This Action concerns aeronautics and/or works and undertakings extending beyond the limits of province, and is governed by a comprehensive federal statutory framework including:
  - o. *Canada Transportation Act*, S.C. 1996, c. 10
  - b. *Air Transportation Regulations*, SOR/88-58
  - c. *Aeronautics Act*, R.S.C. 1985, c. A-2
- 65. Subsections 23(b) and 23(c) of the *Federal Courts Act* provide that the Federal Court has jurisdiction over the subject-matter.
- 66. Furthermore, and in particular, this Court has jurisdiction over contracts of carriage by air, which includes the Domestic Tariffs, International Tariffs, and the Contracts of Carriage.

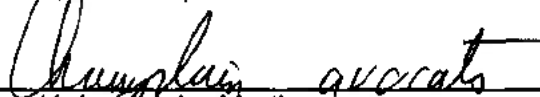
*Warner-Lambert Canada Ltd. v. Canadian Pacific Airlines Ltd.*, 1981 CanLII 2627 (FC)

67. The Contracts of Carriage are governed by federal common law, including the law relating to breach of contracts, restitution, tort, unjust enrichment, and/or waiver of tort.
68. The members of the Class are within the territorial jurisdiction of this Court as the respective flights originate from Canada or have Canada as its destination and there is a "real and substantial connection" with Canada.
69. Regardless of the residency of the Class Member, their Contract of Carriage would be subject to and governed by the *Canada Transportation Act* and/or *Air Transport Regulations*, as the case may be.

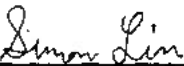
### **Location of Trial**

70. The Plaintiff proposes that this action be tried at Vancouver, BC.

Dated: March 27, 2020



Me. Jérémie John Martin  
Me. Sébastien A. Paquette  
Champlain Avocats  
1434 Sainte-Catherine Street West, Suite  
200 Montréal, Québec, H3G 1R4  
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This is Exhibit "W" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020

A handwritten signature in blue ink, appearing to be "Clayton", written over a horizontal line.

A Commissioner for Taking Affidavits



Court File No. **VLC-S-S-203759**  
No.  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

JANET DONALDSON

PLAINTIFF

AND:

SWOOP INC., WESTJET AIRLINES LTD., AIR CANADA, AIR TRANSAT A.T. INC.,  
and SUNWING AIRLINES INC.

DEFENDANTS

**Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50**

**NOTICE OF CIVIL CLAIM**

**This action has been started by the plaintiff(s) for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

**Time for response to civil claim**

A response to civil claim must be filed and served on the plaintiff(s),

(a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

(b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or

(d) if the time for response to civil claim has been set by order of the court, within that time.

**CLAIM OF THE PLAINTIFF**

**Part 1: STATEMENT OF FACTS**

**Overview**

1. This is a consumer protection class action seeking to enforce each passengers' rights to a refund for monies paid for their air tickets, when they are not able to travel for reasons outside of the control of the passengers. The Defendants should not be permitted to hold the Class Members' monies indefinitely for a purchase that the Class Members may or may not wish to make in the future.

**The Parties**

2. The representative plaintiff, Janet Donaldson, is a resident of the province of British Columbia.

3. The Defendant, Swoop Inc., is a body corporate incorporated in Alberta and extra-provincially registered in British Columbia with an attorney in British Columbia at: AHBL



Corporate Services Ltd., 2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8 (hereafter "**Swoop**").

4. The Defendant, Westjet Airlines Ltd., is a body corporate incorporated in Alberta and extra-provincially registered in British Columbia with an attorney in British Columbia at: AHBL Corporate Services Ltd., 2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8 (hereafter "**WestJet**").

5. The Defendant, Air Canada, is a body corporate incorporated under the laws of Canada and extra-provincially registered in British Columbia with an attorney in British Columbia at: AHBL Corporate Services Ltd., 2700 - 700 West Georgia Street, Vancouver, BC, V7Y 1B8 (hereafter "**Air Canada**").

6. The Defendant, Air Transat A.T. Inc., is a body corporate incorporated under the laws of Canada and extra-provincially registered in British Columbia with an attorney in British Columbia at: David Edinger, 1200-925 West Georgia Street, Vancouver, BC V6C 3L2 (hereafter "**Air Transat**").

7. The Defendant, Sunwing Airlines Inc., is a body corporate incorporated in Ontario and extra-provincially registered in British Columbia with an attorney in British Columbia at: MacKenzie Fujisawa LLP, 1600-1095 West Pender Street, Vancouver, BC, V6E 2M6 (hereafter "**Sunwing**").

8. Each of the Defendants are commercial airlines based in Canada licensed under the *Canada Transportation Act*, S.C. 1996, c. 10 and the accompanying regulations, operating domestic flights, international flights, and transborder (USA) flights.

### **The Class**

9. The representative plaintiff brings this action on her own behalf and on behalf of all persons as follows (hereafter the "**Class**" or "**Class Member(s)**"):

All persons, residing anywhere in the world, who before March 11, 2020 entered into a Contract of Carriage (defined below) with any of the Defendants for travel on a flight operated by a Defendant on a trip that was scheduled to commence between March 13, 2020 until the date the Government of Canada withdraws travel advisories for COVID-19, and have not received a refund in the original form of payment:

A further subclass of Class Members whose flights from March 13, 2020 until the dates listed below were cancelled and/or suspended by the Defendant in response to the COVID-19 situation (hereafter the **Cancellation Sub-Class**).

- May 31, 2020 (for Westjet and Swoop);
- April 30, 2020 (for Sunwing, Air Transat, and Air Canada); or
- Any other date to be determined by the Court.

10. The representative Plaintiff is a member of the Class (including the Cancellation Sub-Class).

11. It is estimated that the Class includes tens of thousands (if not hundreds of thousands) of affected passengers.

#### **The Defendant's Flight Offerings**

12. Each of the Defendants offers the following categories of flights:

- a. Domestic;
- b. Transborder (USA); and
- c. International.

13. Under section 67 of the *Canada Transportation Act*, each of the Defendants are required to publish a tariff providing for the terms and conditions applicable to domestic carriage (hereafter the "**Domestic Tariffs**").

14. Section 67(3) mandates that each of the Defendants must comply with the terms of its own Domestic Tariffs.

15. Under sections 110-112 of the *Air Transportation Regulations*, SOR/88-58, each of the Defendants are required to publish and file a tariff providing for the terms and conditions applicable to international, including transborder, carriage (hereafter the **"International Tariffs"**).

16. Sections 110-112 also mandates that each of the Defendants must comply with the terms of its own International Tariffs.

17. When a person purchases an air ticket for travel on a flight with any of the Defendants, the terms of the applicable Domestic Tariff or International Tariff, as the case may be, are incorporated into the terms of the transaction between that person and the Defendant (hereafter the **"Contract of Carriage"**).

