

Canadian  
Transportation  
Agency



Office  
des transports  
du Canada

# THE AIR TRAVEL COMPLAINTS COMMISSIONER'S REPORT

January to June 2003



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For more information about the Air Travel Complaints  
Commissioner and the Canadian Transportation Agency  
please call (819) 997-0344 or, toll free, 1-888-222-2592.

Legend for Complaints Analysis:

-  Roses (*good way to conduct business*)
-  Thorns (*bad way to conduct business*)

Correspondence may be addressed to:

Air Travel Complaints Commissioner  
Canadian Transportation Agency  
Ottawa, ON K1A 0N9





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Commissaire aux plaintes  
relatives au transport aérien

Air Travel  
Complaints Commissioner

December 2003

The Honourable Tony Valeri, P.C., M.P.  
Minister of Transport  
Transport Canada Building - Place de Ville  
330 Sparks Street  
Ottawa, ON K1A 0N5

Dear Minister:

Pursuant to section 85.1 of the *Canada Transportation Act*, I have the honour of presenting to you the Air Travel Complaints Commissioner's Report for the period from January 1 to June 30, 2003.

Yours sincerely,

A handwritten signature in black ink that reads 'Liette Lacroix Kenniff'.

Liette Lacroix Kenniff  
Commissioner

Encl.



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The Air Travel Complaints Commissioner's Report  
January to June 2003

# COMMISSIONER'S MESSAGE

Just when most observers thought that the outlook for this country's airline industry couldn't get any bleaker, along came the spring of 2003. The six months from January 1 to June 30, 2003, marked the start of a gloomy period in the history of Canadian civil aviation.

A few years ago, before the dot.com meltdown, before September 11, before SARS, and all the other calamities that continue to beset the airlines and scare away potential travellers, any hint that Canada's biggest air carrier could one day go bankrupt would have been met by a burst of laughter, with doubt being cast on the sanity of the speaker. Yet, on April 1, 2003, the unthinkable happened: Air Canada, our country's flagship airline, declared it was near bankruptcy and sought court protection from its creditors under the *Companies' Creditors Arrangement Act*.

The repercussions of the Air Canada crisis were felt across the country. We all became even more aware of the importance of air travel in the lives and livelihood of millions of Canadians. Our first thoughts were for the many people who travel by air, whether for business or for pleasure, and the airline's thousands of employees. But Air Canada's woes have also had a profound impact on the company's many retirees and their pensions; on its numerous suppliers of goods and services; and on thousands of hospitality workers from hotel and restaurant staff to



taxi drivers, whose jobs depend on the presence of air travellers.

On a daily basis, thousands of Canadians demonstrate their confidence in the airline industry by travelling with Air Canada and other carriers. In a show of confidence of a different nature, dissatisfied air travellers continue to appeal to me for assistance in resolving their complaints about carriers, including Air Canada, that do not meet their expectations. In the case of Air Canada, it

is with much regret that I must admit there is little I can do to assist consumers at the present time.

Starting on page 28 of this report, you will find an entire section devoted to the Air Canada situation and how it has affected the air travel complaints program. I have also included a detailed analysis of the way in which Air Canada has dealt with complaints since its filing for court protection from its creditors.

There were a few bright spots during the period covered by this report however or, as they say, every cloud has a silver lining. In the case of Canada's airline industry, the lining might well be blue and teal, the corporate colours of Calgary-based WestJet, a bona fide Canadian aviation success story. Judging by the very small number of complaints about WestJet that have been brought to my attention, it has clearly been doing things right from the customers' perspective. Its approach to customer service is a very good example of what the travelling public has a right to expect from an airline.

In uncertain times, the difference between achievement and failure for a business is often a question of employee attitude and consumer confidence. WestJet and several other carriers, both in Canada and abroad, have built much of their success on these pillars.

The six-month period covered by this report has been, to say the least, a turbulent time in Canadian aviation. Because of added security and front line staff cutbacks imposed by the events of recent memory, travelling by air has become a tedious endeavour at best. But, all pessimism aside, I am still as convinced today as I was when I began my career in this

industry more than 35 years ago, that the future of commercial passenger aviation in our country is a bright one. I remain confident that the industry will reshape itself and bounce back. I believe the day is not far off when flying will be fun again. After all is said and done, air transportation has consistently been proven to be the safest, fastest and most convenient means of getting around.

  
Liette Lacroix Kenniff



# INTRODUCTION

## The Office of the Air Travel Complaints Commissioner

The Office of the Air Travel Complaints Commissioner was created in July 2000 in response to concerns about the quality of air travel in Canada that arose during the restructuring of the industry. It acts as an impartial third party in the settlement of disputes between consumers and air carriers that operate to, from and within Canada.

The Commissioner's Office is part of the Canadian Transportation Agency, a quasi-judicial administrative tribunal that regulates various modes of transportation under federal jurisdiction, including air, rail and marine as well as accessibility to these services by people with disabilities. The Agency has the powers and rights of a superior court and can issue binding decisions in the handling of complaints that involve a possible contravention of various regulations that govern such areas as pricing, tariffs, unruly passengers and reduced services. However, the Commissioner does not have the authority to impose a settlement on either party.

Under Section 85.1 of the *Canada Transportation Act*, the Commissioner's principal responsibilities are to review and expedite the resolution of a broad range of air travel complaints. Complaints received by the Commissioner are compiled and analysed

in biannual reports. The reports include the number and nature of consumer complaints involving air travel, the manner in which the complaints were handled, and any systemic problems the Commissioner identifies within the air travel industry.

The majority of complaints received by the Commissioner deal with such issues as the quality of service provided by air carriers, baggage handling and flight schedules.

Air carriers operating within Canada are largely deregulated and, for the most part, are free to adopt whatever pricing structure and terms and conditions of carriage they see fit. However, their terms and conditions of carriage must be clear, reasonable and not unduly discriminatory.

Carriers operating international services to and from Canada operate in a somewhat more restrictive environment, as they have

to respect a number of bilateral air service agreements and inter-carrier agreements. Even so, international carriers also enjoy considerable flexibility in determining which terms and conditions of carriage to apply. However, their terms and conditions of carriage must also be clear, just and reasonable.

An air carrier's tariff must set out not only its fares, rates and charges, but also its terms and conditions of carriage. Carriers must abide by these at all times. If a carrier loses a passenger's baggage, for example, it must compensate that passenger according to the rules governing lost baggage that are set out in its tariff. Carriers must also make these tariffs available to the public upon request.

A significant number of disputes investigated by the Commissioner stem from a misap-

plication or misunderstanding of a particular tariff provision by a carrier's own front line employees.

Supported by staff from the Agency's Complaints Investigation Division, the Commissioner may seek assistance from other Agency-based personnel for legal advice or for guidance on specific issues such as tariff and pricing matters.

Complaints that deal in whole or in part with issues that fall under the jurisdiction of other government departments or agencies, such as safety, transportation policy or anti-competitive behaviour, are forwarded to the appropriate authorities. In cases of overlapping issues within one complaint, the Commissioner separates the part or parts that pertain to her mandate and passes the remaining issues to the relevant authority.

## The Complaint Handling Process

The Commissioner's complaint handling process is structured to give air carriers an opportunity to resolve as many disputes as possible without outside intervention.

Accordingly, the Commissioner recommends that a dissatisfied customer first contact the air carrier with a written complaint. If a consumer sends a complaint directly to the Commissioner without first writing to the carrier, the complaint is forwarded to the carrier with a request that it deal with the complaint within a specified time limit and advise the Commissioner of the results of its efforts. These complaints are referred to as **Level I Complaints**. Level I Complaints require relatively little staff involvement.

If a carrier fails to respond to a complaint within the established deadline or if a complainant is not satisfied with the carrier's response, the complaint will be referred to senior Complaints Investigation staff in the Commissioner's Office who will attempt to negotiate a resolution to the complaint that is satisfactory to both the complainant and the air carrier. These complaints are referred to as **Level II Complaints**. As much as possible, the investigation of complaints is conducted in an informal, co-operative

and non-confrontational manner. Where these efforts prove unsatisfactory, the Commissioner will review the file personally and may choose to intervene with the carrier if she believes that a complaint has not been dealt with appropriately. This approach has proven to be a very effective way to resolve many disputes.

In certain instances, the Commissioner may refer complaints to the Canadian Transportation Agency. The Agency has

the authority to compel carriers to respect their terms and conditions of carriage as set out in their tariffs. It may also order a carrier to compensate a passenger for his or her out-of-pocket expenses if these arose as a result of the carrier's failure to respect its tariff. However, the Agency cannot order any compensation for pain and suffering, stress, loss of enjoyment or loss of income. These are issues that can only be resolved by civil courts.

## Contacting the Commissioner

Complainants who have contacted the carrier first and are not satisfied with the carrier's reply are asked to submit a formal written complaint to the Commissioner by regular mail or facsimile, or by completing a complaint form on the Agency's Web site ([www.cta.gc.ca](http://www.cta.gc.ca)).

Anyone seeking information about the Commissioner's complaint process may call a toll-free call centre (1-888-222-2592) that is staffed by bilingual agents. More than 4,926 consumers telephoned the call centre between January 1, 2003, and June 30, 2003.

