

August28,2014

File No. M 4120-3/14-02973

Attention: Mr. Mike Redmond  
Chief, Tariff Investigations  
Air and Marine Investigations

E-mail: [secretaire-secretarv@cta-otc.gc.ca](mailto:secretaire-secretarv@cta-otc.gc.ca).

Re: Complaint concerning WestJet's policies and practices relating to claims for delay, damage and loss of baggage- motion for an order to answer questions, produce documents and for an extension.

To Whom It May Concern:

The following represents WestJet's response to the complaint stated above.

### **I. Payment allegedly made by British Airways to the applicant**

WestJet can confirm that British Airways ("BA") issued a cheque to the applicant and that it was mailed to address on file in Halifax, presumably the address provided by the applicant himself.

BA has confirmed they do not as a matter of process follow up with each claim to ensure payment was received thus they are unable to provide WestJet any documentation confirming receipt of payment.

WestJet has asked BA to re-issue and re-send the cheque due to the implied position of applicant that he has not received the cheque and WestJet has asked BA to follow up directly with the applicant to ensure the address information is correct on file.

### **II. Alleged systemic refusal to process and settle claims**

Contrary to the applicant's assertions, WestJet agrees to settle proven claims. When a demand is made and then works with other carriers to have the claims paid in an efficient manner that minimizes any potential delay due to disputes between successive carriers over ultimate liability. BA's attempts and WestJet's assistance to ensure the applicant is paid in the present case demonstrates willingness to settle compensable claims. The applicant's assertion that he has not been paid does not arise from any lack of willingness to settle by either WestJet or BA but rather from a potential problem with mailing of the funds to the applicant's address on record or some other miscommunication in where the funds should be directed.

Additionally, the applicant's assertion that WestJet has a systemic policy to refuse claims is inconsistent with his assertion that the basis for this policy is WestJet's improper reliance upon IATA Resolution 780 to do so. The policy itself expressly addresses the industry norm for settlement of claims amongst successive carriers. Accordingly, it is the propriety of WestJet's reliance on IATA Resolution 780, and how any such reliance is communicated to the traveling public that has been raised in the present complaint. However, it must be noted that any issue over communication to the traveling public has been resolved. Specifically, to the extent that IATA Resolution 780 was relied upon in the past, WestJet has confirmed it will remove any reference in its correspondence with the

traveling public regarding claims involving successive carriage. WestJet has also already advised the CTA that it is willing to work with them in terms of how WestJet communicates to the guests that their claims will be paid in the most efficient manner.

In light of the foregoing, the applicant's request for broad ranging production of personal information and documents related to claims made by other passengers is irrelevant and disproportionate. Despite the time and cost required to gather such information, any such information will ultimately be of little or no assistance in determining the propriety of reliance on IATA Resolution 780 to settle claims where there are successive carriers. The applicant ostensibly seeks such production in order to prove an alleged policy- yet no such production is required to establish the existence of IATA Resolution 780.

There are also significant privacy concerns related to disclosures to the applicant of personal information belonging to third parties. WestJet is subject to the *Persona/Information Protection and Electronic Documents Act* (PIPEDA) which precludes disclosure of personal information to third parties without their consent. The applicant cites s. 7(3) of PIPEDA in support of his assertion that WestJet does not require the consent of Ms. Jones (or presumably any third party), to disclose personal information related to claims which they may have made. However, s. 7(3) simply states that WestJet may disclose another's personal information without their express consent in order to comply with a production order from the CTA. No such production order has been made nor should any such order be made for all the reasons stated above. It should also be noted that even with redaction , such information would be irrelevant while adding significant time and cost to the present proceedings in relation to the applicant's \$25 claim.

#### **a) Relevance**

The applicant's position appears to that the only method for deciding the dispute over whether WestJet refuses to process claims is through the provision of historic communications with passengers related to such baggage-related claims and provision of internal documents to increase or decrease the probability of the allegations made by the applicant.

WestJet disagrees that the provision of historic communications will provide any such value as this correspondence will merely confirm WestJet has historically advised guests to make their initial claim with the final carrier (as per IATA Resolution 780).

#### **b) Standing**

Providing such historical communications adds little value to the argument and in no way is determinative as to whether WestJet systemically denied processing of claims as past records will merely confirm WestJet has relied on IATA Resolution 780 in its correspondence with the traveling public, which WestJet has never denied.

### **III. WestJet's refusal to process and settle the claim of Ms. Jones**

#### **a) Consent**

If the CTA feels there is value added to the complainants' allegations to provide requested information WestJet will do so, however WestJet remains of the position that the status of Ms. Jones' claim has no bearing on the applicant's case and WestJet will commit to assist Ms. Jones by contacting the applicable carrier to encourage timely settlement of the claim as needed.

#### **b) Relevance**

The applicant continues to erroneously believe WestJet refuses to settle claims and thus seeks to rely on Ms. Jones' case as evidence to that effect. WestJet reiterates it has not and does not refuse to settle claims and merely directed guests to the final carrier for timely settlement of their claims.

### **IV. WestJet's refusal to process and settle the claim of Ms. Jones**

WestJet has no objection to the applicant's request for an extension.

Respectfully submitted.

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