Current Issue Review **89-2E**

THE CANADIAN AIRLINE INDUSTRY

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THE CANADIAN AIRLINE INDUSTRY*

ISSUE DEFINITION

The domestic airline industry in Canada has evolved from being an Air Canada (formerly Trans-Canada Airlines) monopoly to being virtually deregulated. This change came about for two reasons. The first was the growing demand from air carriers during the mid-1970s for less government regulation and more competition. The second was the deregulation of the U.S. domestic airline industry. Since the deregulation of the Canadian airline industry with the proclamation of the new *National Transportation Act, 1987* (1 January 1988), the industry, all over the world, has undergone dramatic changes. In the United States, airlines have gone bankrupt and the number of carriers has been reduced. In Europe, with the advent of economic union, countries are re-evaluating the traditional government ownership of airlines and lack of interest in deregulation.

In Canada, Canadian Airlines emerged in the 1990s as a national competitor to Air Canada. Both consolidated their domestic operations and affiliated themselves with international alliances, Air Canada as part of Star Alliance and Canadian Airlines as part of One World. Even so, both experienced financial difficulties, and by 1999, Canadian Airlines was near bankruptcy. Ultimately, Air Canada took over Canadian Airlines and emerged as the dominant – but unregulated – national airline. Since that time, policy makers and the public have been preoccupied with the following questions: Is there adequate competition for Air Canada in the domestic market? Is the travelling public being adequately protected from any potential abuses of Air Canada's monopoly-like position in the domestic market? If competition is inadequate, what should be done to create conditions that would generate adequate competition?

BACKGROUND AND ANALYSIS

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* The original version of this Current Issue Review was published in January 1993; the paper has been regularly updated since that time.

A. 1979-1984

During the 1970s, the economic regulation of the airline industry was progressively relaxed in favour of competition. The *Air Canada Act, 1977* was intended to remove the special advantages and burdens accruing to the national carrier as an instrument of federal government policy. For example, the government had reserved a significant percentage of the domestic market for Air Canada but at the same time had imposed on the airline the "public duty" of serving remote centres. In the words of the Act, Air Canada now had to operate with "due regard to sound business principles and in particular the contemplation of profit" and be regulated, like other carriers, by the Canadian Transport Commission (CTC); it had previously operated under special arrangements with the government.

Passage of the *Air Canada Act, 1977* was followed by the removal of various restrictions on the transcontinental services provided by the other main carrier, CP Air. There was now head-to-head competition between Canada's two largest scheduled carriers in the most important domestic markets.

In 1978, the United States deregulated its airline industry. The effects of this were increasingly to be felt in Canada in the following years, especially as passengers turned to U.S. carriers to take advantage of lower fares. Canadian carriers pushed for a lessening in economic regulation in order to compete on an equal basis with American carriers. Consumers and consumer groups also called for some relaxation in regulatory control so that they could enjoy the benefits of competition.

Opponents of deregulation were concerned that it might lead to greater concentration of the industry, with the major carriers becoming too powerful for others to be able to compete successfully. This, they contended, would, in the long run, result in less competition and higher air fares. In addition, some felt that safety might be compromised with deregulation; that, in an environment where competition was to be the guiding principle, airlines might cut corners in such areas as maintenance.

From this emerged a "go slow" approach to deregulation. In 1982, a House of Commons Standing Committee on Transport report (*Domestic Air Carrier Policy*) recommended continued regulation but with room for greater competition. On 10 May 1984, the Minister of Transport issued a policy statement liberalizing air transport by allowing carriers to compete on routes anywhere in Canada, rather than being restricted to specific geographic regions as had

previously been the case. From this evolutionary process the government moved to formalizing deregulation through legislation.

