

Conference Materials

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AIRPORTS COUNCIL
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2025

ACI-NA & ACI World Annual General Assembly, Conference and Exhibition



October 25 - 28, 2025
Toronto, ON

LEARNING FROM OUR NEIGHBORS: THE FUNDAMENTALS OF US AND CANADIAN AIRPORTS

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The Development of Canada's Airport Model

How Canadian Aviation History Influences Modern Policy and Governance

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Oct 25, 2025

Canadian Confederation

The Constitution Act, 1867



Confederation – July 1, 1867

(The Dominion of) Canada was born out of a confederation of Provinces, uniting Upper Canada (Ontario), Lower Canada (Quebec), Nova Scotia and New Brunswick into a self-governing component of the British Empire. The remaining provinces joined in the subsequent decades, with the last, Newfoundland and Labrador, joining in 1949.

The *British North America Act, 1867*

Key building block of the *Constitution of Canada, 1982* (which is comprised of an amended version of the BNA Act (renamed the *Constitution Act, 1867*, and the *Canadian Charter of Rights and Freedoms* (1982))

The division of powers between federal and provincial governments are delineated by Sections 91 and 92 of the *Constitution Act*. Certain powers not found therein are administered under the POGG clause.

Peace Order and Good Government (“POGG”)

Authorizes federal government to “make laws for the peace, order, and good government of Canada” in relation to all matters not assigned to the provinces.



The World Wars



First World War Aviation Beginnings

Canada's aviation legacy started the with Long Branch airport in 1915, training pilots for wartime service far from the European front.

Second World War Expansion

The renewed war effort led to the building of 148 military airfields and federal takeover of 59 existing municipal airports, forming the basis for our modern aviation network.



Key Legal Developments

Legal Foundations of Aviation

The 1932 *Aeronautics Reference* assigned aviation jurisdiction to federal government, shaping the constitutional division of powers.

Judicial and Infrastructure Developments

The 1952 Supreme Court ruling *Johannesson v Municipality of West St. Paul* confirmed federal jurisdiction over aeronautics amid growing infrastructure demands.

Modern Legal Standard

The 2010 case of *Quebec (Attorney General) v. Canadian Owners and Pilots Association (COPA)*, reaffirmed federal jurisdiction over aeronautics by ruling certain provincial regulations inapplicable to federally-registered airports.



Institutional Development

Federal Aviation Oversight

The federal Department of Transport was established in 1936 to manage Canadian transportation, including aviation infrastructure and services.

Formation of National Airline

In 1937, Trans-Canada Airlines (the predecessor of Air Canada) was created, marking a key development in Canada's national air transport services.

International Aviation Role

Montréal became the headquarters for various international organizations, including, International Civil Aviation Organization (ICAO), Airports Council International (World) and IATA



The Post-War Order



The Federal Model

From the late 1940s into the 1950s, the Department of Transport financed, built, and operated airports directly from federal revenues. While the model worked initially, costs grew substantially over-time.

Issues

The department's plans for developing airports often lagged behind demand, and by the 1960s it was increasingly reactive. By the early 1970s, it was clear that significant financial outlays would be required to support expanding airport infrastructure.

Push for Reform

By 1984, federal expenditures on airports had grown to more than \$750 million annually, prompting calls for reform and the development of a new model.



Calls for Reform

The Global Landscape

While Canada began to discuss ways to reform their antiquated system of Airport management, Europe and the United States had begun to develop their own models centered on opposing extremes.

New Models

From the 1970's-1990's Europe began to fully privatize its airports while the US moved to cement federal control over them through financing and regulation.

Where does Canada fit?

As Canada began to develop its own approach, it had the benefit of seeing the process play out in these other jurisdictions, ultimately influencing its decision to strike a middle-ground between the two.



The Canadian Airport Model



The National Airports System Airports (i.e. the Airport Authorities)

Since 1992, airport management has shifted to autonomous Airport Authorities to enhance efficiency and local oversight. These Airport Authorities are typically not-for-profits run by local municipalities and other stakeholders to oversee and operate Airports.

Regional and Local Airports

Divested outright to provincial and local governments, not-for-profit airport commissions, private businesses and other interests.

