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New Airline Passenger Rights Almost Ready for Takeoff

The Transport Minister promises changes that will ensure passenger rights in Canada

Travel season is here. Winter means many Canadians are taking to the skies to visit relatives and friends or just to escape the cold. For anyone who's ran into trouble while traveling, you may have had a difficult time pinpointing where or to whom you can bring your problem. Canada currently lacks a concise and clear list of rights for airline passengers and a solid system of redress for consumer complaints.

Canadian airline passenger have benefited from a form of air travel ombudsman before. An Office of the Air Travel Complaints Commissioner was created in July 2000 following the merger of Air Canada and Canadian Airlines. In its first annual report reviewing the July 2000 to June 2001 period, the Air Travel Complaints Commissioner received 2,912 individual complaints, compared to the mere 169 complaints received by the Canadian Transportation Agency (CTA) the previous year in 1999. The Commissioner estimated that he still only received less than 2% of the total number of complaints which airline carriers received. The position was only established as a temporary measure and was subsequently removed, and the complaints process was rolled into the functions of the CTA.

On an even more basic level, everyday problems will net you varying responses from one airline to the next. Canada has lacked a single set of rules to govern Airline Passenger Rights, instead, the rules meant to protect consumers are buried within individual provisions in the Canada Transportation Act and Air Transportation Regulations, and other provisions are decided by the airlines themselves. Without a singular set of rules, it can be difficult for consumers to know their rights, let alone have them enforced.

In April 2016, Transport Minister Marc Gameau launched a public consultation with Canadians, stakeholders, provinces and territories, and Indigenous groups to hear their views and discuss ideas to develop a long-term agenda for transportation in Canada.

PIAC has been advocating for clarity for consumers using the travel industry well before the official consultation. PIAC was asked by the Transportation Act Review Secretariat to provide an analysis of air carrier rules from the consumer perspective in 2015. PIAC released its report, Consumer Protection for Airline Passengers in August of 2015. In the report, PIAC looked at consumer protections from around the world and recommended two elements: An Airline Code and an ombudsman for airline complaints. PIAC believes that these two methods together would ensure consumers knew their rights and, if an issue were to fall outside of listed rights, an ombudsman could deal with those complaints.

Just over a year later, we're beginning to see the promise

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of substantial change that benefits consumers. The Minister announced an “Air Travellers Passenger Rights Regime”, which will be a series of rules for both carriers and passengers that will govern situations when, as an example, luggage is lost for a passenger is unable to board an aircraft. This is one half of what PIAC pitched in its report.

“Taken together, a future Airline Code and Air Passenger Complaints Commissioner, would clarify the rules for air travel passengers in Canada. Moreover, these measures may get the reputation of Canadian airlines out of a holding pattern, in relation to the treatment of consumer complaints,” stated Jonathan Bishop, PIAC’s Research Analyst and co-author of the report.

PIAC has continued to advocate for and explain its

recommendations in meetings with the Minister’s staff at Transport Canada as well as with Scott Streiner, Chairman of the Canadian Transportation Agency, and senior staff at the CTA.

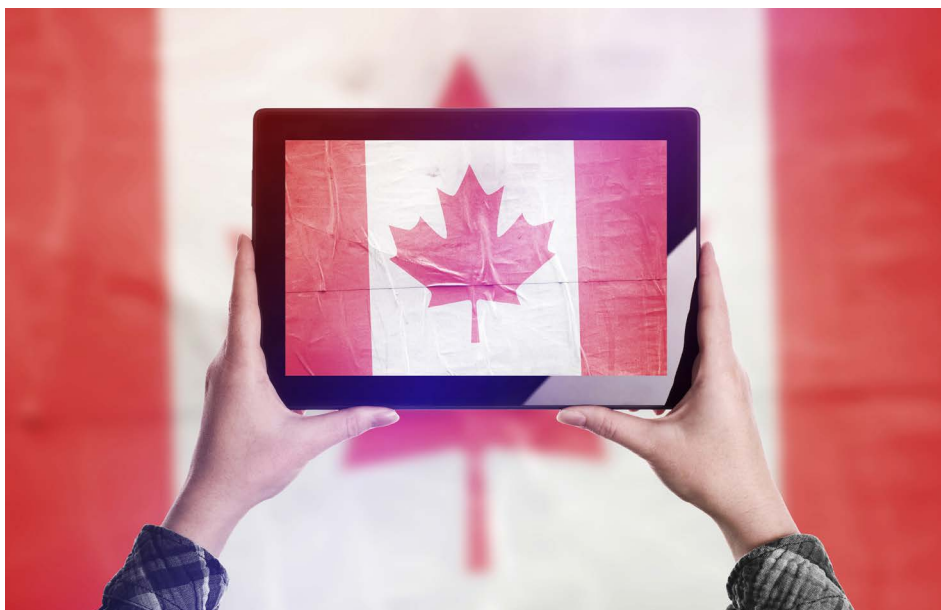
“We hope that the issues we’ve continually raised with them, which are issues travellers experience collectively every day, are addressed by this new ‘code,’” said John Lawford, Executive Director of PIAC. “Flight delays, cancellations, lost and damaged baggage, including musical instruments, refunds, overbooking, it’s a long list; all these things should be addressed and PIAC has been pushing for clear rules on these items to be in this new system that they announced.”