B. 1985-1988

1. *Freedom to Move*

By 1985, the changes in the legislative framework since 1977 had resulted in *de facto* deregulation. On 15 July 1985, the government released its position paper entitled *Freedom to Move – A Framework for Transportation Reform*, which began the process of formally deregulating the transportation industry, including the air sector, by outlining sweeping changes to the *National Transportation Act, 1967*. For all modes of transportation these changes included more competition, reduced economic regulation and a greater reliance on market forces to achieve more competitive prices and a wider range of services.

With regard to the air sector, the paper stated that entry into any class of domestic commercial air service in Canada would be open to carriers meeting a "fit, willing and able" requirement (i.e., the carrier must have adequate liability insurance coverage, comply with the Department of Transport's safety regulations, and be Canadian). It would no longer be necessary for the carrier to establish that its service was required by "public convenience and necessity."

2. Committee Hearings

In order to receive comments and public input on these new policy proposals, the government, on 17 October 1985, referred *Freedom to Move* for study by the House of Commons Standing Committee on Transport. After extensive testimony, the Committee reported its findings to the House of Commons on 18 December 1985.

While the Committee agreed with the report's recommendations for deregulating the airline industry, the hearings had raised concern over a number of issues, especially: air services in the north; the role of Air Canada in a deregulated environment; and foreign ownership in the airline industry.

In regard to the first of these issues, it was widely believed that the system of air services in the north was too fragile and immature to sustain wide-open competition. The Committee therefore recommended that northern air services continue to be regulated on the basis of

the 1984 policy statement, which had drawn a line of demarcation (at roughly 50-55 degrees), north of which regulation would continue to apply.

On the role of Air Canada in a deregulated environment, some felt the carrier should be used as an instrument of public policy to provide adequate levels of service; others felt that the only way to achieve fair competition in the transportation industry was to privatize Air Canada. It was the Committee's opinion that Air Canada required the "freedom to manage" in order to improve organizational efficiency and meet the new competitive challenge; to this end, it recommended that the government consider options for privatizing Air Canada.

Freedom to Move did not consider Canadian control of commercial air services except to say that "the acquisition of control by foreign interests of transportation undertakings in Canada will generally be subject to review under the *Investment Canada Act*." Witnesses pointed out that other major aviation nations severely restricted the degree of foreign ownership of their airline systems. In the United States, for example, 75% of the equity of a commercial air service must be owned by U.S. citizens.

The Committee decided that the best way of achieving special treatment for the airline industry would be to extend the proposal in *Freedom to Move* that would give the Governor in Council power "to disallow domestic mergers and acquisitions of control of major federally regulated transportation undertakings with gross assets valued at $20 million or more" to all foreign acquisitions of Canadian air carriers, no matter what the value of their gross assets.

On 18 December 1985, the Committee reported these findings and recommendations to the House of Commons in a report entitled *Freedom to Move: Change, Choice, Challenge*.

3. A New Canadian Airline Policy

On 26 June 1986, the government introduced legislation to establish a new *National Transportation Act*. The bill dealt with all modes of transportation under federal jurisdiction and was designed to encourage more competition, reduce economic regulation and place a greater reliance on market forces.

The key elements of the new policy as set forth in the legislation were as follows: safety was to be the first priority; the transportation system exists to serve the needs of the shippers and travellers; competition and market forces were to be the prime agents in providing transportation services at the lowest possible cost; economic regulation would be reduced to encourage

competition; carriers should, so far as was practicable, bear a fair share of the costs of facilities and services provided at public expense and be compensated for publicly imposed duties; transportation was regarded as a key to regional economic development; and carriers should not create undue obstacles to the mobility of all, including disabled persons.

The specific sections of the bill dealing with air transportation were consistent with the principles set forth in *Freedom to Move*: less regulation; greater reliance on competition and market forces; and an accessible and not excessively costly or time-consuming regulatory process. The government termed this initiative "re-regulation" rather than "deregulation."

Almost all the Standing Committee's recommendations on air transportation were reflected in the legislation, most notably the retention of a modified form of regulation for the north and remote areas of Canada. The regulation of international air services continued to be based on the results of bilateral air agreements between Canada and other countries.