18. It is an express and/or implied term of each of the Defendants' Domestic Tariffs, International Tariffs, and/or Contract of Carriage that passengers have a fundamental right to a refund of the monies paid if the air carrier is unable to transport them for any reason that is outside the passengers' control and that the carrier cannot keep the fare paid by the passengers and refuse to provide a refund on the basis that its inability to provide transportation was due to certain events.

#### **The Plaintiff's and The Class Members' Circumstances**

19. On or about January 14, 2020, the Plaintiff booked a flight with another friend for travel with WestJet via an online travel agent (Expedia for TD) to travel to New York for leisure purposes as follows:

- a. WestJet Flight 710 on April 17, 2020 from Vancouver to Toronto, with a connecting flight WestJet 1216 the same day from Toronto to New York.
- b. WestJet Flight 1211 on April 23, 2020 from New York to Toronto, with a connecting flight WestJet 719 the same day from Toronto to Vancouver.

(the **"Booking"**)

20. The total cost of the Booking was \$361.39 CAD, which was paid to WestJet on or about January 14, 2020 using her credit card.

21. At the time of making the Booking, a Contract of Carriage was entered into between the Plaintiff and the Defendant Westjet.

22. Each of the Class Members before March 11, 2020 (a key date described below), entered into a Contract of Carriage with a Defendant for travel that is set to begin on or after March 13, 2020 (another key date described further below).

23. Individuals who commenced travel before March 13, 2020 or entered into their Contract of Carriage after March 11, 2020 are not included in this action.

24. The coronavirus (hereinafter "**COVID-19**") is a highly contagious virus that originated from the province of Hubei of the Peoples Republic of China, and began spreading outside of the Peoples Republic of China on or around February 2020.

25. On or about March 11, 2020, the World Health Organization declared COVID-19 as a global pandemic. Individuals that entered into the Contract of Carriage prior to March 11, 2020 would not be aware that a global pandemic would be declared by the World Health Organization.

26. On or about March 13, 2020, the Government of Canada issued a blanket travel advisory advising against non-essential travel outside of Canada until further notice and restricting entry of foreign nationals into Canada, akin to a "declaration of war" against COVID-19, and that those in Canada should stay home except if absolutely necessary (hereafter the "**Declaration**").

27. Prior to March 13, 2020, there was no indication from the Government of Canada that there would be any forthcoming restriction on international travel or that the Declaration would be issued.

28. The provisions of the *Canada Transportation Act* (and accompanying regulations such as the *Air Passenger Protection Regulations*) and the written terms of the Domestic Tariffs and the International Tariffs only contemplated situations involving relatively localized and short-term delays, cancellations, and/or disruptions to flights. They never

contemplated situations where the Declaration would be issued against a global pandemic of the scale of COVID-19.

29. The COVID-19 situation is outside of the Class Members' control.

30. Upon issuance of the Declaration, the Class Members complied with the guidance of the Government of Canada and did not commence the itineraries that they had booked prior to March 11, 2020.

31. Shortly after the issuance of the Declaration, the Defendants on their own initiative cancelled and/or suspended numerous flights up to and including May 31, 2020 (for Westjet and Swoop) and April 30, 2020 (for Sunwing, Air Transat, and Air Canada), with further cancellations and suspensions expected to be announced in the near future.

32. Regardless whether the flights were cancelled/suspended by the Defendants, or the Class Members adhering to the Declaration to not commence their itineraries, all of the Defendants failed to provide the Class Members with refunds of the monies they paid to a Defendant under their respective Contracts of Carriage.

33. Instead, all of the Defendants implemented new policies (that were never part of the International Tariffs, Domestic Tariffs, or Contracts of Carriage) seeking to keep all of the Class Members monies, and in exchange issue (or offer to issue) "travel credits" that are subject to various restrictions (detailed below).

34. In effect, each of the Defendants are forcing the Class Members to forego their fundamental right to a refund and to spend their monies with the same Defendant in the future to purchase travel that the Class Members may not wish to undertake any longer, and likely at a substantially different price.

35. In the case of Swoop, all international and transborder flights have been suspended as of March 23, 2020, with substantial reductions to domestic flights, and Swoop would issue to the Class Members a non-transferable credit that is valid for 24 months from the cancellation date. In the case of itineraries containing more than one

traveller, the non-transferable credit will be issued in the name of one of the travellers only and must be used in the future by that traveller only.

36. In the case of WestJet, all international and transborder flights have been suspended as of March 22, 2020, with substantial reductions to domestic flights, and WestJet would issue to the Class Members a transferable credit that is valid for 24 months from the cancellation date.

37. In the case of Air Canada, substantial reductions were implemented for domestic, international and transborder flights. Air Canada would issue to the Class Members a non-transferable credit that is valid for 24 months from the cancellation date. If the new booking is cheaper than the non-transferable credit, the monetary difference will be completely forfeited to Air Canada.

38. In the case of Air Transat, substantial reductions were implemented for domestic, international and transborder flights. Air Transat would issue to the Class Members a non-transferable credit that is valid for 24 months from the cancellation date. If the new booking is cheaper than the non-transferable credit, the remaining amount will be completely forfeited to Air Transat.

39. In the case of Sunwing, all international and transborder flights have been suspended as of March 17, 2020, with substantial reductions to domestic flights, and Sunwing would issue to the Class Members a non-transferable, non-refundable credit with no cash value that is valid for 24 months from the original departure date. It is not clear if the remaining amount will be forfeited to Sunwing if the new booking is cheaper than the non-transferable credit.

40. On or about March 24, 2020, WestJet (which includes its wholly owned subsidiary Swoop) officially announced that it will layoff 50% of its staff members amounting to 6,900 employees.

41. On or about March 20, 2020, Air Canada officially announced that it will layoff 5,000 of its staff members, mostly flight attendants and pilots.

42. On or about March 20, 2020, Air Transat officially announced that it will layoff 2,000 of its staff members, mostly flight attendants and pilots.

43. On or about March 17, 2020, Sunwing officially announced that it will layoff all of its flight attendants and pilots and suspend operations in the near term.

44. As a result of the layoffs above, the Defendants would not incur various operating costs associated with operating their flights, for example, labour, fuel, and landing fees.

45. It would be unconscionable and unreasonable for the Defendants to not provide the services, and also not having to incur the key operational costs for procuring the services, on the one hand, while seeking on the other hand that 100% of the monies paid by the Class Members to the Defendants be forfeited for the promise of a "credit" to be redeemed within two years.

46. It would also be unconscionable and unreasonable because the Class Members would bear the risk of any of the Defendants becoming insolvent, and as a result the "credits" becoming worthless.

47. The Defendants' conduct is high handed, lax and completely disregards the fundamental right of (and legitimate expectations of) the Class Members to a monetary refund when services could not (or will not) be rendered for reasons completely outside the control of the Class Members.