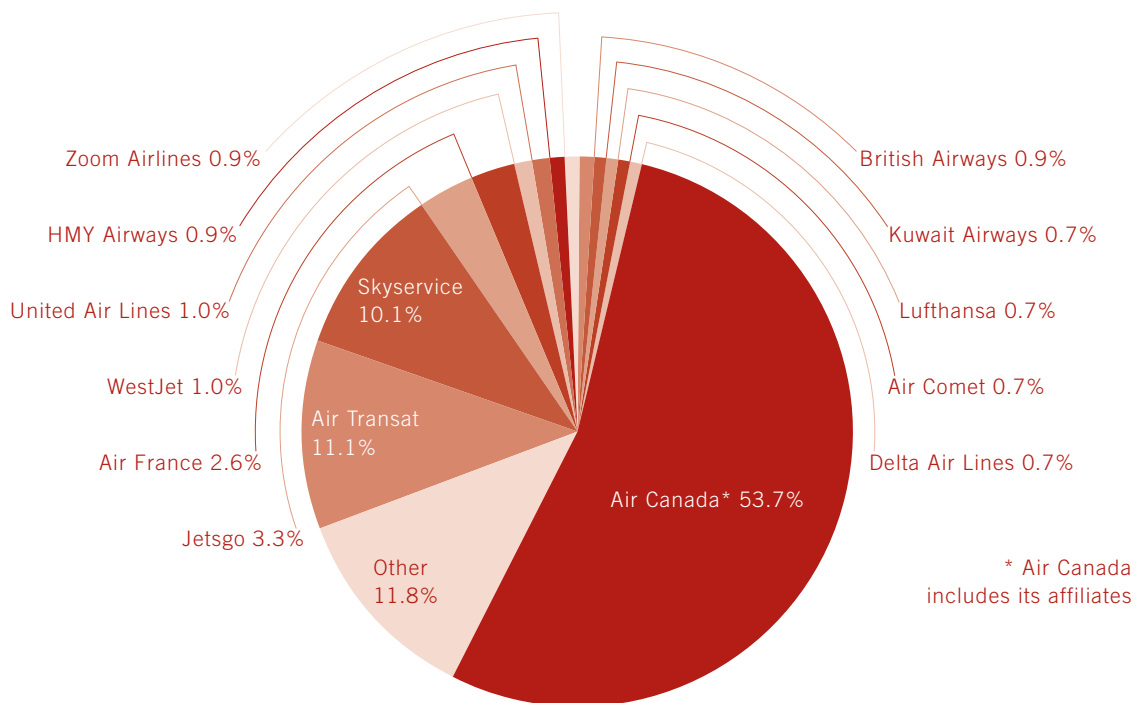
Information about the Air Travel Complaints Commissioner and the complaint handling process is available on the Agency's Web site ([www.cta.gc.ca](http://www.cta.gc.ca)). The site provides access to helpful publications and links to the air travel industry, including telephone and fax numbers and addresses of customer service representatives of various Canadian carriers.



# COMPLAINTS ANALYSIS

The number of complaints I received in the past six months has decreased compared to the number received in the previous six months, due in part to reduced passenger volumes. Air Canada's financial difficulties also seem to have played an important part in reducing the number of complaints I received, particularly since the carrier filed for court protection from its creditors under the *Companies' Creditors Arrangement Act* on April 1 of this year.

Complaints Received – All Carriers



I cannot say with any certainty whether this is a result of travellers feeling that there is no sense in complaining about a company

that is under court protection from its creditors, whether people are loath to complain out of a sense of genuine sympathy for

Air Canada's plight, or whether the reduction in complaints stems from an improvement in the way Air Canada is dealing with its customers, both on-board its aircraft and when they file a complaint with the company. I can only surmise that all three factors have played some role in reducing the number of Air Canada complaints.

My previous report dealt in some detail with the complaints I received about Air Transat and Skyservice. I would like to be able to report that these two carriers have since turned matters around and that I received fewer complaints about them in the last six

months, but I cannot. In fact, the number of complaints I received about these two carriers, while still fairly small, has increased since my previous report, in the case of Air Transat by nearly 50 per cent and in the case of Skyservice by 25 per cent.

Meetings have been scheduled with senior officials of these companies to discuss my concerns about their level of customer service and the way in which they deal with complaints. I am optimistic that we will be able to work together to find a solution to these problems.

## AIR TRANSAT SHOWS EXCELLENT DAMAGE CONTROL

*A complainant's wife and three children were to travel with Air Transat from Montreal to Marseille where they were booked to connect immediately on Khalifa Airways to Oran, Algeria, on July 1, 2002. Days before their departure, the family had been assured by the French Consulate that they did not need a Visa to transit through France. However, at the time of check-in, Air Transat refused to transport the party of four, insisting that nationals of Algeria required a Visa to enter France. During a period of 15 days, the complainant went back and forth between the French Consulate and the carrier, trying to get his family to Algeria as planned. All his efforts were in vain. His family never did travel and, to make matters worse, the carrier refused to refund their unused tickets claiming the customers had been advised when they purchased them that they were non-refundable. 🌞*

*Unable to obtain a satisfactory resolution with Air Transat Customer Relations, the complainant asked the Air Travel Complaints Commissioner to intervene on behalf of his family.*

As a consequence of the intervention of the Air Travel Complaints Commissioner with the president of the airline, not only did the carrier agree to refund the cost of the unused tickets to this family, they also provided them with travel vouchers totalling \$1,500 valid for one year from the date of issue. 🌀

Additionally, at the suggestion of the Commissioner, Air Transat has now put new procedures in place to enable passengers to transit a foreign country from one carrier to another without an official Visa, a service already provided by major carrier members of the International Air Transport Association (IATA).

I am also concerned about the number of complaints I received over the last six months concerning a new player in the Canadian aviation scene: Jetsgo. This is a relatively small carrier operating only eight aircraft between 17 points in Canada and

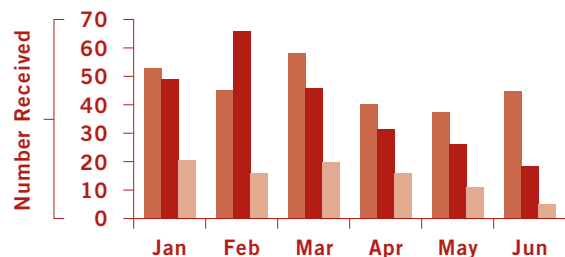
six points in the United States <sup>1</sup>. Yet, during the reporting period, I received 19 complaints about Jetsgo, compared to only one complaint about CanJet, a comparable sized carrier, and six about WestJet, a much larger carrier.

And now for the numbers:

- for the period from January 1 to June 30, 2003, I received 603 complaints, compared to 729 in the previous six months <sup>2</sup>.

### Complaints Received By Level

	Level I	Level II	Others	Total
<b>Jan</b>	53	49	21	<b>123</b>
<b>Feb</b>	45	66	16	<b>127</b>
<b>Mar</b>	57	46	20	<b>123</b>
<b>Apr</b>	40	32	16	<b>88</b>
<b>May</b>	37	26	11	<b>74</b>
<b>Jun</b>	45	18	5	<b>68</b>
	<b>277</b>	<b>237</b>	<b>89</b>	<b>603</b>



<sup>1</sup> Information obtained from Jetsgo's Web site.

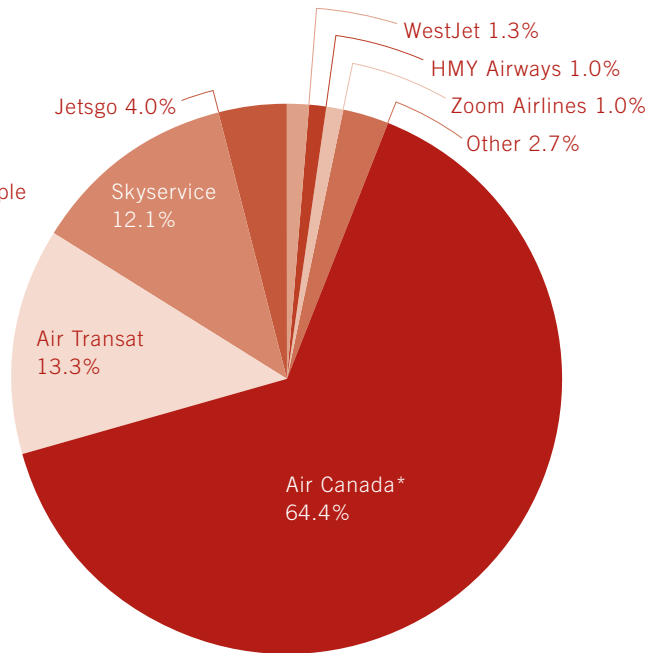
<sup>2</sup> Statistics from the previous reporting period may vary slightly from those contained in this report due to the dynamic nature of the complaints data base which tracks complaints on the basis of their current status. Therefore, if a Level I complaint received in the previous reporting period migrates to Level II during the current reporting period, the number of complaints received in the two periods will be adjusted accordingly. I apologise for any inconvenience that this may cause.

- 480 of these complaints were directed at Canadian air carriers, while 97 were about foreign airlines <sup>3</sup>.

