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February 3, 2016

VIA EMAIL

The Secretary
Canadian Transportation Agency
Ottawa, ON K1A 0N9

Dear Madam Secretary:

**Re: Mr. Christopher C. Johnson and Dr. Gábor Lukács v. Air Canada
Application concerning failure to apply the tariff and application of terms and conditions not set out in the tariff and with respect to delayed passengers
Case No.: 15-05627
Request to file a response to Air Canada's letter of February 1, 2016**

Pursuant to Rule 34(1) of the *Canadian Transportation Agency Rules (Dispute Proceedings and Certain Rules Applicable to All Proceedings)*, SOR/2014-104 ("*Dispute Rules*"), the Applicants request leave to file a response to Air Canada's submission of February 1, 2016 to address:

1. the new allegation that the Applicants breached an implied undertaking of confidentiality (paras. 2 and 6 of Air Canada's letter of February 1, 2016); and
2. the new relief being sought by Air Canada, namely, an order requiring the Applicants to remove certain documents from the Air Passenger Rights website (para. 10 of Air Canada's letter of February 1, 2016).

Summary of the relevant facts

On January 11, 2016 and January 19, 2016, respectively, Air Canada filed with the Agency and served on the Applicants documents A-1 and AQ2-1, respectively. Air Canada did not make a claim of confidentiality at the time of filing the documents.

On January 20, 2016, Air Canada made a request for confidentiality with respect to documents A-1 and AQ2-1, and a new document, called A-2, which was not served on the Applicants. The relief being sought by Air Canada was the removal of these documents from the Agency's public record.

On January 27, 2016, the Applicants filed an objection to the request for confidentiality, in accordance with Rule 31(3) of the *Dispute Rules*.

On February 1, 2016, Air Canada served and filed a response to the Applicants' objection, which raises a new allegation (of breach of implied undertaking) and which also seeks a new relief (ordering the Applicants to remove certain documents from the Air Passenger Rights website).

Submissions in support of the request

Both the allegation of breach of implied undertaking and the relief of ordering the Applicants to remove certain documents from the Air Passenger Rights website are new, and were raised for the first time in Air Canada's response to the opposition to confidentiality.

Consequently, the Applicants had no opportunity to address this new allegation nor the new relief being sought by Air Canada.

In accordance with the principle of *audi alteram partem*, the Applicants are requesting that the Agency provide them with a reasonable opportunity to respond to this new allegation and new relief that is being sought by Air Canada.

All of which is most respectfully submitted.

Dr. Gábor Lukács
Co-applicant and
representative for Mr. Johnson

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