48. Each of the Defendants are experienced commercial airlines that have, or ought to have, proper contingency or financial planning to account for situations like COVID-19. In the alternative, each of the Defendants ought to have acquired proper business interruption insurance policies to limit their exposure to situations like COVID-19.

## **Part 2: RELIEF SOUGHT**

1. The Plaintiff claims, on her own behalf and on behalf of the Class Members (as defined below):

- a. an Order pursuant to sections 12 and 21 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 (the "*CPA*") for issuing an interim notice to each of the Class Members regarding this proposed class proceeding;
- b. a certification order pursuant to the *CPA*;
- c. an order appointing the plaintiff as the representative plaintiff for the Class;
- d. an interim Order that any of the Defendants' communications with the Class Members, including messages posted publicly on their own websites must prominently refer to the fact that there is a pending class action seeking various relief including: refund for the monies paid and punitive damages;
- e. an Order under Rule 10-1 of the *Supreme Court Civil Rules* that all moneys received by the Defendants from the Class Members pursuant to the Contracts be paid into Court pending resolution of this proceeding;
- f. a declaration that the Contracts of Carriage between each of the Class Members and a Defendant have been terminated pursuant to the doctrine of frustration on March 13, 2020;
- g. a declaration that the Defendants' conduct is in breach of the Consumer Protection Laws (defined further below);
- h. a declaration that the Defendants' conduct is in breach of the federal *Competition Act*;
- i. further, or in the alternative, a declaration that the Contracts of Carriage between each of the Class Members and a Defendant include an expressed or implied term that Class Members are entitled to a full refund if carriage is no longer possible for reasons outside the control of the Class Member, and that each of the Defendants have breached this term;
- j. further, or in the alternative, a declaration that the Defendants have breached the duty to perform the Contracts of Carriage in good faith;
- k. an Order that the Defendants refund to the original form of payment the monies received in relation to the Class Members' Contracts of Carriage;
- l. further, or in the alternative, an Order that the Defendants pay damages to



each Class Member including: special damages, general damages, nominal damages, and/or punitive damages;

- m. further, or in the alternative, a declaration that the Defendants have been unjustly enriched at the expense of the Class Members;
- n. an Order that the Defendants hold the monies received under the Contract of Carriage in a resulting trust and/or constructive trust for the benefit of the Class Members;
- o. an order that any monetary award be assessed on an aggregate basis under the *CPA*;
- p. an order pursuant to section 27 of the *CPA*, after the common issues trial in favour of the Class, directing individual inquiries for Class Members should any individual issues remain, and all necessary directions for the most expeditious procedures to be followed in conducting such inquiries; and
- q. an Order that the Defendants pay the full costs of investigation and prosecution of this proceeding pursuant to section 36 of the *Competition Act*;
- r. pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79;
- s. the costs of administering the plan of distribution of the monetary award in this proceeding, if administration is required; and
- t. such further and other relief that, as to this Honourable Court, seems meet and just.

### **Part 3: LEGAL BASIS**

1. The Class Members are in the same or similar situation as the Plaintiff in that all of the Class Members:

- a. entered into a Contract of Carriage containing the same or similar terms, including an express and/or implied term providing for the absolute right to

- a refund in circumstances outside of the Class Members' control; and
- b. their travel plans were all disrupted from the COVID-19 situation.

Frustration of the Contracts of Carriage

2. The doctrine of frustration rests upon a term or a condition implied into the contract *ab initio*.

*Cheong Yue Steamship Company v. Hirji Mulji*, 1926 CanLII 523 (UK JCPC) at p. 922

3. By applying the doctrine the law is only doing what the parties really meant to do themselves and would have inserted into the contract had the situation occurred to them, on the basis of what is fair and reasonable and the main object of the contract.

*Cheong Yue Steamship Company v. Hirji Mulji*, 1926 CanLII 523 (UK JCPC) at pp. 922 and 927

4. The changed circumstances brought about by COVID-19 and the Declaration altered the fundamental nature of the Contracts of Carriage between each of the Class Members and the Defendants, frustrating the object of same and making performance as intended, impossible or radically different.

5. The main object of the Contracts of Carriage was:

- a. to carry the Class Member to their destination on the dates and times stipulated in their Contract of Carriage, with the allowance for short and reasonable delays; and
- b. that the carriage was to occur during "peace times" and not during global "war times" like the COVID-19 situation.

6. Irrespective of whether the Class Members would want to travel or not, the COVID-19 situation is clearly a prolonged situation that is not expected to subside in a reasonable time, and therefore the Contracts of Carriage could not be performed (as previously contemplated) within a reasonable time.

7. Upon the Government of Canada's Declaration on or about March 13, 2020, the Contracts of Carriage have been frustrated since that moment, as a matter of law.

*Cheong Yue Steamship Company v. Hirji Mulji*, 1926 CanLII 523 (UK JCPC) at p. 923

8. The parties never meant to allow the Defendants to keep the monies received under the Contracts of Carriage when a situation like COVID-19 occurs. Furthermore, it is not just and reasonable to permit the Defendants to keep those monies, as the fundamental nature of the contract is altered in light of the changed circumstances.

9. The Class Members are entitled to a refund of the monies paid to the Defendants under the Contracts of Carriage.

*Fibrosa Spolka Akcyjna v Fairbairn Lawson Combe Barbour Ltd*, [1942] UKHL 4; cited with approval in *Cahan v. Fraser*, 1951 CanLII 253 (BC CA)  
*Frustrated Contracts Act*, RSNWT 1988, c F-12  
*Frustrated Contracts Act*, RSY 2002, c 96  
*Frustrated Contracts Act*, RSNWT (Nu) 1988, c F-12  
*Frustrated Contract Act*, RSBC 1996, c 166  
*Frustrated Contracts Act*, RSA 2000, c F-27  
*The Frustrated Contracts Act*, SS 1994, c F-22.2  
*Frustrated Contracts Act*, RSO 1990, c F.34  
*Civil Code of Québec*, CQLR c CCQ-1991, namely arts. 1693-4  
*The Frustrated Contracts Act*, CCSM c F190  
*Frustrated Contracts Act*, RSNB 2011, c 164  
*Frustrated Contracts Act*, RSNL 1990, c F-26  
*Frustrated Contracts Act*, RSPEI 1988, c F-16

*The Defendants' Breach of Contract*

10. Each of the Domestic Tariffs and/or International Tariffs includes an express and/or implied term that each Class Member has a right to a refund of the monies paid if a Defendant is unable to transport them for any reason that is outside the Class Member's control and that the Defendant cannot keep the monies paid by the Class Member and refuse to provide a refund on the basis that its inability to provide transportation was due to certain events.

11. The Defendants' have breached the terms of the Contracts of Carriage by refusing to provide the refunds in accordance with the express and/or implied terms for a refund.