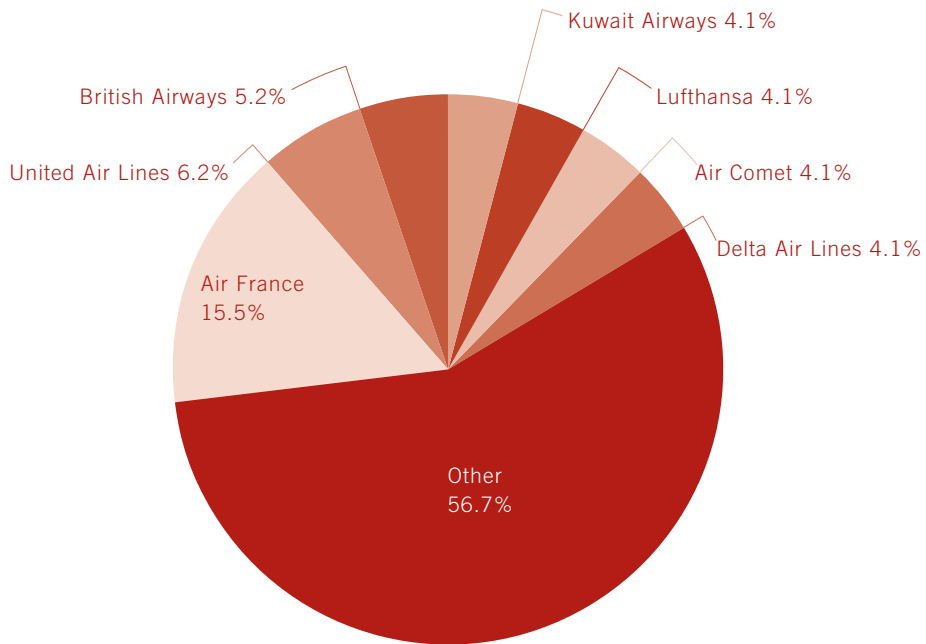
### Complaints About Canadian Air Carriers

\*Air Canada includes its affiliates

Complaints involving multiple carriers are counted as individual complaints against each carrier.



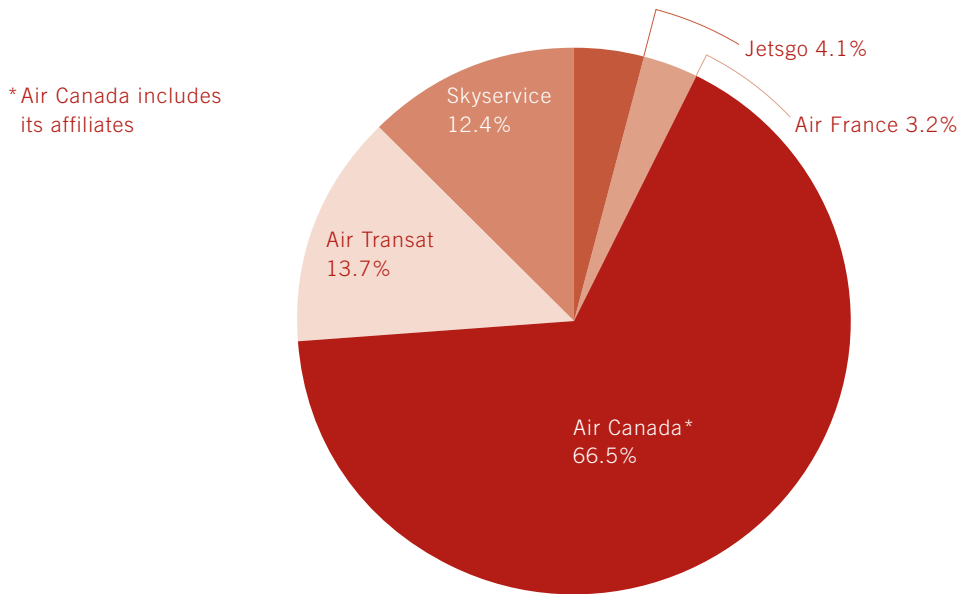
### Complaints About Foreign Air Carriers



<sup>3</sup> Forty-one complaints did not specify any carrier by name, while some complaints involved more than one carrier.



### Complaints – Top 5 Air Carriers

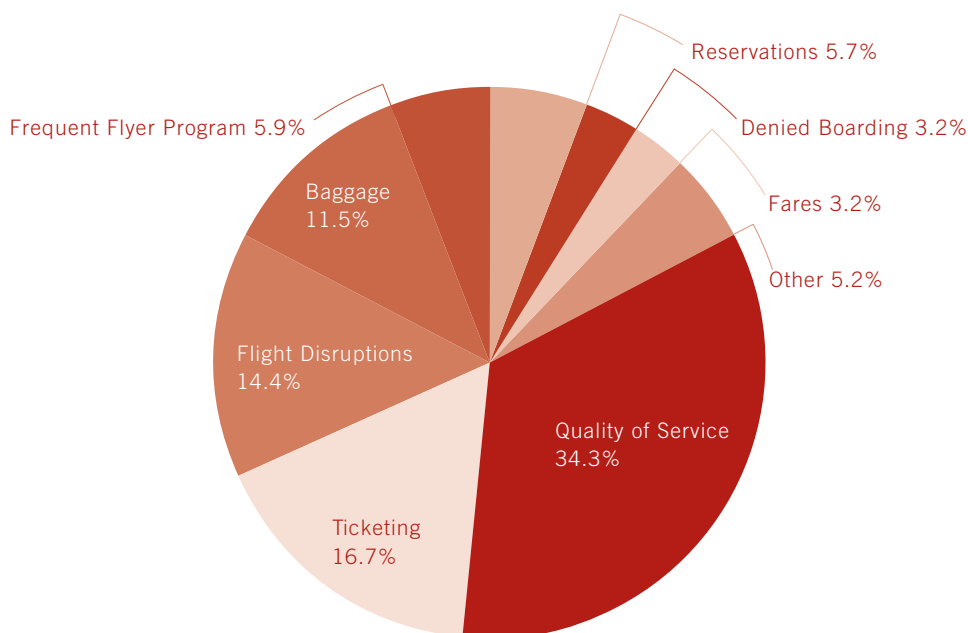


- 77.3 per cent of all complaints received concerned only five carriers: Air Canada and its affiliates; Air Transat; Skyservice; Jetsgo; and Air France.
- 310 complaints (64.6 per cent) about Canadian carriers were directed at Air Canada and its affiliates, compared to 389 complaints (76 per cent) in my last report.

In my previous report, the 729 complaints received raised 1,087 issues. In this report, the 603 complaints received raised 1,197 issues, a 10.1 per cent increase. Generally speaking, complainants raised much the same issues as they have in the past. Problems with the quality of the service received continue to predominate, followed at some

considerable distance by flight disruptions and then ticketing and baggage. However, the number of complaints concerning Frequent Flyer Programs has decreased significantly while the number of complaints that dealt with problems encountered with reservations has increased, putting the latter firmly in fifth place.

## Issues – Air Canada



### DENIED BOARDING

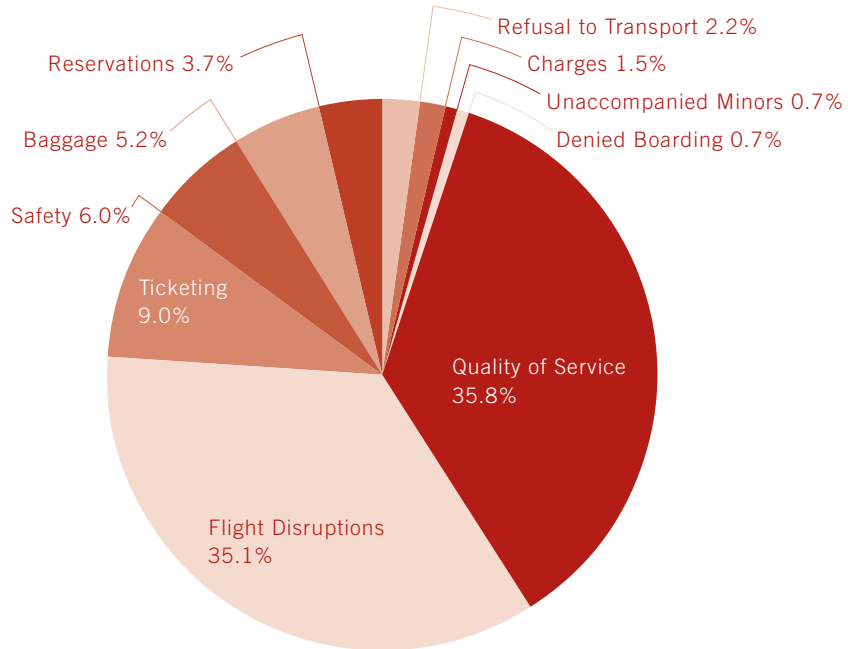
An Air Canada customer filed a complaint on behalf of his wife and two daughters who were travelling together from Toronto to Lamezia (Italy), via Rome. The complainant's wife and one daughter were denied boarding while the other daughter went ahead as planned, unaware that her mother and sister had been left behind. Air Canada provided denied boarding compensation to the mother and daughter (\$500 vouchers each) and re-booked them on the next available flight via London; however, because of further difficulties, they were required to make their arrangements from Milan to Lamezia at their own expense. 🌐

When the complainant was unsuccessful in his request for additional compensation from Air Canada, he asked the Air Travel Complaints Commissioner to intervene on his behalf.

