

August 12, 2009

The Honourable James Michael Flaherty
Minister of Finances
House of Commons
Ottawa ON K1A 0A6

Dear Sir,

At the time of enacting the Air Canada Public Participation Act in 1988, the Conservative Government, under the Honourable Brian Mulroney, took position to have the Canada Official Languages Act be observed, keep the Air Canada Headquarters in Montréal and protect jobs related to the operational and overhaul centre in the cities of Winnipeg and Mississauga as well as in the Montréal Urban Community.

We at the Local Lodge 1751 of the IAMAW are asking the Minister of Finances in Canada, the Honourable James Michael Flaherty, to have the Air Canada Public Participation Act be observed as per the Order designating the Minister of Finance as Minister responsible for the application of said Act.

In 2007, Air Canada sold 70% of Air Canada Technical Services (ACTS) to a consortium made up of the investment firm, Sageview Capital and KKR Private Equity Investors, the fund on the stock exchange list of Euronext of the investment firm Kohlberg Kravis Roberts & Co in New-York.

By selling 70% of ACTS, Air Canada's administrators have violated the Air Canada Public Participation Act which stipulate under section 6 d), Mandatory provisions in articles of continuance that:

“Provisions requiring the Corporation to maintain operational and overhaul centres in the City of Winnipeg, the Montréal Urban Community and the City of Mississauga;”

In order to respect the obligation of maintaining operational and overhaul centres in the cities of Winnipeg and Mississauga, and in the Montréal Urban Community, Air Canada must be controlling owner of ACTS, now Aveos. By selling 70% of ACTS, Air Canada is no longer in a position to maintain their obligation as per the law.

Also, section 2 (3), stipulates that:

“In the event of any inconsistency between this Act and the *Canada Business Corporations Act*, or anything issued, made or established under that Act, this Act prevails to the extent of the inconsistency.”

To show the importance of the Air Canada Public Participation Act, it received the royal assent and is linked to the Queen as per section 3, Binding on the Crown:

“This Act is binding on Her Majesty in right of Canada or a province.”

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Local Lodge 1751 agrees to take every measure at its disposal to have the Air Canada Public Participation Act be respected in order to protect the members' jobs and to lobby politicians, sew Air Canada, send a writ of mandamus to ask the Government to apply the Act, have members sign petitions, demonstrate in Ottawa and throughout the country to show is support to this Act, contact medias, etc.

In order to show you that we are not the only ones to think that Air Canada's administrators, by selling 70% of ACTS, have acted illegally, without any respect to the Air Canada Public Participation Act, below are quotes from people sharing our opinion:

Maître Julius Grey sent a letter to Mr. Calin Rovinescu, President of Air Canada saying that:
"The law governing Air Canada stipulates that the repair facilities of Montréal and Winnipeg cannot be abandoned by the company"... "We consider this unlawful and an attempt to do indirectly what it cannot do directly."

Here's a translation of a letter sent by the office of Gilles Duceppe, leader of the Bloc Québécois:
Lets us advise you that further to a thorough examination of your letter, it has become essential that Air Canada complies with this Act enacted for them. In the event that the spirit of the Air Canada Public Participation Act would not be respected by this company, the federal government would have to take necessary measures for it to be applied.

During the question period, on Friday, February 13, 2009, Mr. Mario Laframboise, transportation critique for the Bloc Québécois, asked in the House of Commons questions to Mr. Mike Lake and also to the Transportation Committee on the non-compliance of the Air Canada Public Participation Act by Air Canada itself.

At the June 5, 2009, demonstration on the Air Canada Public Participation Act, the Honourable Marlene Jennings from the Liberal Party and Member of Parliament for Notre-Dame-de-Grâce - Lachine said that Air Canada had to observe the law and that the Liberal Party as well as the other Parties would work towards that objective.

During that same demonstration, Mr. Thomas Mulcair from the NDP also said that Air Canada had to observe the law and that he and Jack Layton would work to make sure that Air Canada does so.

The Air Canada Public Participation Act has already been tested 11 years after it had been enacted, i.e. in 1999 when Onex tried a hostile takeover to purchase Air Canada. The Quebec Superior Court cancelled the offer because it did not respect the law. Here's a summary:

Nov. 5, 1999

Quebec judge says Onex offer illegal, breaking law which limits single shareholder in Air Canada to 10 per cent.