12. The Defendants have further breached the terms of the Contracts of Carriage by the imposition of a "new policy" that deprives the Class Members' of their right to a refund and in exchange issues to the Class Members a future credit.

13. The Defendants' conduct is also a breach of the duty to perform contractual obligations in good faith, including the duty to properly inform the Class Members.

14. The Defendants are entitled to damages in an amount equivalent to the monies previously paid, plus special, general, nominal, and punitive damages for the Defendants' breach of the Contract of Carriage.

*Breach of Consumer Protection Laws*

15. The Defendants headquartered in the following provinces and, as a result, their conduct is subject to the laws of general application of those jurisdictions, including the following provincial consumer protection laws for all transactions that those Defendants enter into:

- a. Alberta for WestJet and Swoop (*Consumer Protection Act*, RSA 2000, c C-26.3)
- b. Ontario for Sunwing (*Consumer Protection Act, 2002*, SO 2002, c 30, Sch A)
- c. Quebec for Air Transat and Air Canada (*Consumer Protection Act*, CQLR c P-40.1, in particular section 16)

16. In addition to the above, the Defendants' conduct is also subject to the provincial consumer protection legislation (including any accompanying regulation) of a Class Members' province/territory of residence, if the Class Member is resident in Canada (collectively the "**Consumer Protection Laws**");

- a. **Northwest Territories:** *Consumer Protection Act*, RSNWT 1988, c C-17
- b. **Yukon:** *Consumers Protection Act*, RSY 2002, c 40
- c. **Nunavut:** *Consumer Protection Act*, RSNWT (Nu) 1988, c C-17
- d. **British Columbia:** *Business Practices and Consumer Protection Act*, SBC 2004, c. 2, such as "deceptive acts or practice" or "unconscionable act or practice" under ss. 4-10, rights of cancellation under s. 49, and anti-waivers under s. 3.
- e. **Alberta:** *Consumer Protection Act*, RSA 2000, c C-26.3, such as an "unfair practice" under Part 2, and anti-waivers under s. 2, and rights to cancel a consumer contract under various provisions.
- f. **Saskatchewan:** *The Consumer Protection and Business Practices Act*, SS 2014, c C-30.2, such as an "unfair practice" under sections 4-9
- g. **Manitoba:** *The Business Practices Act*, CCSM c B120, such as an "unfair business practice" under ss. 2-3
- h. **Ontario:** *Consumer Protection Act, 2002*, SO 2002, c 30, Sch A, such as an "unfair practice" under ss. 14-17 and rights to cancel a consumer contract under various provisions
- i. **Quebec:** *Consumer Protection Act*, CQLR c P-40.1, such as arts. 11, 12, 16, 40-41, and 219

- j. **Nova Scotia:** *Consumer Protection Act*, RSNS 1989, c 92
- k. **Newfoundland and Labrador:** *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1, such as “unfair business practices” and/or “unconscionable act or practice” under ss. 7-9
- l. **Prince Edward Island:** *Business Practices Act*, RSPEI 1988, c B-7, such as an “unfair practice” under ss. 2-3
- m. **Canada:** *Competition Act*, R.S.C., 1985, c. C-34, such as ss. 36, 52, and 52.01

*Unjust Enrichment*

17. The Defendants have been enriched by the receipt of the monies paid to the Defendants under the Contracts of Carriage.

18. The Plaintiff and Class Members have been deprived by the payment of the monies to the Defendants.

19. There is no juristic reason why the Defendants should retain this benefit. The Defendants' breaches of the *Air Transportation Regulations*, *Canada Transportation Act*, and the Contracts of Carriage, negate any juristic reason why the Defendants should retain this benefit.

20. As a result, the Defendants have been unjustly enriched. The Plaintiff and Class Members are entitled to restitution of the benefits received by the Defendants, in the full amount of the monies paid under the respective Contracts of Carriage.

21. In the alternative, justice and good conscience require that the Defendants disgorge to the Plaintiff and Class Members an amount attributable to the benefit the Defendants received from the respective Contracts of Carriage.

22. In the alternative, the Defendants received the monies under the respective Contracts of Carriage in a resulting trust to apply those monies only for the original itineraries booked by the Class Members. Those monies can no longer be applied to those original itineraries and should be returned to its rightful owners.

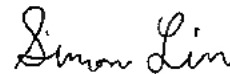
Plaintiff's address for service: Evolink Law Group  
4388 Still Creek Drive, Suite 237  
Burnaby, BC V5C6C6

E-mail address for service: service@evolinklaw.com

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street, Vancouver, British Columbia

Date: March 27, 2020



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Signature of lawyer for the Plaintiff  
Simon P. Lin

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

## APPENDIX

**Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:**

The representative plaintiff, on behalf of all class members, seek a refund after frustration of contract.

**Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:**

A personal injury arising out of:

- a motor vehicle accident;
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate);
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

**Part 3: THIS CLAIM INVOLVES:**

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

**Part 4:**

- Class Proceedings Act*, RSBC 1996, c. 50



**This is Exhibit "X" referred to in the Affidavit of  
Jiwan Son, sworn before me  
this 27 day of April, 2020**



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**A Commissioner for Taking Affidavits**

CANADA

COUR SUPÉRIEURE  
Chambre des actions collectives

PROVINCE DE QUÉBEC  
DISTRICT DE MONTRÉAL

N° : 500-06-

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**ALAIN LACHAINE**, domicilié au 479, rue Saint-Georges, appartement 2, Saint-Jérôme, province de Québec, J7Z 5B5;

*Demandeur*

c.

**TRANSAT A.T. INC.**, personne morale dûment constituée en vertu de la *Loi canadienne sur les sociétés par actions*, ayant son siège social à la Place du Parc, 300, rue Léo-Pariseau, bureau 600, Montréal, province de Québec, H2X 4C2;

- et -

**TRANSAT TOURS CANADA INC.**, personne morale dûment constituée en vertu de la *Loi canadienne sur les sociétés par actions*, ayant son siège social à la Place du Parc, 300, rue Léo-Pariseau, bureau 600, Montréal, province de Québec, H2X 4C2;

- et -

**AIR CANADA**, personne morale dûment constituée en vertu de la *Loi canadienne sur les sociétés par actions*, ayant son siège social 7373, boulevard Côte Vertu Ouest, ville Saint-Laurent, district judiciaire de Montréal, province de Québec, H4S 1Z3;

- et -

**SOCIÉTÉ EN COMMANDITE TOURAM**, société en commandite dûment

constituée en vertu du *Code civil du Québec*, faisant aussi affaire sous le nom de **VACANCES AIR CANADA**, ayant son siège social au 7373, boulevard Côte Vertu Ouest, ville Saint-Laurent, district judiciaire de Montréal, province de Québec, H4S 1Z3;