The Standing Committee on Transport, after extensive hearings, proposed numerous amendments to the legislation; these were accepted by the government. One of the most significant was in the area of foreign ownership: the government lowered the threshold for domestic or foreign acquisitions from $20 to $10 million. The bill was given Royal Assent on 28 August 1987 and came into effect on 1 January 1988.

C. 1989-2001

As noted previously, there has been *de facto* deregulation in the Canadian airline industry since 1984. The *National Transportation Act, 1987* reflected this reality and placed it on a firm legislative footing. Following that, there have been several important developments in the Canadian airline industry.

1. Consolidation of the Airline Industry

Consolidation and concentration within the airline industry were of some concern during the debate on deregulation. Following deregulation, through a series of mergers and acquisitions, Air Canada and Canadian Airlines acquired regional and feeder airlines through which they provided extensive route networks. They came to dominate the domestic airline market.

Canadian Airlines was developed through the merging of a major carrier, CP Air, with regional carriers, Eastern Provincial Airways, Nordair and Pacific Western Airways (PWA), in

1987. Later, PWA Corporation, the holding company for Canadian Airlines, also acquired Wardair (the only major carrier attempting to compete with Air Canada and Canadian Airlines) at a cost of $250 million. After consideration by the Competition Bureau and the National Transportation Agency, the acquisition was allowed. This was the final step in consolidating the industry into two major carriers with their affiliated companies.

2. Privatization of Air Canada

As was noted earlier, the Standing Committee on Transport, in its study of the *National Transportation Act, 1987*, recommended that the government explore options for privatizing Air Canada so that it could better manage its affairs. On 12 April 1988, the government announced its intention to issue Air Canada shares to the public. This would allow Air Canada to compete more effectively in the new deregulated environment. As a Crown corporation, it had been limited by the terms of the *Financial Administration Act*, under which Crown corporations are required to seek government approval for corporate and financial plans, a lengthy process that could prevent the carrier from responding quickly in a highly competitive environment. Privatization would also allow Air Canada direct access to equity markets for capital to finance major fleet renewal programs and would place all airlines in Canada on an equal footing. Following the enactment of the *Air Canada Public Participation Act* on 18 August 1988, the airline was privatized in October 1988, with 45% of its shares sold to the public. The remainder of the shares were sold in July 1989.

3. Early Attempts at a Merger

Already in 1989, there was concern about the financial health of the two national airlines, Air Canada and Canadian Airlines, now two private companies competing coast to coast. Airlines, not only in Canada but throughout the world, were operating in a difficult economic environment at this time. The Canadian industry was faced with a recession, high fuel prices and high taxation levels. Added to this were a reduction in traffic levels and the heavy debt incurred to purchase new equipment. In February, Air Canada announced a $454-million loss for 1992 while Canadian Airlines reported a $543-million loss for the same period. This resulted in talk of merging the two airlines to reduce overcapacity.

In this context, the management of Canadian Airlines considered ways in which it might work together with another carrier and in 1992 it attempted unsuccessfully to forge an

alliance, with equity participation, with American Airlines. The Canadian company could not provide sufficient cash guarantees for servicing its operating cash flow requirements or its substantial long-term debt, much of which was the result of several acquisitions, including those of CP Air and Wardair.

Air Canada had proposed a "made in Canada" solution, generally assumed to imply a merger of the two airlines. Once its discussions with American Airlines had broken down, Canadian had little choice but to entertain these offers from Air Canada, although it was reluctant to do so.

Merger talks were held between Air Canada and Canadian Airlines in 1992, but after a while they were broken off without explanation. It was speculated at the time that there were concerns about how a merged entity would be able to function under one holding company with two operating subsidiaries. Another area of contention had been how to cope with a combined debt load of $7.7 billion.

