

Air Access Resolution
Approved at Canadian Chamber of Commerce Annual General Meeting
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Background

The airline industry is undergoing significant transition on a global scale. The airline industry in Canada is certainly no exception to this. In fact, the Canadian airline industry has been in consistent transition for a number of years. Some of the more significant industry events include:

- the takeover of Canadian Airlines International by Air Canada and their subsequent merger;
- the takeover of Royal Airlines and CanJet by Canada 3000 and Canada 3000's subsequent demise;
- the launching of Air Canada Tango, Air Canada Zip
- the merger of Air Canada Regional's partners, Air B.C., Air Ontario, Air Nova and Canadian Regional, into a single entity now known as Air Canada Jazz;
- the continued expansion and profitability of WestJet;
- the general downturn in air travel exacerbated by the horrific events of September 11, 2001 in the United States; and
- the general inability of the Competition Bureau and the Competition Tribunal to respond to alleged predatory pricing practices in a timely and meaningful fashion.

The precarious situation of the airline industry became painfully obvious with the terrorist attacks of September 11, 2001. It was the industry that was most immediately and tragically impacted by those attacks, and the impacts have been on-going.

At the same time that the industry is facing its own very serious issues, other businesses and industries are being impacted by its struggle. Safe and affordable access to air travel affects the quality of life of every individual citizen and business. The opportunity to travel, in an affordable and efficient manner, impacts on the ability of businesses to carry out their work. The transportation and tourism sectors are heavily dependent on air access for the very survival of business.

Federal Air Policy

Historically, Canadian international air policy has been characterized by extensive federal government regulation. Domestic air policy was largely "deregulated" in 1984, but continued protection and promotion of the interests of Canadian-owned airlines remains a cornerstone of international policy.

A significant step in the liberalization of international air policy occurred with the signing and implementation of a new Canada-U.S. Air Services Agreement in February 1995. This Agreement, which generally followed an "open skies" model, resulted in significant transborder air traffic growth and enduring benefits for the Canadian and U.S. economies, including trade, tourism, airlines, airports, consumers and communities.

Since this time, liberalization of federal air policy has been sporadic and limited. A major review of Canada's Policy for International Scheduled Air Services, launched by the federal government in early 2001, was put on hold following September 11th. There is no indication as to when, or if, it will be revived.

Internationally, Air Canada, a member of the Star Alliance, is Canada's only scheduled air service provider. Effectively, Canadians do not have the benefits of reasonable access to other competing global carrier alliances.

Domestically, Air Canada continues to hold a dominant share of the marketplace. WestJet has provided competition in western Canada and is increasingly moving into eastern Canada. Other carriers, including CanJet and Jetsgo, have recently begun services in eastern Canada.

The Situation Today

Following the events of September 11, 2001, the airline industry has continued to be affected by difficult market conditions caused by a decline in the Canadian economy. As an immediate response to concerns about security, there was a decrease in the number of people flying. For example, the decrease in passenger traffic was one factor which led to the demise of Canada 3000.

There was a quick downturn in the economy and an increase in the cost of fuel, following September 11. As a result, businesses began to cut back on travel and increasingly engage low cost carriers. As well, airlines were hit hard by the increase in the cost of fuel.

According to the second interim report on Airline Restructuring in Canada, airlines are suffering in countries across the world and people across the world are expressing concern about both the quality of service and cost of air access. Clearly, there is an obvious and serious gap between the expectations of passengers and the services airlines are delivering. However, what is unique to Canada is the tendency to attribute the poor service and high cost to the dominant position of Air Canada. In the United States, similar problems are attributed to inadequate facilities, which cause congestion at airports, and the antiquated air traffic control system. Other issues raised in the United States include overbooking practices, lack of staff training and poor scheduling.

Effective Enforcement of the Competition Act

The competition legislation, which was assented on June 29, 2000, gives the Commissioner of Competition a new power to make temporary orders halting anti-competitive acts affecting domestic airline services.

Due to the dominance in the Canadian domestic market, there has been concern about the ability of consumers to obtain a fair price – especially in isolated areas where the routes might be considered less than competitive. There have been accusations of predatory pricing on the part of the dominant carrier, noting that their large size would allow them to act in a predatory manner by taking a loss on a particular route to push the competition out of the market. As a result, continued vigilance is required.

Conclusion

In order to have effective and efficient airline service, at a reasonable cost, Canada must create a competitive market for air carriers. This involves reducing barriers to entry into the Canadian airline market place.

It is incumbent upon the Government of Canada to encourage and promote an environment that fosters competition in the airline industry on an international, transborder, national and regional basis. Initiatives taken to address issues at each level should be compatible and consistent.

Recommendations

The federal government should:

1. Continue to conduct regular reviews of the Competition Act to ensure its effectiveness; and ensure that the Competition Bureau has resources sufficient to ensure the effective and timely enforcement of the Competition Act.
2. Support policies that ensure that the appropriate levels of airport infrastructure in Canada is provided by the Federal Government for the delivery of Federally legislated services with respect to safety and security.
3. Not move to re-regulate the airline industry but rather continue to promote competition in the airline industry.
4. Strongly encourage liberalization of air policy with other jurisdictions on a multilateral basis. In the absence of timely progress on a multilateral front, vigorously pursue “open skies” air service agreements on a bilateral basis with any country that is prepared to do so. In negotiating bilateral “open skies” agreements, the federal government should consider the interests of Canadian consumers and communities including trade and tourism benefits. In the absence of Canadian carrier interest in serving the market in question, be prepared to offer country to country, point-to-point access to a foreign carrier that demonstrates the support of the Canadian community it wishes to serve, without limitations on the frequency and gauge of aircraft. If a Canadian carrier interest arises subsequently, the continued grant of rights to the foreign carrier should be conditional on the satisfactory conclusion of a bilateral agreement.
5. Permit observer status (similar to that afforded Canadian air carriers) to appropriate representatives of Canadian communities, airports and provinces.
6. Establish “open skies” for international (beyond U.S.) all-cargo air services.
7. Pursue the interim report recommendations of the Independent Transportation Observer with respect to the collection and dissemination of adequate and timely airline data.
8. Over the past months a number of start-ups have taken place as entrepreneurs have taken advantage of opportunities to service a number of domestic corridors (examples: CanJet, Jetsgo, expansion of WestJet network). However, if such initiatives fail, the government should consider the potential benefits of a variety of options to increase competition and provide opportunity both domestically and internationally, including:
 - increasing the maximum foreign ownership limits for Canadian carriers up to 49%.
 - the consideration on a case-by-case basis of granting Right of Establishment in Canada to foreign carriers, providing the carrier meets Canadian regulations and establishes a separate Canadian subsidiary operating solely within Canada that has a Canadian office and uses Canadian labour.