Complaints Investigation Division staff reminded Air Canada that the passenger and her daughter had not been transported to Lamezia, their final destination and, as a result, had incurred significant expenses (\$959.92 in total). Staff stressed that Air Canada should absorb these expenses and also asked that additional goodwill be extended due to the unique circumstances of this case. Air Canada agreed to reimburse the \$959.92, and offered a one-year extension of the \$500 vouchers. 🌐

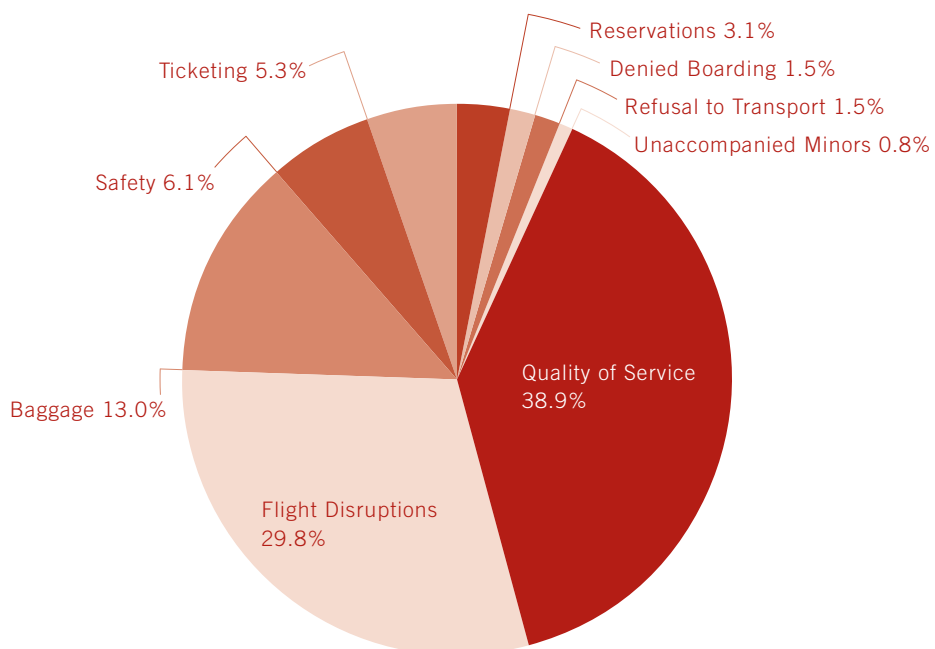
- 64 complaints (13.3 per cent) about Canadian carriers concerned Air Transat, compared to 44 complaints (8.6 per cent) in my previous report.

*Issues – Air Transat*

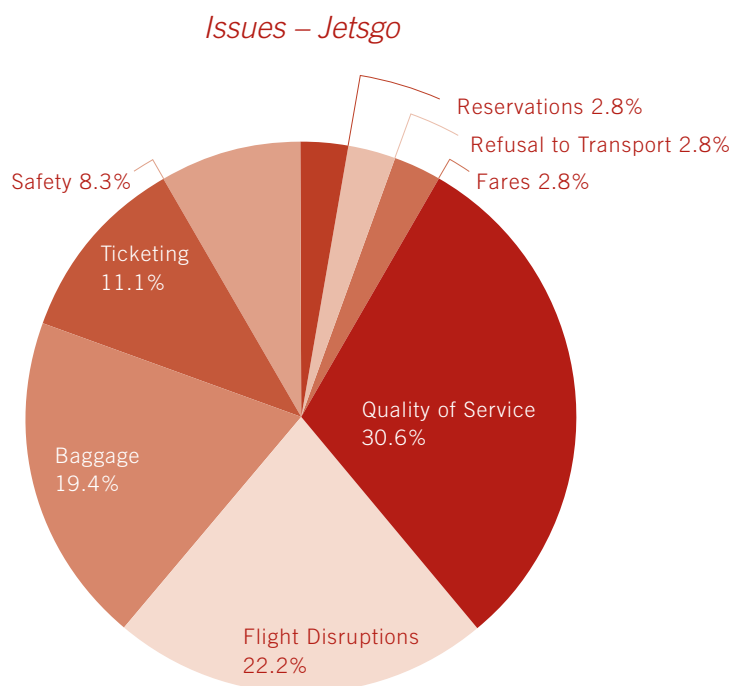


- 58 complaints (12.1 per cent) about Canadian carriers concerned Skyservice, compared to 46 complaints (9 per cent) in my previous report.

*Issues – Skyservice*



- 19 complaints (4 per cent) about Canadian carriers concerned Jetsgo, compared to 10 complaints (2 per cent) in my previous report, which may reflect the carrier's growing pains, as it has expanded from three to 10 aircraft since commencing operations in June of 2002.



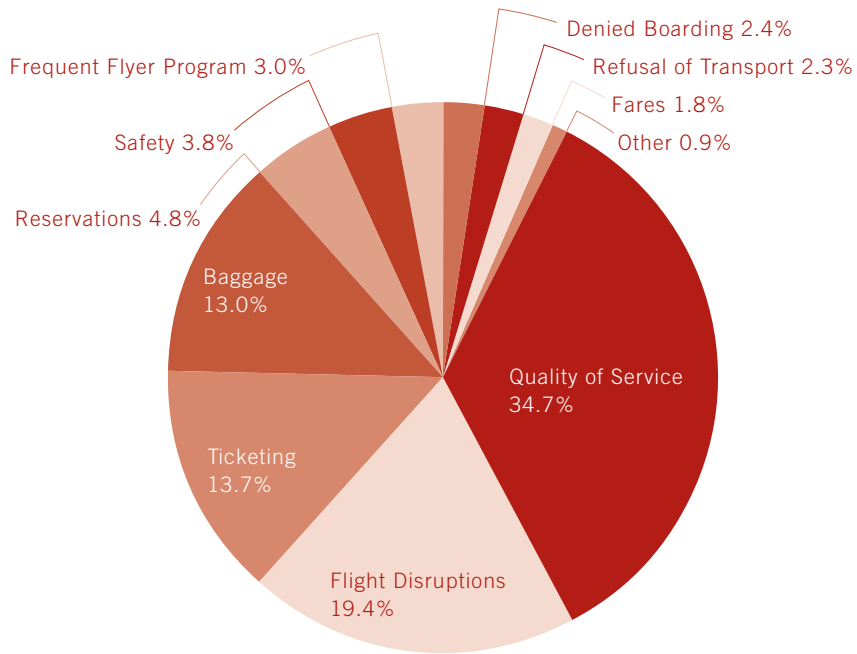
- 19 complaints (19.6 per cent) about foreign carriers concerned Air France, compared to 11 complaints (6.7 per cent) in my previous report.
- I received no new complaints about either KLM or Northwest Airlines, the two foreign airlines that together received the most complaints in my previous report.

## PASSENGER CHARGED FOR AIRLINE'S ERROR

*According to the complainant, Mexicana failed to take her Toronto-Mexico City flight coupon when she checked in for her flight to Mexico. As a consequence of this error, Mexicana cancelled her complete file, including her confirmed reservation back to Toronto. When she checked in for her return flight, she was forced to purchase a one-way ticket at a cost of \$747.32. The passenger was seeking a refund of this one-way ticket. When Mexicana informed her that her original unused ticket was non-refundable and that it would not consider providing any compensation, she asked the Air Travel Complaints Commissioner to intervene on her behalf. 🌟*

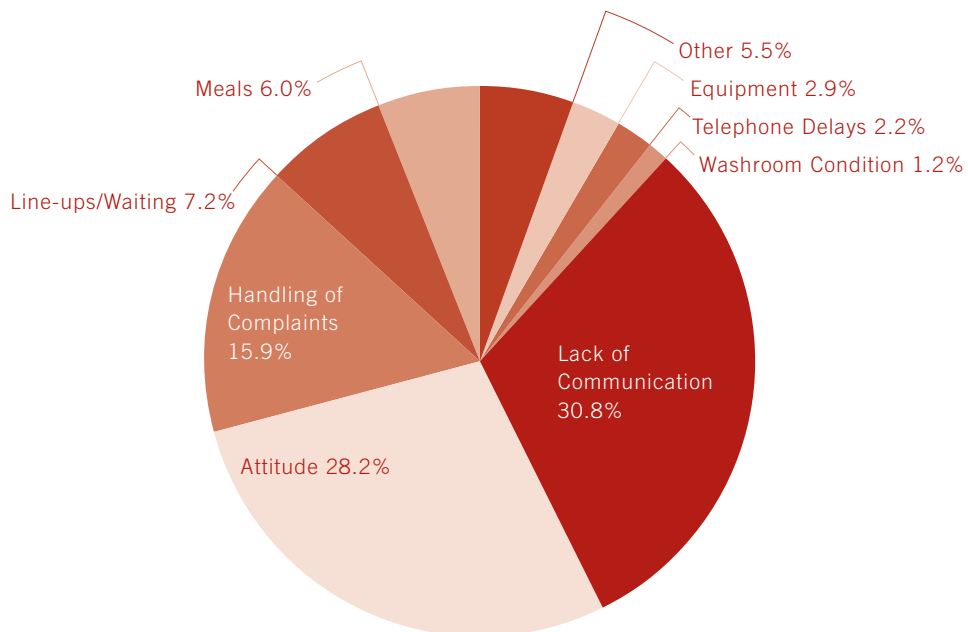
*Complaints Investigation Division staff contacted Mexicana to obtain a copy of the passenger's original ticket and a breakdown of the original fare charged. Subsequent to this discussion, the carrier informed the passenger that she would receive a refund to her credit card in the amount of \$826.31 upon receipt of her original unused ticket. 🌟*