Défenderesses

**DEMANDE D'AUTORISATION D'EXERCER UNE ACTION  
COLLECTIVE  
(Art. 574 et suivants C.p.c.)**

**À L'UN DES HONORABLES JUGES DE LA COUR SUPÉRIEURE DU QUÉBEC,  
SIÉGEANT EN CHAMBRE DES ACTIONS COLLECTIVES DANS LE DISTRICT DE  
MONTRÉAL, LE DEMANDEUR EXPOSE RESPECTUEUSEMENT CE QUI SUIT :**

1. Le demandeur désire exercer une action collective contre les défenderesses pour le compte des personnes faisant partie du groupe ci-après défini :

*Toutes les personnes physiques ayant acheté ou détenant un billet d'avion ou un forfait voyage avec Air Transat, Transat Tours Canada inc., Air Canada ou Société en commandite Touram qui dut subséquemment être annulé en raison de la pandémie de covid-19 et qui ne purent en obtenir le remboursement.*

Ci-après désigné « le Groupe »;

**LES DÉFENDERESSES**

2. La défenderesse *Transat A.T. inc.* (ci-après « *Air Transat* ») est un transporteur aérien de passagers effectuant des vols réguliers ou nolisés, tel qu'il appert de l'État de renseignements d'une personne morale au registre des entreprises communiqué au soutien des présentes sous la cote P-1;
3. La défenderesse *Transat Tours Canada inc.* (ci-après « *Vacances Transat* ») est un grossiste et commerçant en voyages, faisant aussi affaire notamment sous le nom de *Vacances Transat*, tel qu'il appert de l'État de renseignements d'une personne morale au registre des entreprises communiqué au soutien des présentes sous la cote P-2;
4. La défenderesse *Air Canada* est également un transporteur aérien de passagers

effectuant des vols réguliers ou nolisés, tel qu'il appert de l'*État de renseignements d'une personne morale au registre des entreprises* communiqué au soutien des présentes sous la cote P-3;

5. La défenderesse *Société en commandite Touram* (ci-après « *Vacances Air Canada* »), mieux connue sous le nom de *Vacances Air Canada*, offre des services d'organisation de voyages, tel qu'il appert de l'*État de renseignements d'une personne morale au registre des entreprises* communiqué au soutien des présentes sous la cote P-4;

### **LES FAITS RELATIFS AU DEMANDEUR ALAIN LACHAINE**

6. Le 26 juin 2019, le demandeur Monsieur Alain Lachaine acheta, par l'entremise de l'agence de voyages *Voyages Bellefeuille*, un forfait voyage de la défenderesse *Vacances Transat*, incluant un vol avec la défenderesse *Air Transat*, pour aller en Floride, pour fins personnelles, tel qu'il appert de la facture communiquée au soutien des présentes sous la cote P-5;
7. Le séjour prévu du demandeur Lachaine devait s'étendre entre le 3 et le 17 avril 2020, tel qu'il appert de la pièce P-5;
8. Le prix payé pour lui et sa conjointe, Madame Pascale Grenier, fut de 13 036,60 \$, tel qu'il appert de la pièce P-5;
9. Le lieu prévu au forfait voyage, les dates prévues à celui-ci et le prix faisaient parties des conditions essentielles de la transaction d'achat du forfait voyage pour le demandeur Lachaine;
10. La transaction d'achat de forfaits voyages par le demandeur Lachaine, qui est une personne physique et un consommateur, avec la défenderesse *Vacances Transat*, qui est une commerçante, est un contrat de consommation;
11. Tous les éléments du contrat entre le demandeur Lachaine et la défenderesse *Vacances Transat* sont imposés par cette dernière sans négociation possible, de sorte que nous sommes en l'espèce en présence d'un contrat d'adhésion;
12. Le demandeur Lachaine devait s'envoler le vendredi 3 avril 2020, sur les ailes de la défenderesse *Air Transat*, tel qu'il appert de la facture P-5;
13. En raison de la pandémie de covid-19, les vols que devait prendre le demandeur Lachaine furent annulés;
14. Dans les circonstances, le demandeur Lachaine chercha à être entièrement remboursé du prix payé pour le forfait voyage et communiqua à cette fin avec l'agence de voyages avec qui il avait fait affaire pour l'achat du forfait voyage, comme c'est la règle dans l'industrie du tourisme, qui l'informa cependant que la

défenderesse *Air Transat* n'offrait pas le remboursement du forfait voyage acheté, mais uniquement un crédit;

15. En consultant le site internet de la défenderesse *Air Transat*, le demandeur Lachaine put en effet constater qu'aucun remboursement n'était offert, mais uniquement un crédit pour un voyage futur, ce qui ressort clairement de l'extrait suivant :

Il est possible que nous n'ayons aucun autre vol avec *Air Transat* à vous proposer. Dans ce cas, le montant total de votre réservation sera crédité à votre dossier pour un voyage futur, à compléter dans les 24 mois suivant vos dates de voyage initiales.

Tel qu'il appert du communiqué émis par *Air Transat* intitulé *Coronavirus (COVID-19)* et tiré de son site internet, communiqué au soutien des présentes sous la cote P-6;

16. Ainsi, malgré l'annulation des vols, les défenderesses *Air Transat* et *Vacances Transat* refusent de rembourser le demandeur Lachaine et se contentent d'offrir un crédit pour un voyage futur, devant être utilisé au plus tard dans les 24 mois des dates de voyage initiales;
17. Dans les circonstances, les défenderesses *Air Transat* et *Vacances Transat* avaient pourtant l'obligation d'offrir un remboursement intégral du prix payé par le demandeur Lachaine;
18. Le refus des défenderesses *Air Transat* et *Vacances Transat* de rembourser intégralement le montant payé par le demandeur Lachaine, en dépit de l'annulation des vols, cause des troubles et inconvénients à ce dernier, qui ne peut récupérer une somme importante qu'il souhaite pourtant utiliser pour faire face à la crise actuelle et lui a fait perdre du temps en le forçant à entreprendre des démarches pour tenter de se faire rembourser intégralement;
19. Dans les circonstances, le demandeur Lachaine est en droit de réclamer une somme additionnelle de 250 \$ à titre de troubles et inconvénients des défenderesses *Air Transat* et *Vacances Transat*;

#### **LES FAITS RELATIFS AUX DÉFENDERESSES AIR CANADA ET VACANCES AIR CANADA**

20. En raison de la pandémie de covid-19, les vols exploités par la défenderesse *Air Canada* et les forfaits voyage de la défenderesse *Vacances Air Canada* ont été annulés;
21. Sur le site internet de la défenderesse *Air Canada*, on constate qu'il est impossible d'obtenir un remboursement de ses forfaits voyage, comme on peut le lire de l'extrait suivant :

Si votre voyage est prévu avant le 30 avril, vous pouvez annuler votre réservation sans frais et obtenir un crédit pour une réservation en vue d'un voyage devant se terminer d'ici le 31 décembre 2020.