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Minister of Transport, Jean-C. Lapierre has announced on May 2, 2005 that the Government of Canada would make changes to the law in order to make sure that the obligations with regards to official languages would continue to apply to the new Air Canada structure and that the current requirement of Air Canada to operate maintenance centres in Montréal, Winnipeg and Mississauga would continue to apply.

See below what happened to the Air Canada Vancouver base which is not covered by the law.

When the Air Canada Public Participation Act was put into effect, it called for the corporation, Air Canada, to maintain operational and overhaul centres in the city of Winnipeg, the Montréal Urban Community and the city of Mississauga, but it did not include the city of Vancouver. As a result, the Lower Mainland has seen a haemorrhaging of jobs in the operational sector, in overhaul centres. A wide variety of jobs have been cut back. We believe Air Canada should be maintaining those jobs on the West Coast of Canada, it should be maintaining those jobs in the Lower Mainland. This has an impact not just in the Richmond, Vancouver and Burnaby—New Westminster areas but of course right through the Lower Mainland. There are small businesses that depend on the dollars that are brought in through the provision of those jobs in operations and in overhaul.

OTTAWA - Air Canada Flight Attendants were heartened today when the Manitoba Government initiated Court Action in defence of the Flight Attendant based in Winnipeg. The government of Manitoba filed a Notice of Application, in the Court of Queen's Bench seeking a declaration that Air Canada's decision to close the Winnipeg's Flight Attendants base breaches the federal Air Canada's Public Participation Act.

This Act allows the protection of thousands of specialised jobs in Canada. If the Government does not ensure the application of this Act, thousands of jobs will be transferred to El Salvador. Here's how the Act protects these jobs:

- 1- Air Canada owns aircrafts that need maintenance
- 2- As per the Act, the company must maintain maintenance bases in Canada

This is the best job protection possible.

Now if the Government does not apply the Act, the majority of maintenance employees will be transferred to Aveos, formerly ACTS which is no longer owned by Air Canada. This will mean thousands of jobs lost in Canada.

- 1- Aveos does not own any aircrafts
- 2- The Air Canada Public Participation Act does not apply to Aveos
- 3- Air Canada plans to send aircrafts to El Salvador after 2011 or 2013.

We wish to confirm some commitments made by Air Canada, subject to the approval of its board of directors, concerning the outsourcing issues with the IAMAW.

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Air Canada will request Aveos not to outsource the overhaul work on their aircrafts that must be done by Aeroman in El Salvador before March 31, 2011.

The Local Lodge 1751 wishes to thank you for your attention to this letter and an acknowledgement of receipt would be very much appreciated.

On behalf of our membership and myself, please accept our best wishes.

Marcel St-Jean
President

c.c. Marlene Jennings, Liberal MP
Gilles Duceppe, Leader of Bloc Québécois
Mario Laframboise, MP Bloc Québécois
Thomas Mulcair, NDP
Yves Ferland, recording secretary

References

Air Canada Public Participation Act 1985, c. 35 (4th Supp.)

http://laws.justice.gc.ca/en/showdoc/cs/A-10.1//20090709/en?command=search&caller=SI&search_type=all&shorttitle=air%20canada%20public%20participation%20act&day=9&month=7&year=2009&search_domain=cs&showall=L&statuteyear=all&lengthannual=50&length=50

Order Designating the Minister of Finance as Minister for Purposes of the Act

<http://lois.justice.gc.ca/en/showdoc/cr/SI-89-98//20090708/en?page=1>

Gestion ACE Aviation vend 70 % des Services techniques d'Air Canada

<http://argent.canoe.ca/lca/infos/quebec/archives/2007/06/20070622-074823.html>

Answer of the Canada Conservative Party further to the question on the Act of the Bloc Québécois.

<http://www2.parl.gc.ca/HousePublications/Publication.aspx?Mode=1&Parl=40&Ses=2&DocId=3679052&Language=E>

Nov. 5, 1999 - Quebec judge says Onex offer illegal, breaking law which limits single shareholder in Air Canada to 10 per cent

<http://www.cbc.ca/news/background/aircanada/timeline.html>

Flight attendants applaud the Manitoba Government

<http://cupe.ca/air-canada/Flight-attendants-ap>

In the house ~ NPD Bill would let Air Canada create jobs in Vancouver

<http://www.peterjulian.ndp.ca/node/779>

Outsourcing matters

http://www.aimta1751.ca/bulletins/2009/principe/letter1_en.pdf