*Issues – All Carriers*

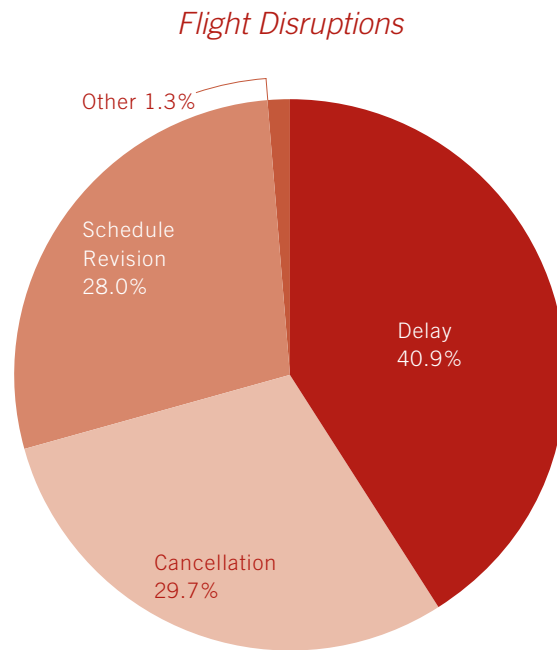


- Quality of service concerns accounted for 34.7 per cent of the issues raised, compared to 30.1 per cent in my last report.

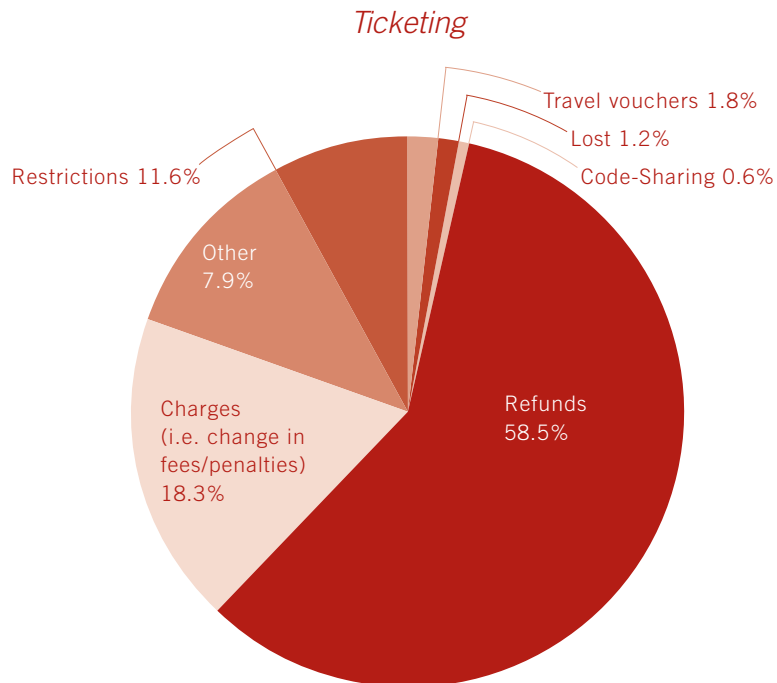
*Quality of Service*



- 19.4 per cent of the issues raised concerned flight disruptions. This category was previously identified as “scheduling problems” and constituted 15.2 per cent of the issues in my last report.



- The percentage of ticketing issues decreased, going from 20.5 per cent to 13.7 per cent, an encouraging sign.



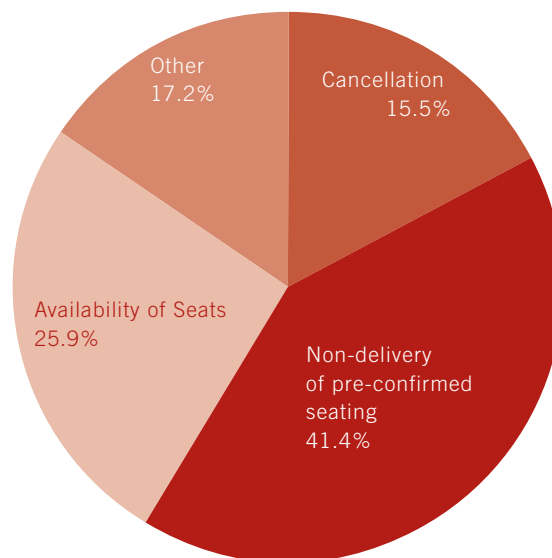
## YOUR TICKET'S NO GOOD – BUY A NEW ONE

*On July 9, 2002, for an unexplained reason, a Singapore Airlines passenger was denied boarding on his New York-Jakarta flight at JFK Airport. He requested to be upgraded to business class and did not mind paying the difference between the cost of his economy class ticket and a business-class ticket, but Singapore Airlines forced him to purchase a new business-class ticket, instructing him to request a refund of his economy class ticket upon his return. He therefore purchased a new business-class ticket and flew to Jakarta as planned. 🤔*

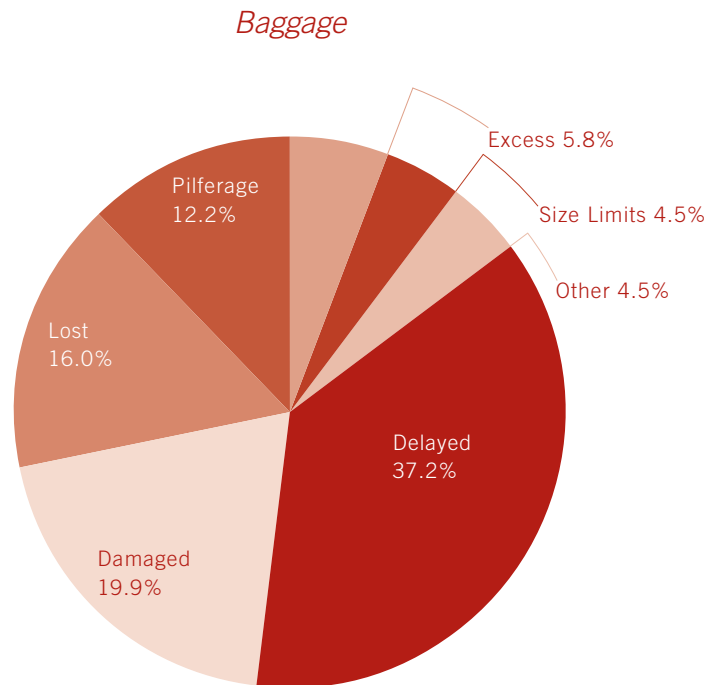
*When he requested the refund of his economy-class ticket, Singapore Airlines refused. He then contacted the Travel Industry Council of Ontario which referred him to the Air Travel Complaints Commissioner. After the intervention of the Commissioner and after four months of waiting, Singapore Airlines finally refunded the unused portion of his ticket which amounted to \$1,350. 🙄*

- Concerns about reservations were fairly constant, garnering 4.8 per cent of the total, compared to 4.6 per cent in my previous report.

### *Reservations*



- Baggage issues were fairly constant at 13 per cent compared to 13.5 per cent in my last report.



### \$100 FOR LOST BAGGAGE!

*Two Grupo TACA passengers, a mother and her daughter, were returning from San Salvador to Vancouver via Los Angeles. On their arrival in Los Angeles, they reported their two bags missing. When the bags were located, TACA forwarded them to Vancouver but they were never returned to the passengers.*

*The customers put in a claim for the loss of their bags but TACA denied responsibility saying the bags had been located and forwarded to Vancouver. The carrier only offered two US\$50 travel vouchers to the passengers. 🙄*

*Complaints Investigation Division staff sent a letter to Grupo TACA outlining its tariff provisions for lost baggage and its liability. As a result of our intervention, Grupo TACA sent to the complainant a cheque in the amount of US\$1,280, which represented the carrier's maximum liability for the two lost bags. 🙏*



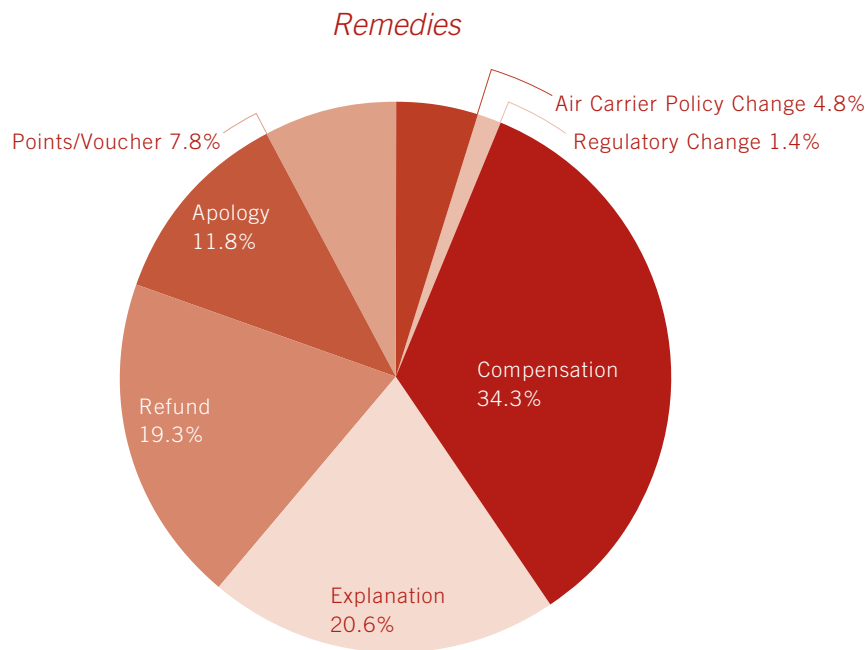
- Frequent Flyer issues continued to decrease, dropping from 45 in the previous reporting period to 36 in the last six months. This is a most encouraging development, given that between January 1 and June 30, 2002, my Office received 76 complaints in which problems with Frequent Flyer Programs were mentioned and, in the same period in 2001, this issue was raised in 228 complaints.