Tel qu'il appert du communiqué émis par *Air Canada* intitulé *Mise à jour sur la COVID-19* et tiré de son site internet, communiqué au soutien des présentes sous la cote **P-7**;

22. Ainsi, malgré l'annulation des vols, les défenderesses *Air Canada* et *Vacances Air Canada* refusent de rembourser les clients et se contentent d'offrir un crédit pour un voyage à venir, devant se terminer au plus tard le 31 décembre 2020;
23. Dans les circonstances, les défenderesses *Air Canada* et *Vacances Air Canada* avaient pourtant l'obligation d'offrir un remboursement intégral du prix payé par les clients;
24. Le refus des défenderesses *Air Canada* et *Vacances Air Canada* de rembourser intégralement le montant payé par les clients, en dépit de l'annulation des vols, cause des troubles et inconvénients à ces derniers, dont le stress et la perte de temps pour les démarches entreprises afin de tenter de se faire rembourser intégralement et il est, à l'instar du codemandeur, en droit de réclamer une somme additionnelle de 250 \$ à titre de troubles et inconvénients des défenderesses *Air Canada* et *Vacances Air Canada*;

**Les faits donnant ouverture à un recours individuel de la part du demandeur**

25. Au courant du mois de décembre 2019, des médecins chinois sonnèrent l'alerte relativement à un nouveau virus inconnu qui serait apparu chez des personnes travaillant au marché de gros de fruits de mer de Huanan, à Wuhan, dans la province de Hubei, en Chine, dans lequel des animaux sauvages vivants sont entreposés et vendus;
26. Le 7 janvier 2020, les premières analyses chinoises permettent d'identifier ce virus comme étant un nouveau coronavirus;
27. Le 11 janvier 2020, une première personne décède en Chine après avoir contracté le coronavirus;
28. Le 11 février 2020, l'*Organisation mondiale de la santé* (l'« OMS ») nomme cette nouvelle maladie à coronavirus la covid-19;
29. Le 11 mars 2020, face à l'évolution rapide de la situation relative à la covid-19, les États-Unis ferment leurs frontières aux pays d'Europe;
30. Le 12 mars 2020, alors que l'on comptait plus de 20 000 cas confirmés et près de 1 000 décès dans la région européenne, l'*OMS* déclare que la flambée de covid-

- 19 constitue une pandémie;
31. Le 13 mars 2020, l'état d'urgence sanitaire est déclaré sur tout le territoire québécois;
  32. Le 16 mars 2020, le Canada ferme ses frontières à tous les pays, exception faite des États-Unis;
  33. Le 18 mars 2020, la frontière canado-américaine est désormais également fermée, restant ouverte uniquement aux ressortissants canadiens désirant rentrer au pays;
  34. Le 18 mars 2020, la défenderesse *Air Transat* annonce la suspension de tous ses vols internationaux, et ce, jusqu'au 30 avril 2020, tel qu'il appert de l'article de *La Presse* communiqué au soutien des présentes sous la cote P-8;
  35. Le 18 mars 2020, la défenderesse *Air Canada* annonce la suspension de l'essentiel de ses vols transfrontaliers et internationaux, tel qu'il appert du communiqué de presse publié sur son site internet et communiqué au soutien des présentes sous la cote P-9;
  36. Dans les circonstances, les défenderesses avaient l'obligation de rembourser leurs clients, dont le demandeur, de la totalité du coût payé pour l'achat des billets d'avion et forfaits voyages;

***Les faits donnant ouverture à un recours individuel de la part de chacun des membres du Groupe contre les défenderesses***

37. Chacun des membres du Groupe a acheté des billets d'avion et, dans certains cas, un forfait voyage, pour un vol à bord d'un appareil des défenderesses *Air Transat* ou *Air Canada*;
38. Pour chacun des membres du Groupe, la date choisie pour le forfait voyage, le prix et la destination étaient des conditions essentielles dans la conclusion du contrat d'achat d'un forfait voyage;
39. Chacun des membres du Groupe s'est vu offrir un crédit pour voyage à venir, devant être utilisé selon une échéance précise donnée, et non un remboursement;
40. Chacun des membres du Groupe n'a pas reçu le remboursement du prix payé pour son billet ou son forfait voyage, comme cela aurait dû être le cas;
41. Chacun des membres du Groupe a subi des troubles et inconvénients pour les démarches effectuées pour se faire rembourser intégralement le prix payé pour son billet d'avion ou son forfait voyage;
42. Les dommages subis par les membres du Groupe sont un résultat direct et

immédiat du refus des défenderesses de rembourser ceux-ci du prix payé;

**Nature de l'action et conclusions recherchées (art. 574 C.p.c.)**

43. L'action que le demandeur désire instituer pour le compte des membres du Groupe en est une en dommages-intérêts et en remboursement du prix payé basée sur le *Code civil du Québec* et la *Loi sur la protection du consommateur*;
44. Les conclusions que le demandeur recherche contre les défenderesses sont les suivantes:

ACCUEILLIR l'action collective intentée par le demandeur pour le compte des membres du Groupe contre les défenderesses;

CONDAMNER les défenderesses à payer au demandeur et aux membres du Groupe un remboursement intégral du prix payé pour l'achat des billets d'avion ou d'un forfait voyage, avec intérêts au taux légal majorés de l'indemnité additionnelle prévue à l'article 1619 C.c.Q. calculés à compter de la date de signification de l'action collective;

CONDAMNER les défenderesses à payer au demandeur et aux membres du Groupe une somme additionnelle de 250 \$ à titre de troubles et inconvénients, avec intérêts au taux légal majorés de l'indemnité additionnelle prévue à l'article 1619 C.c.Q. calculés à compter de la date de signification de l'action collective;

ORDONNER le recouvrement collectif de cette somme;

LE TOUT avec frais de justice, incluant les frais d'avis et frais d'experts, le cas échéant.