As a result of the failed merger, PWA Corporation (on behalf of Canadian Airlines) resumed talks with American Airlines. As in previous negotiations with American, the key to an alliance was a stronger financial structure for Canadian Airlines. To attain this, the government was asked for loan guarantees totalling approximately $190 million. In November 1992, the federal government announced that it was prepared to offer a $50-million loan. It should be noted that this loan guarantee went against the November 1992 recommendation of the Royal Commission on National Passenger Transportation, which called for "governments to abstain from making any financial contribution that is intended to ensure the survival of an air carrier."

In April 1994, Canadian Airlines and American Airlines reached an agreement. American Airlines paid $246 million to acquire one third of Canadian Airlines, thereby acquiring 25% of the Calgary-based airline's voting shares plus representation on its board of directors. In return, Canadian Airlines agreed to pay AMR (the parent company of American Airlines) US$115 million a year for 20 years in return for use of AMR's technological services, including accounting and reservations.

4. "Open Skies" Negotiations with the United States

Canada-U.S. transborder air services are governed by a series of bilateral agreements, the first of which was signed in 1949. Since that time, there have been a number of new agreements covering both passenger and cargo services. In April 1991, in response to pressure from both countries for expanded, more competitive transborder air services, Canada and the United States began negotiating a new bilateral air agreement. One of Canada's major priorities was to obtain a phased-in period for new transborder services whereby our airlines would be able to operate

on certain routes between major Canadian centres (Vancouver, Toronto and Montréal) and American points for a unspecified period before any American carrier could serve these routes.

In February 1995, Canada and the United States signed the "Open Skies" treaty, which liberalized air services between the two countries. It allowed Canadian carriers unlimited route rights immediately, from any point in Canada to any point in the United States. U.S. carriers would gain unlimited route rights immediately, from any point in the United States to any point in Canada except Toronto, Vancouver, and Montréal. At those three cities, all existing route rights held by U.S. carriers would continue uninterrupted; new passenger services would be phased in over a maximum three-year period.

Since the treaty came into effect, Canadian carriers have enjoyed a dramatic increase in airline business between the two countries. In contrast, American airlines have not entered the Canadian market to the degree that was first anticipated. This may be due to the fact that, as our market is relatively small by U.S. standards, it is not worthwhile for American carriers to participate in a significant way.

5. Foreign Ownership

The 25% foreign ownership limit for Canadian airlines was included in the *National Transportation Act, 1987* largely because this was the U.S. limit. In this era where globalization of air services is leading to the creation of a small number of world-class and worldwide mega-carriers, the level of foreign ownership has become an important policy issue.

6. Legislation to Allow the Merger of Air Canada and Canadian Airlines

In the latter half of the 1990s, it became increasingly clear that Canadian Airlines was encountering problems with continuing head-to-head competition with Air Canada. In the 1990s, Canadian Airlines lost money in eight out of nine years. While Air Canada fared better financially, its share price dropped from $8.00, at the time it was privatized in October 1988, to $6.50 by 12 August 1990. Clearly, as many aviation observers stated, the *status quo* was not an option for these airlines. **At the end of the 1990s, attempts to merge the two airlines became a drama played out daily on the national news.**

In the summer of 1999, Canadian Airlines announced that it did not have enough capital to keep operating for more than one year. To deal with this situation, the Minister of Transport suspended section 47 of the *Canada Transportation Act* in order to

allow the two major airlines to come up with plans for restructuring the airline industry without being subject to the confines of the *Competition Act*. The airlines were given a 90-day time limit to come up with proposals for restructuring.

a. Airline Restructuring Proposals

There were two proposals. In August 1999, a Toronto-based Canadian holding company, Onex, which had no previous involvement in the airline industry, launched a $5.7-billion bid to acquire and merge Air Canada and Canadian Airlines. A number of commitments were made to gain public and political acceptance, such as headquarters in Montréal, major flight centres in Toronto, Montréal, and Vancouver, bilingualism, a five-year ceiling on air fares, and limits on employee reductions.