Not surprisingly, complainants continue to look for a variety of resolutions to their complaints. While many want a refund, either in whole or in part, of the cost of their airline tickets, others are more than happy to accept a voucher for future travel

or compensation for actual out-of-pocket expenses, while others are only looking for an explanation and an apology for the inconvenience they experienced. Of course, some complainants are looking for more than one remedy.

During the period under review:

- 34.3 per cent of the complainants were seeking additional compensation from their carrier. This was up slightly from 30.2 per cent in my previous report.
- 19.3 per cent were seeking a refund of the money they paid to the carrier, down slightly from 20.6 per cent in my previous report.
- 20.6 per cent were seeking an explanation for the problems they encountered, down from 25.9 per cent in my previous report.



## Results: Files Closed between January 1 and June 30, 2003

So, how well did we do? Or, put another way, is the Office of the Air Travel Complaints Commissioner making a difference for Canadians?

I believe that the answer is a categorical “Yes”.

In the vast majority of cases, we were able to obtain a settlement for the complainant that we considered to be appropriate and, in most cases, the complainant agreed with us. This is not to say that every complainant received exactly the settlement they wanted. Many did not.

In some cases, this was because the complainant’s expectations were too high. For example, airlines do not routinely refund the full cost of a ticket when the travel took place as planned, even if there were difficulties encountered en route.

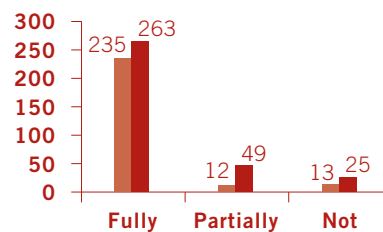
In some cases, the airlines lived up to their full responsibilities under their tariffs and were unwilling to go any further. For example,

the Warsaw Convention establishes a liability limit of US\$20 per kilo for lost, damaged or delayed luggage on international flights. Furthermore, carriers’ tariffs almost always contain a provision that excludes them from liability for consequential damages such as missed business deals and ruined vacations, when luggage goes astray. Carriers will not usually exceed these limits of liability regardless of the circumstances, and I cannot compel them to do so.

And, of course, a few complaints, but only a few, are considered not to be sufficiently serious to be worth pursuing further and in even fewer cases, to be “frivolous and vexatious” and not worth pursuing at all. In such cases, the complainant will almost certainly not be satisfied with the results of my investigation.

### Justified (Merit)

	Level I	Level II	Total
<b>Fully</b>	235	263	<b>498</b>
<b>Partially</b>	12	49	<b>61</b>
<b>Not</b>	13	25	<b>38</b>
<b>Total</b>	<b>260</b>	<b>337</b>	<b>597</b>



There were 717 complaint files closed during the reporting period:

- 260 were Level I Complaints.
- 337 were Level II Complaints.
- 120 were referred to other jurisdictions such as the Canadian Transportation Agency, Transport Canada and the Competition Bureau.

An additional 109 Level I files moved to Level II because the complainants were not satisfied with the results obtained at the first level.

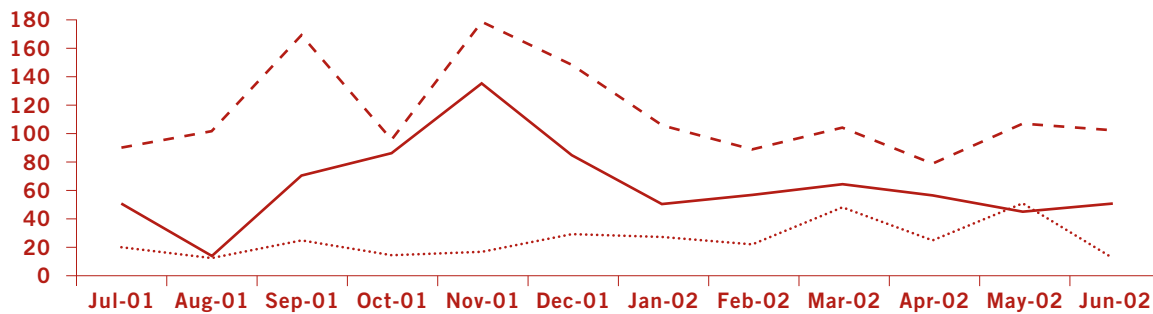
## COMPLAINT TYPES

**Level I:** dissatisfied customer complains directly to the Commissioner without writing to the carrier first.

**Level II:** dissatisfied customer complains to the Commissioner after a carrier fails to respond to a complaint or if the customer is not satisfied with the response

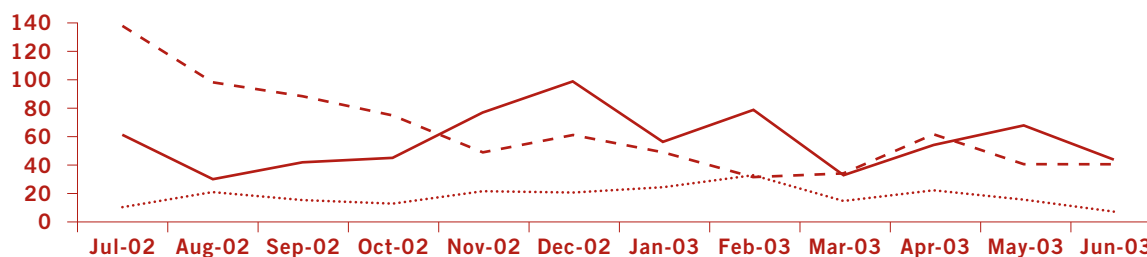
Complaints Closed Between July 2001 and June 2002, by Month and Level

	Level I	Level II	Others	Total		Level I	Level II	Others	Total
	---	—	.....			---	—	.....	
<b>Jul-01</b>	88	51	20	<b>159</b>	<b>Jan-02</b>	107	51	27	<b>185</b>
<b>Aug-01</b>	103	14	13	<b>130</b>	<b>Feb-02</b>	89	56	23	<b>168</b>
<b>Sep-01</b>	168	70	24	<b>262</b>	<b>Mar-02</b>	104	66	47	<b>217</b>
<b>Oct-01</b>	94	86	15	<b>195</b>	<b>Apr-02</b>	79	56	26	<b>161</b>
<b>Nov-01</b>	179	134	17	<b>330</b>	<b>May-02</b>	127	46	50	<b>223</b>
<b>Dec-01</b>	148	85	29	<b>262</b>	<b>Jun-02</b>	123	50	13	<b>186</b>
					<b>Total</b>	<b>1,409</b>	<b>765</b>	<b>304</b>	<b>2,478</b>



## Complaints Closed Between July 2002 and June 2003, by Month and Level

	Level I	Level II	Others	Total		Level I	Level II	Others	Total
	---	—	.....			---	—	.....	
<b>Jul-02</b>	139	61	12	<b>212</b>	<b>Jan-03</b>	48	57	24	<b>129</b>
<b>Aug-02</b>	98	31	21	<b>150</b>	<b>Feb-03</b>	33	79	34	<b>146</b>
<b>Sep-02</b>	88	42	17	<b>147</b>	<b>Mar-03</b>	35	34	15	<b>84</b>
<b>Oct-02</b>	75	45	14	<b>134</b>	<b>Apr-03</b>	62	55	22	<b>139</b>
<b>Nov-02</b>	49	77	22	<b>148</b>	<b>May-03</b>	41	68	17	<b>126</b>
<b>Dec-02</b>	62	99	21	<b>182</b>	<b>Jun-03</b>	41	44	8	<b>93</b>
					<b>Total</b>	<b>771</b>	<b>692</b>	<b>227</b>	<b>1,690</b>



## Satisfaction

The percentage of complainants who were satisfied or partially satisfied with the results obtained from their carrier at the first level declined significantly during the period under review.

Of the 369 Level I files where the results are known (260 closed + 109 moved to Level II):

- 234 complainants (63.4 per cent) were presumed to be fully satisfied compared to 71.4 per cent in the last reporting period <sup>4</sup>.
- 8 complainants (2.2 per cent) advised me that they were only partially satisfied with the results obtained, compared to 3.3 per cent in the last reporting period.
- 127 complainants (34.4 per cent) advised me that they were not satisfied with the results obtained from the carrier, compared to 25.3 per cent in the previous reporting period.