In the meantime, the CTA has encouraged airlines to publish an understandable summary of their tariffs (rules) on their websites so that consumers will have a better idea of how to deal with problems they may face while travelling. Additionally, there should soon be videos in airports for or soon after the holiday season providing information on who you may contact should you run into a problem while at the airport.

PIAC is hopeful that the Minister will address most, if not all, of the issues we’ve outlined in our report and in subsequent meetings. PIAC is also optimistic that either an official ombudsman or an ombudsman-like entity which can deal with the problems that fall within of the scope of the ‘Passenger Rights Regime’ will also be created. We are hoping that new legislation will be ready for takeoff in 2018.

PIAC is Joining Facebook

We’re currently hard at work getting content ready for our new Facebook page. We hope you’ll join us in January for updates on our work and news relevant to consumers. Please look out for our CanadaPIAC page in the new year! We’ll update newsletter subscribers once we’ve gone live.



Looking Towards CanCon's Future

A review of Canadian Content shows consumers want Canada's culture to grow beyond our borders.

Canadian Content (CanCon) has been undergoing a transformation. This past year, CRTC CanCon rules saw a shift with big changes to how funding would work and how CanCon would be exhibited. These changes are now being supplemented by a consultation conducted by the Department of Canadian Heritage (Heritage). The consultation, called Canadian Content in a Digital World, was started to strengthen the creation, discovery, and export of Canadian Content.

The initial changes were decided on last year when the CRTC changed some requirements for the production and exhibition of CanCon. The new rules tried to shift the emphasis away from channels showing Canadian shows 'just to fill schedules' towards bigger budget productions and better "discoverability" of those programs.. The hope is that, by encouraging larger-budget Canadian-made productions, prime-time television could be filled with more high-quality Canadian television shows.

The consultation was launched by Heritage Canada in September and officially ended on November 25th. The review was not limited to television broadcasting, but encompassed all aspects of CanCon. To get some public input that is crucial to such a comprehensive review, PIAC commissioned a survey of 1200 English-speaking Canadians for the consultation, asking these consumers for their thoughts on the role of CanCon and how they believed it should be supported in the future. The survey shows that Canadians don't necessarily watch a lot of CanCon, with the majority of respondents saying they watch 'some' or 'very little'; however, Canadians overwhelmingly want CanCon to succeed internationally. Over seventy percent of consumers said that the top priority for creating CanCon should be to create content so that it can be sold to the rest of the world.

Canadians differed, however, in what they thought was the best strategy to support CanCon. The leading answer was increased promotion and marketing of Canadian-made films and TV. This was particularly true amongst younger Canadians (18-

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ABOUT PIAC

PIAC is a non-profit organization and registered charity that provides legal and research services on behalf of consumer interests, and, in particular, vulnerable consumer interests, concerning the provision of important public services. Charitable registration number:

BN: 130592405RR0001

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29). Other answers included increased funding and ensuring that in a broadcast schedule or an online catalogue, there is space created for CanCon.

One of the proposals that was put forward was a levy on ISPs to help fund CanCon. PIAC contends that the hidden problem with the idea is that it would severely limit accessibility to the Internet for many Canadians – a competing and primary policy goal for both the Government of Canada and the CRTC.

“Our survey shows CanCon is important and Canadians want it to succeed. PIAC strongly opposes an ISP levy, however. Canadians, especially low income Canadians, need internet access in order to engage, participate, and be connected with the rest of society,” stated Alysia Lau, counsel to PIAC. “We don’t want any policy that would hurt the ability of Canadians to have affordable access to broadband.”

PIAC’s survey showed that Canadians most strongly support additional monies for CanCon coming from the “traditional” media broadcasters (such as CBC, CTV, and YTV) as well as cable and satellite providers. While there is some support for online video services to fund CanCon, Canadians still see “traditional media players” as gaining the most, and therefore believe they should be contributing the most.

PIAC also asked Canadians what types of CanCon should be supported. Responses varied greatly depending on age, region and education. Younger Canadians (18-29) favored dramas, but also showed a stronger support for programs serving specific minority groups, such as First Nations or persons with disabilities. Canadians from the Atlantic Region were more likely than other regional respondents to support local and community-based programs as a top priority.