**Les faits allégués paraissent justifier les conclusions recherchées (art. 575(2) C.p.c.)**

45. À la lecture des paragraphes 1 à 36, les faits allégués paraissent justifier les conclusions recherchées;

**La composition du groupe rend difficile ou peu pratique l'application des règles sur le mandat d'ester en justice pour le compte d'autrui ou sur la jonction d'instance (art. 575(3) C.p.c.)**

46. Le demandeur ignore les noms et les adresses de toutes les personnes pouvant composer le Groupe;
47. Le demandeur est d'avis qu'un grand nombre de personnes se retrouvent dans la même situation qu'eux;



48. Il est impossible pour le demandeur de réunir toutes les personnes concernées et d'obtenir de chacune d'elle un mandat spécifique pour se porter demandeur dans une même action et il serait peu pratique, sinon impossible pour un mandataire de remplir adéquatement son mandat, vu les difficultés d'organisation, de suivi et de contrôle qu'implique la gestion d'un si grand nombre de parties au litige;
49. Il n'est pas dans l'intérêt de la justice que chacun des justiciables entreprenne d'abord un recours individuel pour ensuite en demander la réunion, ce qui serait peu pratique et coûteux, et ce, tant pour les personnes concernées que pour l'appareil judiciaire;
50. L'action collective est le véhicule procédural le plus approprié dans les circonstances pour que les membres du Groupe puissent faire valoir leurs droits respectifs et obtenir justice et réparation;
51. En l'espèce, le choix d'utiliser l'action collective permet d'éviter une multiplication de jugements potentiellement contradictoires sur des questions de faits et de droit identiques;

***Le demandeur est en mesure d'assurer une représentation adéquate des membres du groupe (art. 575(4) C.p.c.)***

52. Le demandeur souhaite assumer la fonction de représentant du Groupe;
53. Le demandeur est membre du Groupe;
54. Le demandeur s'engage à représenter les intérêts des membres du Groupe avec vigueur et loyauté;
55. Le demandeur comprend la nature de l'action ainsi que les faits lui donnant ouverture;
56. Le demandeur est disposé à consacrer le temps nécessaire à une représentation adéquate des membres du Groupe, et ce, à toutes les étapes de la présente action;
57. Le demandeur fait preuve d'une grande disponibilité envers ses avocats;
58. Le demandeur a transmis à ses avocats toutes les informations pertinentes à la présente demande d'autorisation d'exercer une action collective et s'engage à collaborer pour la transmission future d'informations utiles;
59. Le demandeur démontre un vif intérêt envers la présente cause et exprime le désir d'être tenu informé à chacune des étapes;

***Le district judiciaire***

60. Le demandeur propose que la présente action collective soit exercée devant la Cour supérieure siégeant dans le district judiciaire de Montréal pour les raisons suivantes :
- a) Les défenderesses ont leurs sièges sociaux dans le district judiciaire de Montréal;
  - b) Le demandeur est domicilié dans la région métropolitaine de Montréal;
  - c) Un nombre important des membres du Groupe y résident;
  - d) Les avocats du demandeur ont leurs bureaux dans le district judiciaire de Montréal.

**POUR CES MOTIFS, PLAISE AU TRIBUNAL :**

**AUTORISER** le demandeur à poursuivre la présente action collective dans le district judiciaire de Montréal;

**DÉCRIRE** le Groupe tel que proposé ci-dessous:

*Toutes les personnes physiques ayant acheté ou détenant un billet d'avion ou un forfait voyage avec Air Transat, Transat Tours Canada inc., Air Canada ou Société en commandite Touram qui dut subséquemment être annulé en raison de la pandémie de covid-19 et qui ne purent en obtenir le remboursement.*

**IDENTIFIER** les questions à traiter collectivement comme suit :

- a) Les défenderesses qui vendent à un consommateur un forfait voyage peuvent-elles décider unilatéralement de ne pas rembourser ce consommateur en cas d'annulation de vol survenue hors de la volonté du consommateur?
- b) Les défenderesses qui vendent à un consommateur un forfait voyage peuvent-elles refuser de rembourser le consommateur sans l'accord exprès du consommateur en cas d'annulation de vol survenue hors de la volonté du consommateur?
- c) En cas d'annulation, hors de sa volonté, d'un vol ou d'un forfait voyage qu'il a acheté, un consommateur a-t-il le droit à un remboursement intégral, sans condition?
- d) Les défenderesses ont-elles la capacité juridique d'imposer l'acceptation

d'un crédit pour réservation future à l'intérieur d'un certain délai plutôt que de rembourser le consommateur en cas d'annulation d'un vol ou d'un forfait voyage hors de la volonté du consommateur?

- e) L'acceptation par un consommateur d'une offre de crédit pour réservation future faite par les défenderesses empêche-elle ce consommateur d'obtenir un remboursement des défenderesses dans le cadre de la future action collective, si elle est autorisée?
- f) Combien de personnes peuvent être considérées membres du Groupe?

**IDENTIFIER** les conclusions recherchées comme suit :

**ACCUEILLIR** l'action collective intentée par le demandeur pour le compte des membres du Groupe contre les défenderesses;

**CONDAMNER** les défenderesses à payer au demandeur et aux membres du Groupe un remboursement intégral du prix payé pour l'achat des billets d'avion ou d'un forfait voyage, avec intérêts au taux légal majorés de l'indemnité additionnelle prévue à l'article 1619 C.c.Q. calculés à compter de la date de signification de l'action collective;

**CONDAMNER** les défenderesses à payer au demandeur et aux membres du Groupe une somme additionnelle de 250 \$ à titre de troubles et inconvénients, avec intérêts au taux légal majorés de l'indemnité additionnelle prévue à l'article 1619 C.c.Q. calculés à compter de la date de signification de l'action collective;

**ORDONNER** le recouvrement collectif de cette somme;

**LE TOUT** avec frais de justice, incluant les frais d'avis et frais d'experts, le cas échéant.

**DÉCLARER** que, sauf exclusion, les membres du Groupe seront liés par tout jugement à intervenir dans l'action collective de la manière prévue par la loi;

**FIXER** à 30 jours, la période pendant laquelle un membre peut demander à être exclu, suite à laquelle tous les membres du Groupe qui n'auront pas demandé l'exclusion seront liés par le jugement à intervenir dans la présente action collective;

**ORDONNER** la publication d'un avis aux membres du Groupe accessible et rédigé de façon appropriée à la présente action collective;

**ORDONNER** à la défenderesse d'envoyer cet avis aux membres du Groupe à leurs dernière adresse courriel connue avec la mention « Avis d'action collective » dans l'objet du courriel;

**ORDONNER** aux défenderesses de publier cet avis aux membres du Groupe sur leur site web, leurs page Facebook et compte Twitter avec la mention « Avis d'action collective » pendant 30 jours à partir du jugement rendu;

**LE TOUT** avec frais de justice, incluant les frais d'avis et, le cas échéant, les frais d'expertise.

Montréal, le 20 mars 2020

*Perrier Avocats*

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Code impliqué: BP2609

Montréal, le 20 mars 2020

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COPIE CONFORME  
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*Perrier Avocats*

**AVIS D'ASSIGNATION**  
(Articles 145 et suivants C.p.c.)

**Dépôt d'une demande en justice**

Prenez avis que le demandeur a déposé au greffe de la Cour supérieure du district judiciaire de **Montréal** la présente *Demande d'autorisation d'exercer une action collective*.

**Réponse à cette demande**

Vous devez répondre à cette demande par écrit, personnellement ou par avocat, au palais de justice de **Montréal**, situé au 1, rue Notre-Dame Est, Montréal, H2Y 1B6, dans les 15 jours de la signification de la présente demande ou, si vous n'avez ni domicile, ni résidence, ni établissement au Québec, dans les 30 jours de celle-ci. Cette réponse doit être notifiée aux avocats du demandeur.