In October 1999, Air Canada proposed an $800-million takeover of Canadian Airlines by a purchase of that airline's shares. Air Canada proposed to continue to operate Canadian Airlines as a distinct brand, but to streamline both carriers' domestic mainline and regional routes and operations. It was hoped surplus capacity could be redirected to trans-border and international business. The plan was to be put to a vote of Air Canada shareholders in November 1999.

b. Policy Framework for Airline Restructuring

While this 90-day process was in effect, the Minister of Transport announced in October 1999 a new policy for a restructured aviation industry. Under this "dominant carrier" policy, there would be:

- no reduction in the Canadian ownership and control requirements; the 25% limit on foreign voting shares would not be changed;
- government examination of the possibility of increasing the 10% limit of Air Canada's voting shares that can be held by one person;
- assurances that effective measures would be put in place to deal with predatory behaviour by a dominant carrier;
- government action to ensure that access to airport facilities would be allocated to enhance competitive domestic services;
- government requirement of commitments from the dominant carrier with respect to services to small communities during the restructuring process;

- government requirement of commitments from the dominant carrier that, during any major restructuring of the airline industry, employees would be treated fairly; and

- the introduction of legislation giving the government permanent authority over the review of any merger or acquisition affecting Air Canada.

c. Parliamentary Review

The House of Commons Standing Committee on Transport held public hearings from October to December 1999, and issued a report entitled *Restructuring Canada's Airline Industry: Fostering Competition and Protecting the Public Interest.*

During its study, the Committee's witnesses presented testimony on two themes: how to foster competition in the airline industry; and how to protect the public interest. Both themes were felt to be particularly critical in a dominant carrier environment.

On the former issue, recommendations were made concerning government control over:

- **predatory behaviour;**

- **airline ownership limits;**

- **access to airport slots and facilities;**

- **interlining and code-sharing arrangements;**

- **regional affiliate divestiture;**

- **reciprocal cabotage (cabotage is the right of an airline to carry local traffic in a foreign market in the course of international travel);**

- **Canada-only carriers;**

- **modified sixth freedom rights (modified sixth freedom rights would allow U.S. carriers to offer service between two points in Canada via a U.S. hub) and**

- **Canada's international air charter policy.**

Recommendations designed to protect the public interest focused on:

- **safety;**
- **government oversight of air fares;**
- **air services to small and remote communities;**
- **financially vulnerable airports;**
- **airline employees;**
- **travel agent commissions;**
- **monitoring and review of the impact of a restructured airline industry on the public; and**
- **commitments by a dominant carrier.**

d. Bill C-26 and the Merger

The Onex bid to take over the two airlines was not successful. Air Canada's offer to purchase Canadian Airlines did find acceptance among shareholders. Following certain undertakings made to the Commissioner of Competition, the Air Canada merger proposal was also supported by the government. The Minister of Transport announced in December 1999 that he was prepared to approve the transaction.

Some legislative action was necessary to allow the merger of Air Canada and Canadian Airlines. This was done by Bill C-26, An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence.

Many of the recommendations contained in the Committee's report of December 1999 found legislative expression in Bill C-26. However, the legislation did not address reciprocal cabotage, Canada-only carriers, modified sixth freedom rights, international air charter policy, and financially vulnerable airports. Some of these changes could be implemented with legislative change (for example, some changes to international air charter policy); but on certain questions, such as reciprocal cabotage, the government was not prepared to change the policy.

The official date of the purchase of Canadian Airlines shares by Air Canada was 21 December 1999, and the airlines were merged as of that date. Of particular importance are the undertakings made by Air Canada. These undertakings, which the airline made in letters to the Minister of Transport and the Commissioner of Competition, were incorporated by reference in Bill C-26 and are binding and enforceable.

A key undertaking was to maintain service to communities currently served for a period of three years from 21 December 1999. This meant that Air Canada would be free to make the business decision to discontinue previously protected service to communities as of 21 December 2002. The only requirement would be for Air Canada to give appropriate notice, in most cases 120 days.