“The consultation was very broad. Mélanie Joly, the Heritage Minister, has been noted as saying ‘everything’s on the table’ during this consultation,” noted Lau. “We tried to provide a thorough outline of the consumer’s point of view on all aspects as far as where CanCon is and where they would like it to be.”

The consultation has ended and it is as yet unclear what the next stage of this process will be. The Heritage Minister has signalled she intends to develop a “cultural export strategy” next year (2017) with International Trade Minister Chrystia Freeland. Canadian Content is in a major restructuring phase currently, and this consultation, as well as the earlier CRTC decision, will hopefully bring positive changes to how Canadian Content is manufactured and funded. PIAC will continue to work towards making sure the public interest is represented during the process, wherever it may lead.

Life Lines

The CRTC is scheduled to announce their decision on its review of basic telecommunications services on December 21st.

The proceeding, initiated in 2015 and culminating with a public hearing in April 2016, was a broad review of basic telecommunications services in Canada, including whether broadband internet access should be considered “basic telecommunications services” and therefore available to all Canadians, and whether funding support is necessary to make sure all Canadians have access to basic telecom services.

If you’ve ever struggled to pay for the internet, had to make a difficult choice between necessities to stay connected to society, or even if you’re just an avid believer that the internet should be affordable and available to all, this decision will be of great interest to you.

PIAC has been present at all stages of this review, and before the review, was pushing heavily for affordable broadband. We will be covering and analyzing the decision on our website at www.piac.ca. We hope that you will participate in the continued discussion there, or on our twitter: [@CanadaPIAC](https://twitter.com/CanadaPIAC).



No Such Thing as Free Data

The CRTC looks at 'differential pricing practices' and the implications of 'free data'

On October 31st, the CRTC held a hearing which examined "differential pricing practices" related to Internet data plans. 'Zero Rating', as it's known, was one of the major topics of the hearing, and one that PIAC has been fighting against for some time, as can be seen in our past newsletters. The idea of zero rating is to give customers something 'free'; in a recent case with Vidéotron, it was unlimited music streaming. You are allowed to stream music from certain providers without that data being counted against your data cap.

This 'free stuff' offer introduces a host of questions and problems, all of which lead to the conclusion that, at least in our opinion, there's nothing 'free' about it.

The foundation of zero rating relies on your internet service provider making deals with certain companies to allow their data to stream over the network to its customers for free. If you're a new or smaller content creator trying to break into the market in Canada with a music streaming service, you could face countless barriers which would ensure your work would never stand a chance. Your app or audience could be considered 'too small', your lack of notoriety as a new entrant could cause you to be overlooked, or an Internet Service Provider (ISP) could just find it not to be a good fit. If for whatever reason you can't get in with an ISP, then you won't get zero rated.

"Zero rating isn't free," John Lawford, Executive Director of PIAC stated. "It relies on unjust discrimination against other types of internet traffic and against other audio or video services that are not desirable partners of the ISP who zero rates. That costs everyone in terms of innovation, competition and most importantly, allows the ISPs to

maintain data caps."

Differential pricing creates an enormous burden for creators to create unless they are able to get zero rated by an ISP. If the providers are happy with their stable of content and the companies they've made deals with are happy, why let anyone else into the club when everyone's making money? These are the results of zero rating and they mean that consumers lose out on new services, new perspectives and unmetered access to the whole of the internet.

Zero Rating also brings up a larger question about the internet in general: Why do we have data caps? Providers set caps for monthly data for consumers for a majority of plans, meaning customers have to worry about overage fees if they exceed their monthly cap. If ISPs can allow audio/video from providers who make deals with them to avoid a cap, it seems

to point to these caps being an artificial problem for which they've provided a solution. Is the data scarce and so in need of a cap to keep customers within a reasonable 'budget' of data, or do these unlimited streaming plans unintentionally show that data is maybe not as 'scarce' as providers advertise? Consumers and net neutrality advocates would much prefer to experience new media and content without being herded in the direction of companies that make deals with application providers.

The CRTC sought the opinion of the /r/Canada forum on Reddit as part of the consultation process. The forum overwhelmingly agreed that zero rating was terrible for consumers, and that it allowed unjust discrimination against certain data. Consumers are more tech savvy than ever and they know when they're getting a bad deal.

During the hearing, the commissioners were very probing of the ISPs who supported this practice. PIAC is hopeful that the depth that they went into with ISPs made it clear that the practice of zero rating gives no true benefit to consumers or innovators alike. PIAC wants to see a free and open internet with no deals between ISPs and content providers, and ideally, have the CRTC look at data caps and their validity. Final arguments were filed on November 23rd. PIAC is looking forward to a timely and well-reasoned decision, which takes into consideration the will and needs of consumers as well as possible technology upstarts in Canada.