<sup>4</sup> Level I complainants are requested to let me know if they are not satisfied with the way in which the carrier deals with their complaint. In the absence of any such notification, satisfaction is assumed at this level.

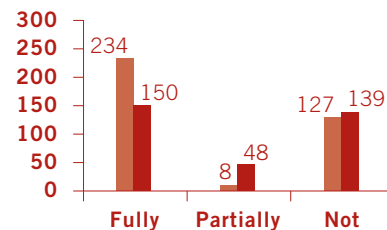
Of the 337 Level II Complaint files closed during the reporting period:

- 150 complainants (44.5 per cent) advised me that they were fully satisfied with the outcome of their complaint, compared to 50.3 per cent in the last reporting period.
- 48 complainants (14.2 per cent) advised me that they were partially satisfied with the results obtained, compared to 15.6 per cent in the last reporting period.
- 139 complainants (41.2 per cent) advised me that they were not satisfied with the airline's final offer, compared to 34.1 per cent in the last reporting period.

Again, the percentage of satisfied and partially satisfied complainants was significantly lower than in my last report.

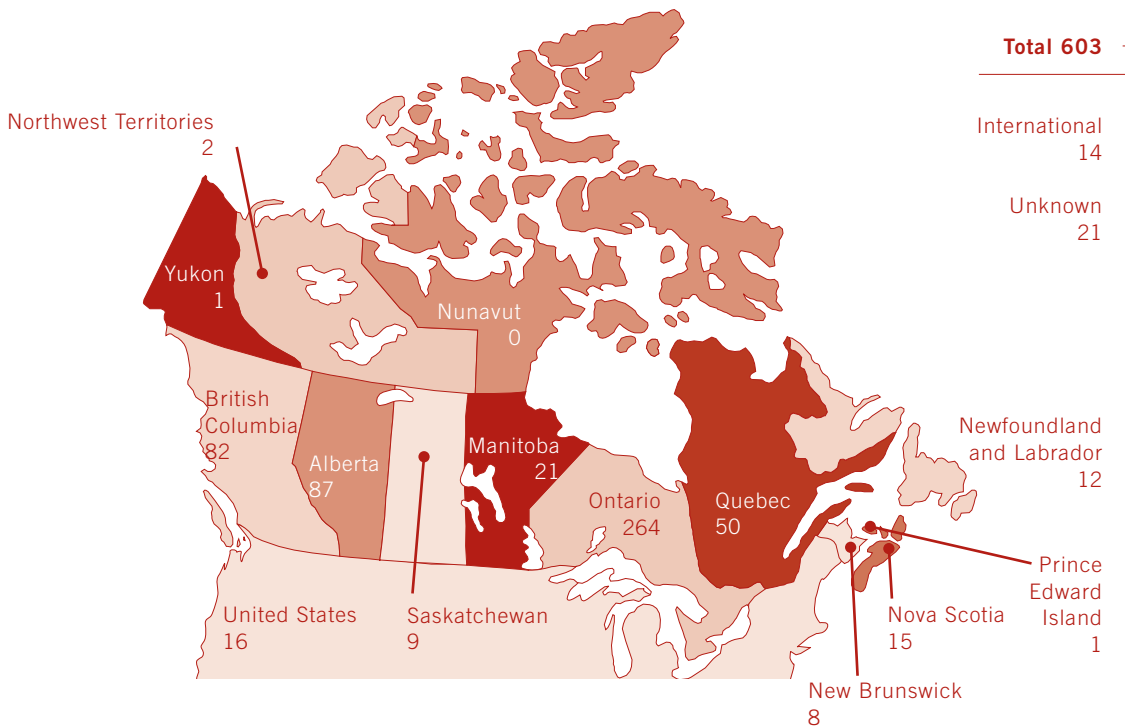
### Satisfaction

	Level I	Level II	Total
<b>Fully</b>	234	150	<b>384</b>
<b>Partially</b>	8	48	<b>56</b>
<b>Not</b>	127	139	<b>266</b>
<b>Total</b>	<b>369</b>	<b>337</b>	<b>706</b>

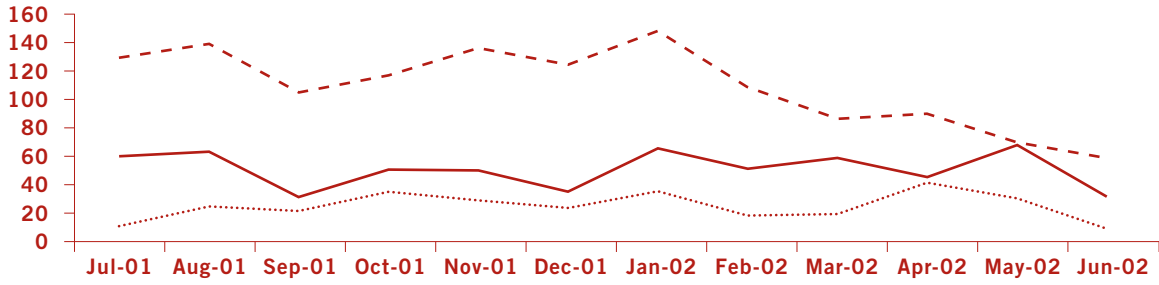


The Level I Total and the Overall Total include 109 unresolved Level I Complaints that subsequently migrated to Level II.

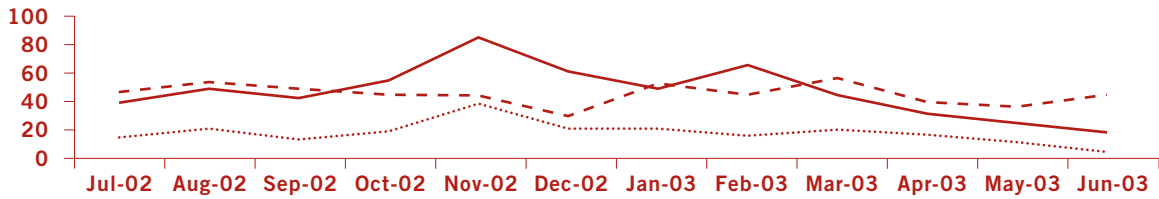
### Complaints by Province, Territory or Other



Complaints Received Between July 2001 and June 2002, by Month and Level



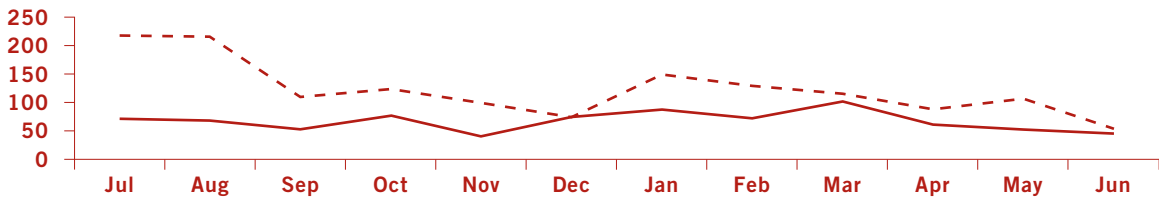
Complaints Received Between July 2002 and June 2003, by Month and Level



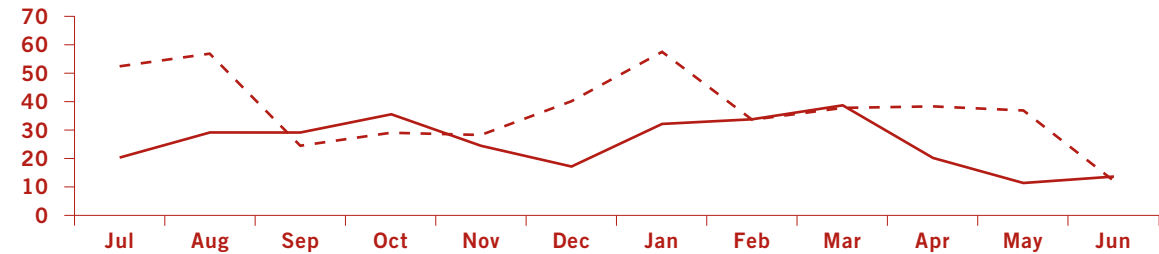
Complaint Issues Received Between July 2001 and June 2003, by Month

