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May 8, 2014

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, ON K1A 0N9

Attention: Mr. Mike Redmond, Chief, Tariff Investigation

Dear Madam Secretary:

Re: Dr. Gábor Lukács v. British Airways
British Airways' response to show cause order in Decision No. 10-C-A-2014
File No.: M4120-3/14-00909
Decision No. LET-C-A-29-2014 – Notice of Protest

I acknowledge the receipt of Decision No. LET-C-A-29-2014 of the Agency, an interlocutory decision that orders me to delete almost the entire contents of my comments on British Airways' submissions of March 17, 2014.

Out of respect to the Agency, I am hereby complying with Decision No. LET-C-A-29-2014, and refiling said reply as ordered; however, I am doing so under protest. Please be advised that I reserve my right to challenge Decision No. LET-C-A-29-2014 as part of an appeal from the final decision of the Agency in the present file.

Dr. Gábor Lukács
Applicant

Cc: Ms. Carol E. McCall, counsel for British Airways

Revised and refiled on May 8, 2014
pursuant to Decision No. LET-C-A-29-2014

UNDER PROTEST

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March 26, 2014

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, ON K1A 0N9

Attention: Mr. Mike Redmond, Chief, Tariff Investigation

Dear Madam Secretary:

Re: Dr. Gábor Lukács v. British Airways
Reply to British Airways' submissions dated March 17, 2014 relating to the
Agency's show cause order with respect to denied boarding compensation amounts

Please accept the following submissions as a reply, pursuant to Decision No. 10-C-A-2014 of the Agency, to British Airways' submissions dated March 17, 2014, relating to denied boarding compensation amounts.

BACKGROUND

1. On January 17, 2014, in Decision No. 10-C-A-2014, the Agency held that British Airways' International Tariff Rule Rule 87(B)(3)(B), as it relates to the denied boarding compensation provided to passengers, may be unreasonable within the meaning of subsection 111(1) of the *Air Transportation Regulations*.

Thus, the Agency issued a show cause order, providing British Airways with an opportunity to demonstrate why the Agency should not substitute Rule 87(B)(3)(B) with another regime for determining the amount of compensation payable to victims of denied boarding.

2. On March 17, 2014, British Airways proposed a new denied boarding compensation policy (the "Proposed Rule") to replace the Existing Rule 87(B)(3)(B). As explained below, British Airways incorrectly claimed that the Proposed Rule is the same as the regime set out in Decision No. 442-C-A-2013.

ISSUES

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ARGUMENT

I. Failure to establish conditions governing denied boarding compensation for flights to Canada and flights from Canada to points outside the United Kingdom

The Agency held in *Lukács v. WestJet*, 227-C-A-2013 (at para. 39) that:

The failure to establish conditions governing denied boarding compensation for flights to and from Canada is contrary to Decision No. 666-C-A-2001. Therefore, the Agency finds that if Proposed Tariff Rule 110(E) were to be filed with the Agency, it would be considered unreasonable.

[Emphasis added.]

The Proposed Rule fails to establish conditions governing denied boarding compensation for flights to Canada. The Proposed Rule also fails to establish conditions governing denied boarding compensation for flights from Canada to points within the European Community that are outside the United Kingdom. Indeed, the Proposed Rule requires British Airways to pay denied boarding compensation only “for flights from Canada to the United Kingdom” (emphasis added).

Therefore, based on the principles set out in Decision No. 227-C-A-2013, the Proposed Rule is unreasonable.

II. [Deleted pursuant to Decision No. LET-C-A-29-2014]

III. [Deleted pursuant to Decision No. LET-C-A-29-2014]

(a) [Deleted pursuant to Decision No. LET-C-A-29-2014]

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(ii) **[Deleted pursuant to Decision No. LET-C-A-29-2014]**

(d) **[Deleted pursuant to Decision No. LET-C-A-29-2014]**

IV. [Deleted pursuant to Decision No. LET-C-A-29-2014]

(a) [Deleted pursuant to Decision No. LET-C-A-29-2014]

(b) **[Deleted pursuant to Decision No. LET-C-A-29-2014]**

All of which is most respectfully submitted.

Dr. Gábor Lukács
Applicant

Cc: Ms. Carol E. McCall, counsel for British Airways

LIST OF AUTHORITIES

Legislation

1. *Air Transportation Regulations*, S.O.R./88-58.
2. *Canada Transportation Act*, S.C. 1996, c. 10.
3. *Carriage by Air Act*, R.S.C. 1985, c. C-26.

International instruments

4. *Montreal Convention: Convention for the Unification of Certain Rules for International Carriage by Air* (Montreal, 28 May 1999).

Case law

5. *Air Canada v. Canadian Transportation Agency*, 2009 FCA 95.
6. *Anderson v. Air Canada*, Canadian Transportation Agency, 666-C-A-2001.
7. *Dr. Azar v. Air Canada*, Canadian Transportation Agency, 442-C-A-2013.
8. *Griffiths v. Air Canada*, Canadian Transportation Agency, 287-C-A-2009.
9. *Lukács v. Air Canada*, Canadian Transportation Agency, 291-C-A-2011.
10. *Lukács v. Air Canada*, Canadian Transportation Agency, 250-C-A-2012.
11. *Lukács v. Air Canada*, Canadian Transportation Agency, 251-C-A-2012.
12. *Lukács v. Air Canada*, Canadian Transportation Agency, 204-C-A-2013.
13. *Lukács v. WestJet*, Canadian Transportation Agency, 313-C-A-2010.
14. *Lukács v. WestJet*, Canadian Transportation Agency, 483-C-A-2010.
15. *Lukács v. WestJet*, Federal Court of Appeal, 10-A-42.
16. *Lukács v. WestJet*, Canadian Transportation Agency, 227-C-A-2013.
17. *Lukács v. Porter Airlines*, Canadian Transportation Agency, 344-C-A-2013.

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