Banking on Change

The Financial Code as we knew it ended up a bust, but a possible rebirth and changes to payday loans could improve consumers financial well-being

Bill C-29 - The Financial Code

Since 2013, the government has been promising 'to develop a comprehensive financial consumer code'. It's been referenced in every single Budget since then. In many countries, there are consumer codes that protect people while banking. These can vary, but most at least have some substantive rules and a set of consumer protection principles for the financial institutions to follow. Canada, by contrast, has some ad hoc consumer protection rules that have been added haphazardly to the Bank Act, Canada's original governing document for banking, while other rules are in voluntary codes of conduct or even voluntary 'gentleman's agreements' between the government and the banks.

PIAC has advocated over the past few years on something we referred to as the 'Financial Consumer Code'. We believed it was an opportunity to clear up a lot of the murkiness of consumer rights when it came to banking. After a long process of consultation, and the drafting of a framework by the government, what was left of the 'Financial Consumer Code' was found in Bill C-29, a Budget implementation act.

PIAC examined Bill C-29 and concluded that wouldn't substantially improve the protection of bank customers and might possibly make things worse. Instead of a document which gave solid rights to consumers everywhere, the bill potentially undercut certain stronger provincial laws, provided no new plans for complaints resolution (even though the current regime allows a bank to choose its external ombudsman - an obvious conflict of interest), and seemed to declare the convenience of bankers to be more important than the protection of consumers.

"Bill C-29 does not address real problems such as banks unilaterally changing any provision in their terms and conditions or disclaiming in their terms and conditions any liability for mistakes or negligence," stated John Lawford, Executive Director of PIAC, before the Senate of Canada. "Contrast the Consumer Protection Code established by the Central Bank of Ireland, which requires banks to act with skill, care and

diligence in the best interests of consumers, and which prohibits in principle exclusionary clauses.”

After PIAC appeared before the Senate and the House of Commons, the new ‘rules’ have been taken out of the budget bill, and there is promise of another attempt at a ‘financial code’ for consumers in a separate consumer protection in banking bill. PIAC looks forward to participating in the shaping of a strong consumer code or other rules which will ensure accessibility and safety for all Canadian banking customers.

PayDay Loans

PIAC has been continuously working to reel in the many unsavoury aspects of payday lending. On occasion, payday loans can be viewed as a necessity for some Canadians. Rough financial patches can obviously come upon people and a payday loan may seem like the only option. This first move, however, begins a chain reaction which for many that starts with one high-interest loan, and ends with many more, assuming that the customer can ever fully get out of the debt cycle.

Recently, there has been some movement in a few provinces to lessen this burden. The Ontario Government has proposed lowering the maximum rate of borrowing from \$21 per \$100 dollars advanced down to \$18 per in January 2017, with another drop to \$15 per \$100 in 2018. Similar plans are also

happening in British Columbia (\$17 per \$100 borrowed) and Alberta (\$15 per \$100). However, even at a borrowing rate of \$15 per \$100 borrowed, a 19 day payday loan still carried an Annual Percentage Rate (APR) of 390%. There has also been movement outside of the government; alternatives to the standard payday loan companies have popped up in Alberta, as well as through a pilot project in Ontario. However, the ideal method of reigning payday loans, in PIAC’s opinion, would be to have a regulatory board establish their borrowing rates.

“PIAC would like to see a review board for the maximum rate of borrowing,” stated Jonathan Bishop, Research Analyst at PIAC. “It should be placed in a public utilities-like board, a publicly funded board that takes in evidence from all stakeholders when determining what that rate should be. Every time a provincial jurisdiction has set a rate, most of the players in that marketplace have kept the rate pretty much at the maximum. This demonstrates to us that payday lenders are not competing on the basis of price.”

The lowered rate of borrowing throughout many of the provinces is a start towards making the borrowing process more manageable for consumers. PIAC will continue to push for changes to better protect consumers, a more equitable system of repayment and to reign in the incredible interest rates consumers face when they’re trying to make ends meet.

With Your Support

The Public Interest Advocacy Centre works hard to bring consumer rights to the forefront when big decisions, such as those discussed in this newsletter, are being made. PIAC is able to do this work because consumers, through their actions and their help, have supported the many cases we’ve worked on on Canadians’ behalf. Throughout these stories there is a common theme; consumers made it happen.

We want an engaged public participating with us as we work to make big changes. If you’d like to connect more with PIAC please visit our website at www.piac.ca. There, you can also sign up for our mailing list to receive future newsletters and other updates as they arise. You can also follow us on Twitter: [@CanadaPIAC](https://twitter.com/CanadaPIAC).

Donations are a tremendous help towards filing applications, participating in hearings, and doing the vital research for cases. If you’d like to help out financially and before the December 31st income tax deadline, please go to our Canada Helps page at <https://www.canadahelps.org/dn/14349>.

We couldn’t do our work without the engagement and participation of the public. Only with your support can we make a difference.