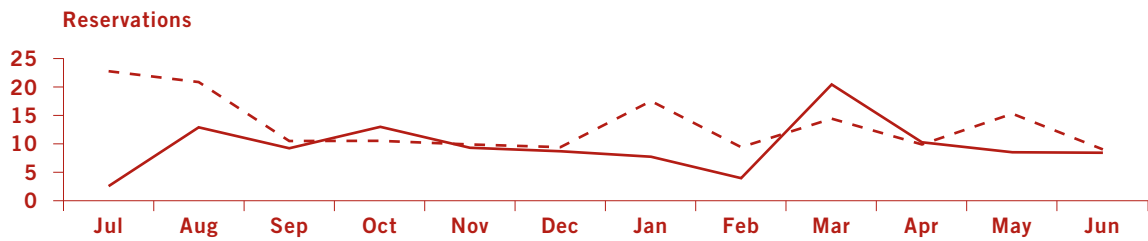
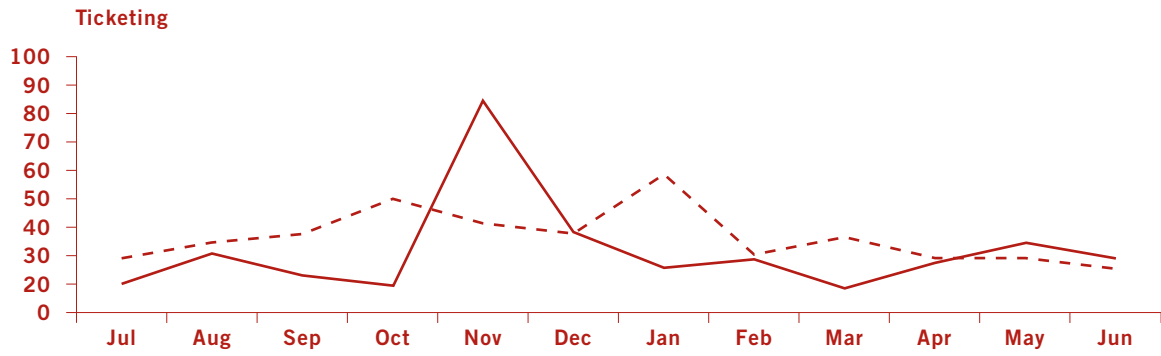
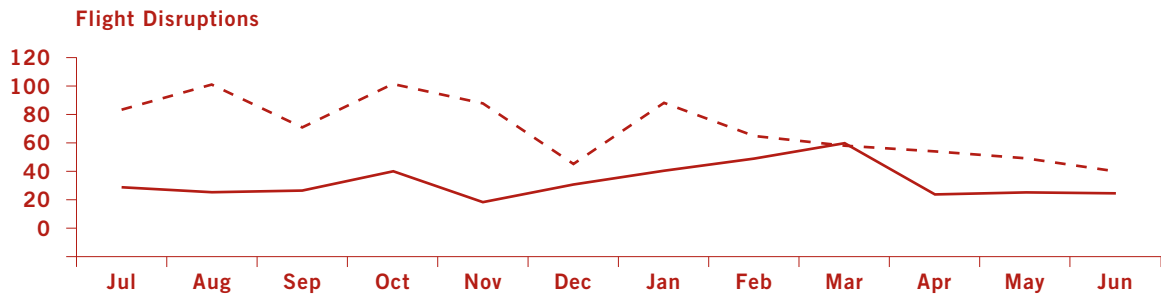


Quality of Service



Baggage





## Air Canada and the *Companies' Creditors Arrangement Act*

On April 1, 2003, Air Canada was granted protection from its creditors under the *Companies' Creditors Arrangement Act*.

To give effect to this protection, Mr. Justice James Farley of the Ontario Superior Court issued an Order which stated in part:

“This court orders that until, and including May 1, 2003, or such later date as the Court may order (the “Stay Period”), (a) no suit, action, enforcement process, extra-judicial proceeding or other proceeding (including a proceeding in any court, statutory or otherwise)... against or in respect of an Applicant or any present or future property, rights, assets or undertaking of an Applicant... shall be commenced and any and all Proceedings against or in respect of an Applicant or the Applicants’ property already commenced be and are hereby stayed and suspended....”

This Order has subsequently been extended several times.

The Order effectively removes Air Canada from regulatory and legislative oversight until such time as the company restructures and emerges from court protection from its creditors. Therefore, as long as the Stay Order remains in effect, I am unable to intervene to deal directly with complaints about Air Canada unless it voluntarily agrees to my intervention.

Since filing for court protection from its creditors, Air Canada has been telling consumers that it is operating on a business-as-usual basis. With this in mind, I sought Air Canada’s agreement that complaints sent to the carrier by my Office would also be dealt with on a business-as-usual basis.

On April 16, 2003, Mr. John Baker, Senior Vice-President and General Counsel for Air Canada, advised that Air Canada did not agree with this proposal and that the carrier was not prepared to consent to a variation or a modification of Mr. Justice Farley’s in order to allow my staff to intervene before the end of the Stay Order.

Mr. Baker also stated that “Air Canada intends to continue to answer customer complaints and concerns directly. However, many complainants contact the Commissioner’s Office at the first instance even prior to contacting Air Canada directly. The Commissioner’s staff currently redirects these complaints to Air Canada. We would expect this practice to continue. Where the complainant contacts the Commissioner’s Office on appeal from their dissatisfaction with the response provided by Air Canada, we suggest that, even in these cases, they be referred again to Air Canada....”

Faced with a difficult legal situation since early April, I have been referring Level II Complaints to Air Canada as per Mr. Baker’s letter, while suspending my normal investigation into these complaints. The results of these “referrals” are somewhat disappointing.

By the end of June 2003, I had referred 115 Level II complaint files to Air Canada as per Mr. Baker’s letter. As of that date, the results obtained are too preliminary to draw any firm conclusions as to its effectiveness. However, initial results indicate that these complaints have not been afforded the attention I would have expected before April 1.



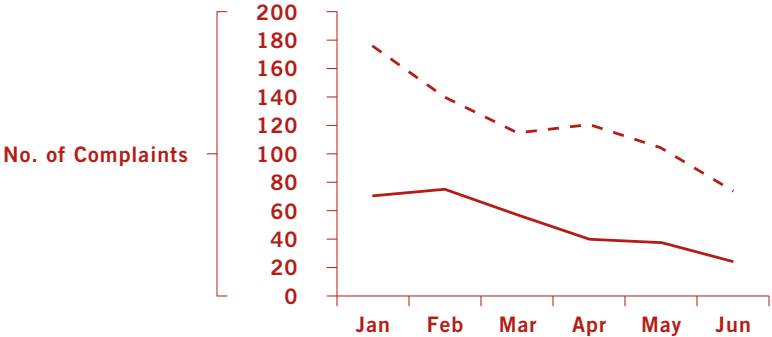
As a case in point, I referred 72 complaints to Air Canada resulting from Travel Way's cessation of operations, as outlined in my last report. Prior to filing for court protection from its creditors, Air Canada had agreed to investigate these complaints further. However, to date, no reply has

been received from the carrier to any of these complaints.

I will continue to monitor the situation with Air Canada closely and will resume normal investigations with them at the earliest opportunity.

**Complaints Received – Air Canada\***

	2002	2003
	---	---
Jan	174	71
Feb	139	76
Mar	115	57
Apr	121	42
May	104	38
Jun	74	26
	<b>727</b>	<b>310</b>



\* Includes Air Canada / Tango / Zip / Jetz



# RECOMMENDATIONS

## 1. The Travel Industry Should Ensure Customers' Pre-Payments Are Protected

The current condition of the airline industry, particularly after the failure of Canada 3000 in late 2001, has raised concerns among consumers seeking assurance that if their carrier goes out of business, they either will be transported on another carrier or, at the very least, their hard-earned money will be refunded.

Many years ago, the airlines started to offer deep discounts if the customers paid their trip in advance. This practice is one of the very few instances where the service you pay for today will only be delivered a few weeks later.

This was never a concern when airlines were financially stable, but consumers were awakened to that risk when Air Canada sought Court protection from its creditors on April 1. Three Canadian provinces, Ontario, Quebec and British Columbia, have protection plans in place to compensate passengers in the event of an airline failure, but these plans do not necessarily cover all ticket purchases. For example, the Ontario and Quebec plans only cover tickets sold through a registered travel agency or wholesaler in that province.

Theoretically, consumers who have purchased tickets through an IATA accredited travel agent, in Ontario, Quebec or British Columbia, should get their money back. But if the ticket is purchased directly from an airline, there is no guarantee the airline will be able to refund the total amount if it goes bankrupt.

Of further concern is that, in an effort to reduce their distribution costs, airlines have been steering customers away from travel agents by offering incentives such as exclusive deep discount fares only available through airline Web sites.

Furthermore, I am advised that the bankruptcy of Canada 3000 stretched both the Ontario and Quebec funds to the limit. It is not certain that these funds could pro-

vide adequate relief to consumers should another airline, comparable to or larger than Canada 3000, declare bankruptcy.

I believe that if the airline industry is to keep the consumers' confidence, it is imperative that all of the various players in the indus-

try, that is, airlines and their associations, travel agents and wholesalers, actively begin seeking a timely solution to this problem, at least before another airline goes bankrupt and causes the consumers to lose their money.

## 2. Air Carriers Should Clarify Their Responsibility When Things Go Wrong

I am also concerned by a small but growing tendency by Canadian charter-type carriers to attempt to deny responsibility for problems that arise between passenger check-in and baggage claim, a time when passengers and their luggage are in the care and safekeeping of the carrier. They often attempt to pass the complaint to the tour operator who, in turn, tries to pass the problem back to the carrier, leaving the passenger stranded with nowhere to turn.

It is bad enough when this type of problem arises with a true charter flight. It is even worse when the carrier in question is actually operating a scheduled air service, but has chosen to market its product through a tour operator.

In my opinion, carriers, whether charter operators or not, need to recognize explicitly in their tariffs that they are responsible for problems that arise while passengers and their goods are in their care and they should ensure that complaints about such problems are handled promptly and reasonably.