While Air Canada emerged successful from the restructuring battles, it did so at a cost. Air Canada's debt is in the range of $11 billion.

D. The Present Situation

A year after Bill C-26 had come into force, the House of Commons Standing Committee on Transport and Government Operations examined the situation again. It was felt that although other carriers – such as WestJet – had an increasing presence in the market, unanswered questions remained: Is competition being fostered within the airline industry? Is the public being protected?

1. Committee Hearings

The Committee undertook to answer these questions by holding public hearings. The Committee's report, *Canada's Airline Industry: After the Acquisition*, was submitted in May 2001.

a. Fostering Competition

Opinions differed about the extent to which competition exists within the Canadian airline industry. Some argued that only limited competition had developed in the last year or two, and that this had occurred largely on routes serving major urban centres and primarily for leisure travel or the time-flexible sector of the business market. People with this perspective argued for additional regulatory and legislative changes to promote competition.

Others indicated that the industry is dynamic, and cited the emergence and expansion of air carriers. They stated that there is a competitive option on all routes that together carry at least 75% of all passenger travel in Canada. One opinion was that the future will see the emergence of carriers who will operate on selected routes offering lower-cost and more modest service, where they can be competitive without excessive risk.

On the key issues of reciprocal cabotage, Canada-only carriers and modified sixth freedom rights, most witnesses before the Committee overwhelmingly opposed the introduction of these measures to enhance competition.

Witnesses noted the lack of a long-term policy for Canadian air services and the need for active public oversight and direction, given the importance of air transport to Canada's economic and social well-being.

b. Protecting the Public

The Committee heard of complaints about: quality of service; schedule changes; prices; lost, damaged and delayed luggage; reservations; restrictions on bereavement fares; non-refundability of tickets; and refusal to carry passengers due to their behaviour.

Some appearing before the Committee argued for an expansion of the powers of government agencies, such as the office of the Air Travel Complaints Commissioner, to review fares and issue orders and impose fines. Several also mentioned the idea of a Passenger Bill of Rights.

Many commented on airports in Canada, highlighting the urgent need for an airports policy that is coherent and consistent with the *Canada Transportation Act.* There

is concern that these large public assets, with their power and influence, are being operated by private management without significant public scrutiny or accountability.

The Committee remained convinced that fostering competition is the best means of protecting the public interest. During and since the Committee's review, both the Air Travel Complaints Commissioner and the Independent Transition Observer on Airline Restructuring have made several reports to the Minister, bringing many of these issues to his attention.

c. What is Ahead?

Based on what the Committee heard, concerns remain about the merged Air Canada. Parliamentary interest in issues of competition and protection of the public is likely to continue, and could focus on whether:

- **reciprocal cabotage, Canada-only carriers and modified sixth freedom rights should be pursued;**
- **the powers given in 2000 to the Competition Bureau respecting predatory behaviour are appropriate, sufficiently broad and having the intended effect;**
- **the 25% foreign ownership limit should be changed;**
- **sufficient slots, gates and airport facilities are available to Air Canada's competitors; and**
- **the Canadian Transportation Agency's powers to review air fares and discontinuance of service (and the powers of the Air Travel Complaints Commissioner) are sufficient to protect the public interest where there is a dominant carrier in the airline industry.**

The expiration in December 2002 of the requirement that Air Canada must retain service on former Canadian Airlines routes may well lead to a diminution of service that will heighten concerns for protection of the public interest.

2. The Independent Transition Observer on Airline Restructuring

Interest could be given a sharper focus as a result of recommendations made in the final report of the Independent Transition Observer on Airline Restructuring, released in September 2002. The Independent Transition Observer recommended some form of foreign carrier participation in the Canadian air travel market, and called on the

government to "fully liberalize the competitive marketplace for air service to and within Canada." A similar recommendation had been made a year earlier by the Canada Transportation Act Review Panel in its final report, *Vision and Balance*, released in July 2001. The panel had called on the government "to create a North American Common Aviation Area in which carriers from Canada, the U.S. and Mexico would compete freely."

