



THE CANADIAN  
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Via email: [trcm@sen.parl.gc.ca](mailto:trcm@sen.parl.gc.ca); [FINA@parl.gc.ca](mailto:FINA@parl.gc.ca)

The Honourable Senator Dennis Dawson  
Chair, Standing Committee on Transport and Communications  
Senate of Canada  
Ottawa, ON K1A 0A4

Mr. James Rajotte, M.P.  
Chair, Finance Committee  
Sixth Floor, 131 Queen Street  
House of Commons  
Ottawa, ON K1A 0A6

Dear Senator Dawson and Mr. Rajotte:

**Re: Bill C-43 – Amendments to the *Aeronautics Act***

I am writing on behalf of the Canadian Bar Association's National Air & Space Law Section (CBA Section) in response to proposed amendments to the *Aeronautics Act* in Bill C-43, the *Economic Action Plan 2014 Act, No. 2*.

The CBA is a national association of over 37,000 lawyers, law students, Québec notaries and law teachers, and our mandate includes improvements in the law and the administration of justice. The CBA Section comprises lawyers who represent aircraft operators and financiers, aerospace companies, airports and aerodromes, and equipment manufacturers.

The amendments to the *Aeronautics Act* in Bill C-43 present regulatory and legal problems concerning the exercise and scope of the Minister's powers. The additional powers are overly broad and do not take into account the everyday operation of aerodromes. In addition, it is unclear whether the exercise of the Minister's power to prohibit the development or expansion of an aerodrome is reviewable. The impact these amendments have on the development, expansion or operation of aerodromes requires clarification.

Overall, we are concerned with the scope and exercise of power conferred on the Minister by this legislation and what processes and standards will apply for the expansion, development and operation of aerodromes in Canada.

## **Operation of an Aerodrome**

The proposed amendments allow the Minister to get into the minutiae of the operation of the vast number of aerodromes in Canada (approximately 3500). The operation of an aerodrome changes daily, if not hourly or moment-to-moment. Providing the Minister with such power may cause administrative difficulties from a legal and regulatory perspective. We believe the amendments require clear parameters on the extent of the Minister's power.

The legislation does not specify whether a decision of the Minister to make an order under section 4.3(1) would be reviewable before the Transportation Appeal Tribunal of Canada. It is also unclear whether every pilot, aircraft operator, aircraft owner, aerodrome operator or airport operator would be obliged to advise the Minister of any variation regarding the operation of every airport, heliport, aerodrome (water, land and ice) or any area set aside for aircraft (including helicopters). In addition, in the case of expropriation of rights due to a newly prohibited operation, what would be the process for recovery from the Crown for any economic loss incurred?

The aerodromes covered by the Act would include any temporary (even single use) helipads and landing sites (including any dock used by a float plane). This could also include each change to the aircraft operation, whether by type of aircraft or scope of operation. Given the potential complexities of this new system, the process for implementation is unclear.

The proposed power of the Minister does not exist for other modes of transportation such as automobiles, four-wheeled recreational vehicles, snow machines or boats. For example, someone who flies to or from a recreational property under this proposed change is subject to a level of authority that doesn't exist if they go by any other means of transportation.

## **Review and Consultation**

The Canadian Aviation Regulation Advisory Council (CARAC) is currently undertaking an extensive consultation process on various aspects of aerodrome operation. However, we are concerned that there was no consultation or notice of the statutory changes proposed in Bill C-43.

Regulations, proposed statutory amendments, and draft advisory circulars regarding aspects of the issues identified by the Minister should be coordinated after robust consultation with all stakeholders.

We appreciate the opportunity to comment on Bill C-43 and hope that our comments are helpful in the study of the Bill.

Yours truly,

*(original letter signed by Noah Arshinoff for Brian Poston)*

Brian Poston  
Chair, CBA Air & Space Law Section