Gábor Lukács

Halifax, Nova Scotia

September 13, 2012

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, Ontario, K1A 0N9

Attention: Mr. Mike Redmond, Chief, Tariff Investigation

Dear Madam Secretary:

Re: **Gábor Lukács v. Air Canada**
Overselling practices and denied boarding compensation rules (domestic)
File No.: M 4120-3/11-06673
Motion for directions / Air Canada's motion for an extension

On August 31, 2012, the Applicant made submissions to the Agency in response to Air Canada's answers to the seven questions that the Agency asked in Decision No. LET-C-A-105-2012. As part of his submissions, the Applicant directed a total of ten questions to Air Canada.

On September 6, 2012, in Decision No. LET-C-A-137-2012, the Agency ruled that:

> Pursuant to subsection 20(1) of the General Rules, the Agency provides Air Canada until September 17, 2012 to respond to the questions posed by Mr. Lukács with a copy to Mr. Lukács.

On September 12, 2012, Air Canada made a motion to the Agency seeking an extension of 11 days (not 8 days, as Air Canada claims) until September 28, 2012 to respond to the questions of the Applicant. Air Canada explained that "given the complexity of the questions posed and the extent of arguments raised (23 pages), this additional delay is necessary for Air Canada" to answer the questions.

In light of Air Canada's stated reasons for seeking an extension, the Applicant is concerned by what transpires as Air Canada intending to turn an interrogatory, where Air Canada was ordered to answer questions by the Agency, into a new round of complete pleadings.

Please accept the following submissions as a motion pursuant to Rule 32 of the *Canadian Transportation Agency General Rules*, and as an answer, pursuant to Rule 32(4), to Air Canada's motion for an extension.

I.   Motion for directions

It seems that Air Canada interprets the Agency's Decision No. LET-C-A-137-2012 as an invitation for a new round of full pleadings. The Applicant believes that this was not the Agency's intent in making that decision and ordering Air Canada to answer the Applicant's questions, especially since pleadings were closed on January 24, 2012. Thus, the Applicant is seeking the Agency's directions on this issue.

The Applicant is puzzled by Air Canada's reference to "the extent of arguments raised (23 pages)" in Air Canada's motion for an extension, given that the deadline of September 17, 2012 is for answering simple factual questions (located on 4 consecutive pages in the Applicant's materials). Consequently, Air Canada's answers to these factual questions ought to be entirely independent of the arguments raised by either of the parties in this proceeding, and must be the truth and the full truth.

Air Canada's reference to "the extent of arguments raised (23 pages)" strongly suggests that Air Canada does not merely intend to answer the Applicant's ten questions, as directed by the Agency, but rather to use the interrogatory as an opportunity to engage in a new round of complete pleadings, resulting in an *argumentum ad infinitum*.

It is submitted that this is clearly not the purpose of an interrogatory. Interrogatories are a written variant of out-of-court examinations of witnesses and parties. Their purpose is to allow parties to establish evidence on the record for the use of a tribunal or a court. As such, interrogatories are of factual and evidentiary nature.

In the present case, pleadings were closed on January 24, 2012, when the Applicant submitted his reply. Subsequently, the Agency directed certain questions to Air Canada, and then directed Air Canada to answer certain questions in the Applicant's submissions. The Agency's questions and directives, however, should not be construed by Air Canada as an invitation to engage in a new round of complete pleadings. Rather, they are orders for disclosure of specific relevant evidence.

The Applicant does not dispute Air Canada's right to present arguments in relation to its own evidence; however, the scope of these new arguments ought to be confined to matters that are within the four corners of the questions.

Therefore, the Applicant is asking that the Agency direct Air Canada to confine the submissions that it will be making pursuant to Decision No. LET-C-A-137-2012 to the four corners of the ten questions asked by the Applicant on August 31, 2012 on pages 4-7 of his submissions.

II.   Answer to Air Canada's motion for an extension

While the Applicant did not oppose a previous request by Air Canada for an extension, in the present case, the questionable reasons and purpose for Air Canada seeking an extension strongly militate against granting the extension.

(a)   The questions are simple and straightforward

The questions directed by the Applicant to Air Canada on August 31, 2012 are straightforward and easy to answer:

(i) Question Q4 concerns Annex A to Air Canada's submissions dated August 15, 2012. Annex A is a document that was tendered as evidence by Air Canada, and whose author is Mr. Gordon Ng, an employee of Air Canada.

If Mr. Ng is indeed the author of Annex A, then it is not clear why he would have any trouble answering such a simple question about his own letter, which could routinely be asked in a face-to-face cross-examination.

(ii) Questions Q6-Q10 concern Annex C to Air Canada's submissions dated August 15, 2012. It is another document that was tendered by Air Canada as evidence by Air Canada. Its authors are employees of Air Canada.

The questions refer to consistency of data already contained in Annex C, and thus it does not require any substantial research.

(iii) Question Q3 is asking for disclosure of readily available data in Air Canada's possession.

(iv) Questions Q1, Q2, and Q5 are about statistical quantities of certain datasets.

In order to demonstrate that calculating these statistical quantities is an easy programming exercise for beginners, the Applicant has attached the C++ source code of a program that accomplishes this (Exhibit "A").

In terms of processing time, the Applicant's limited observation (on his own desktop computer) is that the program is capable of processing approximately 1 million entries in one second. Consequently, 1 billion entries can be processed in 1000 seconds,[1] which is a little less than 17 minutes.

For these reasons, the Applicant respectfully submits that the ten questions directed by him on August 31, 2012 to Air Canada are simple and straightforward.

---

[1] The complexity of the program is $o(n)$, where n is the size of the sample. In other words, it scales linearly: doubling the dataset results in a doubled running time.

(b)   Air Canada appears to be seeking the extension for an inappropriate purpose

As indicated earlier, Air Canada seems to be intending to use, and in fact misuse, the interrogatory as an opportunity for a new round of complete pleadings. It is submitted that this is not a legitimate purpose of interrogatories, and as such, it is not a legitimate basis for granting an extension.

All of which is most respectfully submitted.

Gábor Lukács
Applicant

Cc: Ms. Julianna Fox, Counsel, Regulatory and International, Air Canada
        Ms. Martine De Serres, Counsel, Regulatory and International, Air Canada

EXHIBITS

A. Source code of a program for calculating the average, standard deviation, and average deviation of a sample, written in C++ by Gábor Lukács on September 12, 2012.

Exhibit "A"

```cpp
#include<iostream>
#include<fstream>
#include<string>
#include<cmath>

using namespace std;

int main()
{
 fstream data;
 string filename("input.txt");

 data.open(filename.c_str(),ios::in);

 while(data.fail())
        {
         cerr << endl << "Could not open " << filename  << endl;
         cout << endl << "Please enter the name of the data file: ";
         cin >> filename;
         data.open(filename.c_str(),ios::in);
        }

 long count=-1;
 long double x=0;
 long double sum=0;
 long double squares=0;

        do
        {
         count++;
         sum+=x;
         squares+=x*x;
         data >> x;
        } while(!data.eof());

 if(count==0)
        return 2;

 cout << "Size of the sample: " << count << endl;

 long double EX=sum/count;
 cout << "Average of the sample: " << EX << endl;

 long double STD=sqrt((squares/count)- EX*EX);
 cout << "Standard deviation of the sample: " << STD << endl;

 data.clear();
 data.seekg(ios_base::beg);

 long double dev=0;
 x=EX;

        do
        {
         dev+=abs(x-EX);
         data >> x;
        } while(!data.eof());

 long double avdev=dev/count;
 cout << "Average deviation of the sample: " << avdev << endl;

 return 0;
}
```