The Minister of Transport explicitly rejected this course of action on both occasions. Both reports proposed second-best solutions: *Vision and Balance* recommended the government negotiate for reciprocal sixth freedom rights, and the establishment of foreign-owned domestic carriers. The Independent Transition Observer recommended that the liberalization of air services go ahead in the absence of reciprocal agreements if it is to Canadians' advantage.

3. Airport Issues

Another focus of attention will likely be the status and financial health of commercialized airports, and their implications for the airline industry and the travelling public. In recent year, several new fees have been imposed on air passengers, including charges for increased air transport security in the aftermath of the September 2001 terrorist attacks on the United States, and airport improvement fees. Proposed airports legislation is intended to strengthen accountability for the imposition of airport fees.

4. Recent Industry Developments

Developments in the Canadian airline industry since 2000 have been largely a matter of two processes. The first is the start-up (and, in many cases, the demise) of small, often regional competitors of the dominant Air Canada. The second is Air Canada's re-invention of itself in response to domestic and international market pressure.

Worldwide, there has been a trend away from travel with traditional, expensive, full-service airlines. The lowering of demand was in evidence before September 2001, but was exacerbated by the terrorist attacks and the subsequent economic slowdown in the United States. Every U.S. airline, other than the low-cost Southwest airline, lost money in the year following those attacks, despite a significant government post-September 11 subsidy.

In Canada, small airlines – Canada 3000, Canjet and Royal – that were hoped to provide Air Canada with competition all went out of business in the two years following the Air Canada-Canadian Airlines merger. On the other hand, WestJet, which many say is modelled on Southwest, has thrived.

Air Canada has been restructuring itself into smaller units, with varying degrees of independence, that focus on markets that are specific in terms of geographical region, level of service, or potential for revenue generation. These have included Tango, Jazz, Jetz, Zip and the planned Elite. The carrier hopes that some units will be able to raise their own financing, thereby reducing Air Canada's $11-billion debt.

In December 2001 Parliament passed Bill C-38, An Act to Amend the Air Canada Public Participation Act, which removed the 15% limit on individual ownership of shares in Air Canada. The 25% limit on foreign ownership, which applies to all carriers, did not change.

PARLIAMENTARY ACTION

Until the *National Transportation Act, 1987* (NTA) came into force, the airline industry had been closely regulated by the federal government. Some progress had been made towards a more competitive environment during the 1970s with the passage of the *Air Canada Act*, *1977* and the government's removal of route restrictions from CP Air in 1979. With the passage of the NTA, the government reduced economic regulation and put greater reliance on market forces to enhance competition and provide more efficient and cost-effective transportation services to shippers and travellers.

The *Air Canada Public Participation Act* passed on 18 August 1988 authorized the sale of shares of the airline to the public. The government initially sold 45% of the airline's shares in October 1988, and the remainder in July 1989.

The *Canada Transportation Act* (CTA) came into force on 1 July 1996 to update and replace the *National Transportation Act*, *1987*. The CTA removed remaining economic regulation of air transport in northern Canada.

The merger of the two national airlines took place in 2000 when *An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act*

and the Air Canada Public Participation Act and to Amend another act in consequence **(Bill C-26) came into force on 5 July.**

An Act to Amend the Air Canada Public Participation Act **was passed on 18 December 2001; it removed the 15% limit on individual ownership of shares in Air Canada.**

Since autumn 2001, two pieces of proposed transportation legislation relevant to the Canadian airline industry have been expected. One is to provide a legislative basis for commercialized airports; the other is to respond to the recommendations of the Canada Transportation Act Review Panel.