**Défaut de répondre**

Si vous ne répondez pas dans le délai prévu, de 15 ou de 30 jours, selon le cas, un jugement par défaut pourra être rendu contre vous sans autre avis dès l'expiration de ce délai et vous pourriez, selon les circonstances, être tenu au paiement des frais de justice.

**Contenu de la réponse**

Dans votre réponse, vous devez indiquer votre intention, soit :

- de convenir du règlement de l'affaire;
- de proposer une médiation pour résoudre le différend;
- de contester cette demande et, dans les cas requis par le Code, d'établir à cette fin, en coopération avec le demandeur, le protocole qui régira le déroulement de l'instance. Ce protocole devra être déposé au greffe de la Cour du district mentionné plus haut dans les 45 jours de la signification du présent avis ou, en matière familiale, ou, si vous n'avez ni domicile, ni résidence, ni établissement au Québec, dans les trois mois de cette signification;
- de proposer la tenue d'une conférence de règlement à l'amiable.

Cette réponse doit mentionner vos coordonnées et, si vous êtes représenté par un avocat, le nom de celui-ci et ses coordonnées.

**Changement de district judiciaire**

Vous pouvez demander au tribunal le renvoi de cette demande introductive d'instance dans le district où est situé votre domicile ou, à défaut, votre résidence ou, le domicile

que vous avez élu ou convenu avec le demandeur.

Si la demande porte sur un contrat de travail, de consommation ou d'assurance ou sur l'exercice d'un droit hypothécaire sur l'immeuble vous servant de résidence principale et que vous êtes le consommateur, le salarié, l'assuré, le bénéficiaire du contrat d'assurance ou le débiteur hypothécaire, vous pouvez demander ce renvoi dans le district où est situé votre domicile ou votre résidence ou cet immeuble ou encore le lieu du sinistre. Vous présentez cette demande au greffier spécial du district territorialement compétent après l'avoir notifiée aux autres parties et au greffe du tribunal qui en était déjà saisi.

### **Transfert de la demande à la Division des petites créances**

Si vous avez la capacité d'agir comme demandeur suivant les règles relatives au recouvrement des petites créances, vous pouvez également communiquer avec le greffier du tribunal pour que cette demande soit traitée selon ces règles. Si vous faites cette demande, les frais de justice du demandeur ne pourront alors excéder le montant des frais prévus pour le recouvrement des petites créances.

### **Convocation à une conférence de gestion**

Dans les 20 jours suivant le dépôt du protocole mentionné plus haut, le tribunal pourra vous convoquer à une conférence de gestion en vue d'assurer le bon déroulement de l'instance. À défaut, ce protocole sera présumé accepté.

### **Pièces au soutien de la demande**

Au soutien de sa demande introductive d'instance, la partie demanderesse invoque les pièces suivantes :

- Pièce P-1 :** État de renseignements d'une personne morale relatif à *Transat A.T. inc.*;
- Pièce P-2 :** État de renseignements d'une personne morale relatif à *Transat Tours Canada inc.*;
- Pièce P-3 :** État de renseignements d'une personne morale relatif à *Air Canada*;
- Pièce P-4 :** État de renseignements d'une personne morale relatif à la *Société en commandite Touram*;
- Pièce P-5 :** Facture de forfait vacances du demandeur Alain Lachaine;
- Pièce P-6 :** Communiqué intitulé *Coronavirus (COVID-19)* émis par la défenderesse Air Transat et tiré de son site internet;
- Pièce P-7 :** Communiqué intitulé *Mise à jour sur la COVID-19* émis par la défenderesse *Air Canada* et tiré de son site internet;

**Pièce P-8 :** Article de *La Presse* du 18 mars 2020 dans lequel la défenderesse *Air Transat* annonce la suspension de tous ses vols internationaux jusqu'au 30 avril 2020;

**Pièce P-9 :** Communiqué de presse du 18 mars 2020 de la défenderesse *Air Canada* dans lequel elle annonce la suspension de l'essentiel de ses vols transfrontaliers et internationaux, tiré de son site internet.

Ces pièces sont disponibles sur demande.

#### **Demande accompagnée d'un avis de présentation**

S'il s'agit d'une demande présentée en cours d'instance ou d'une demande visée par les Livres III, V, à l'exception de celles portant sur les matières familiales mentionnées à l'article 409, ou VI du Code, la préparation d'un protocole de l'instance n'est pas requise; toutefois, une telle demande doit être accompagnée d'un avis indiquant la date et l'heure de sa présentation.

<b>AVIS DE PRÉSENTATION</b>
-----------------------------

Destinataires :

**TRANSAT A.T. INC.**, Place du Parc, 300,  
rue Léo-Pariseau, bureau 600, Montréal,  
province de Québec, H2X 4C2

**TRANSAT TOURS CANADA INC.**,  
Place du Parc, 300, rue Léo-Pariseau,  
bureau 600, Montréal, province de  
Québec, H2X 4C2

**AIR CANADA**, 7373 boul. de la Côte  
Vertu Ouest, Ville Saint-Laurent, Québec,  
H4S 1Z3

**SOCIÉTÉ EN COMMANDITE  
TOURAM**, 7373. Boul. de la Côte Vertu  
Ouest, Ville Saint-Laurent, Québec, H4S  
1Z3

PRENEZ AVIS que la demande pour autorisation d'exercer une action collective sera présentée devant un juge de la Cour supérieure, du district de Montréal, siégeant en chambre des actions collectives au Palais de justice de Montréal, 1, rue Notre-Dame Est, Montréal, province de Québec, H2Y 1B6, à une date et une salle choisie par ce juge.

VEUILLEZ AGIR EN CONSÉQUENCE.

Montréal, le 20 mars 2020

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Montréal, le 20 mars 2020

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No: 500-06-001052-204  
Cour supérieure  
District de Montréal

ALAIN LACHAINE

Demandeur

c.

AIR CANADA et als.

Défenderesses

Demande d'autorisation d'exercer une  
action collective et avis d'assignation

Copie pour : AIR CANADA

Procureur Code : BP2609 N/D : 705-1

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Domicile élu pour le district de Montréal : Étude  
Pietro Macera, huissiers de justice, 530, boul. St-  
Laurent, Montréal, Québec, H2Y 2Y9

03/07/2004 833



Air Passenger Rights  
Applicant

Canadian Transportation Agency  
Respondent

Court File No.: A-102-20

**FEDERAL COURT OF APPEAL**

Proceeding commenced at VANCOUVER

**MOTION RECORD OF THE PROPOSED  
INTERVENER, THE NATIONAL AIRLINES  
COUNCIL OF CANADA, FOR LEAVE TO  
INTERVENE**

**Volume 1 of 3**

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