CHRONOLOGY

10 April 1937 –	Trans-Canada Airlines (TCA) was created by Act of Parliament on a common-stock basis, with the CNR as the sole shareholder.
1942 –	CP Air was formed by the CPR's amalgamation of 10 local air carriers (mainly bush pilot services).
27 March 1967 –	CP Air was to be allowed gradually to increase its transcontinental services until it was providing 25% of the total transcontinental capacity by 1970.
19 September 1967 –	The Canadian Transport Commission (CTC) was created under the *National Transportation Act*, with an Air Transport Committee to regulate the airline industry.
November 1977 –	Parliament passed the *Air Canada Act*, which had as its core the financial restructuring of the airline to make it more responsive to the competitive marketplace.
March 1979 –	The government removed route restrictions from CP Air and allowed it to compete with Air Canada.
15 July 1985 –	The government released its position paper, *Freedom to Move*. This set out policies for transportation deregulation based on increased competition, reduced economic regulation, and greater reliance on market forces.
18 December 1985 –	The Standing Committee on Transport tabled in the House of Commons *Freedom to Move: Change, Choice, Challenge,* which made recommendations for inclusion in the new legislation but basically agreed to the thrust of the *Freedom to Move* policies.

26 June 1986 – The government introduced Bill C-18, legislation to establish a new *National Transportation Act, 1987*.

1 January 1988 – The *National Transportation Act, 1987* came into effect.

18 August 1988 – The *Air Canada Public Participation Act* was passed, authorizing the sale of shares to the public.

October 1988 – Air Canada was privatized by the government.

19 October 1989 – The Royal Commission on National Passenger Transportation was established to enquire into the needs of passengers into the 21st century.

April 1991 – Canada-U.S. bilateral air negotiations began.

3 November 1992 – Air Canada withdrew its offer to merge with Canadian Airlines.

19 November 1992 – The Royal Commission on National Passenger Transportation tabled its final report, calling for a user-pay policy for transport services.

24 November 1992 – Ottawa offered PWA a $50-million loan guarantee.

29 December 1992 – Canadian Airlines signed a conditional deal to form an alliance with American Airlines.

28 April 1993 – Air Canada bought $235 million of Continental Airlines' votes and shares for a 25% voting interest in the airline.

27 April 1994 – American Airlines paid $246 million to acquire one third of Canadian Airlines, and Canadian Airlines agreed to pay AMR $115 million a year for 20 years for use of AMR's technological services.

February 1995 – Canada and the United States signed a new agreement on Transborder Air Services.

1 July 1996 – The *Canada Transportation Act* came into effect, removing the remaining economic regulation of air transport in northern Canada.

Summer 1999 – Canadian Airlines announced that it had enough money to operate for only one more year. The Minister of Transport suspended sections of the *Competition Act* to allow various parties to discuss restructuring of the airline industry.

August 1999 –	**Onex Corporation made a bid to acquire both national airlines with a goal of merging them.**
October 1999 –	**Air Canada proposed to take over Canadian Airlines.**
October to December 1999 –	**House and Senate transport committees examined the issues involved in airline restructuring.**
October 1999 –	**The Minister of Transport announced a new policy framework for restructuring the airline industry. The policy focused on the concept of a "dominant" airline.**
February 2000 –	**The Minister of Transport tabled legislation to allow Air Canada's takeover of Canadian Airlines – *An Act to amend the Canada Transportation Act, the Competition Act, the Competition Tribunal Act and the Air Canada Public Participation Act and to amend another Act in consequence* (Bill C-26).**
May 2001 –	**The House of Commons Standing Committee on Transport examines the state of the airlines industry a year after Bill C-26 came into force and issues a report, *Canada's Airline Industry: After the Acquisition*.**
July 2001 –	**The Canada Transportation Act Review Panel issues its report, *Vision and Balance.***
18 December 2001 –	***An Act to Amend the Air Canada Participation Act* (Bill C-38) is passed, removing the 15% limit on individual ownership of shares in Air Canada.**
September 2002 –	**The Independent Transition Observer on Airline Restructuring issues her final report.**

SELECTED REFERENCES

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