National Airport Policy

The 1994 National Air Policy formalized the transfers of airports through private investment, while ensuring federal safety oversight.



Airport Authorities – Legal Structure

Private, Not-for Profit Corporations

- No shareholders
- Locally appointed board (few political appointees)
- Self-funded
- Public interest mandate set out in articles of incorporation
- Power to set rates, including AIF
- Autonomy

Ground Lease from the Federal Crown

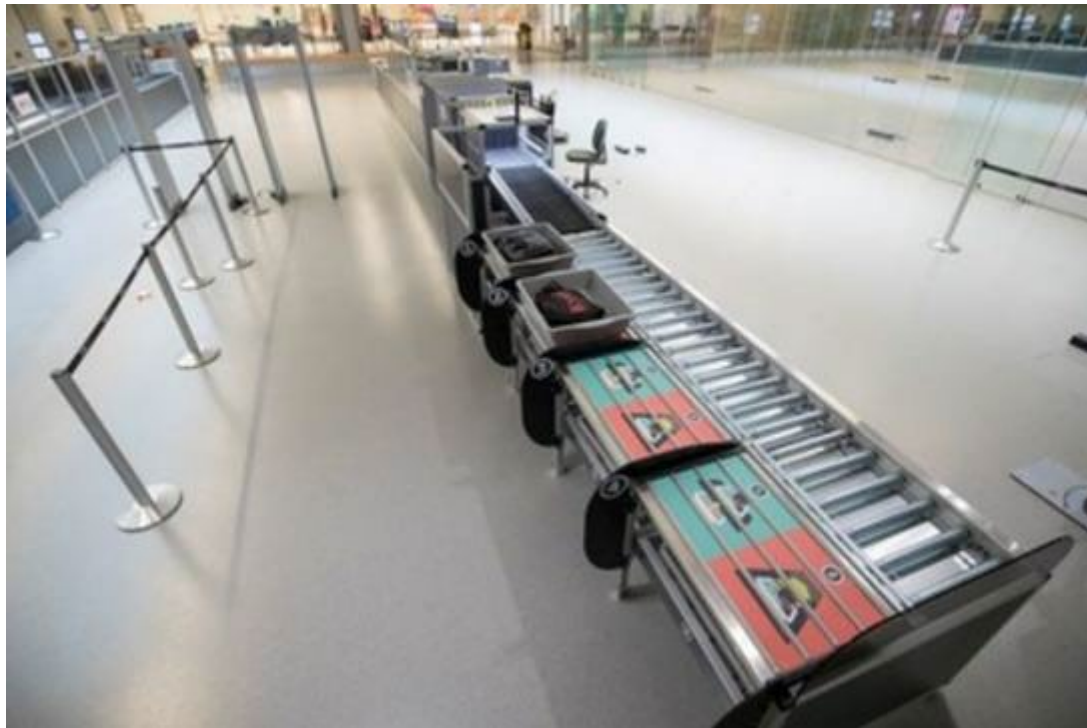
- Ground rent
- Term

User Pay Model

- Airports, CATSA, NAV Canada



Regulatory Reform



Canadian Aviation Regulations

Established in 1996, The Canadian Aviation Regulations (CARs) are the comprehensive rules governing civil aviation in Canada. They replaced the older Air Regulations and Air Navigation Orders, creating a modern, standardized framework for ensuring aviation safety, security, and regulatory consistency across the country.

Centralized Aviation Security

The creation of CATSA in 2002 centralized security and screenings across Canada, funded through the introduction of a new user charge.

NAV Canada

Canada's civil air navigation service provider. It is a private, non-profit corporation established in 1996 under the Civil Air Navigation Services Commercialization Act. It operates independently of government funding and is financed through service charges levied on aircraft operators.



A note on Canadian Airlines



Air Canada (and its privatization)

The Air Canada Act of 1977 initiated Air Canada's transformation from a Crown Corporation to fully-privatized by 1988, paving the way for an open commercial aviation market. As of 2024, Air Canada controls approximately 43% of the Canadian domestic airline market by capacity. They are also the largest international carrier in Canada.

WestJet

Founded in 1996 in Calgary, WestJet began as a low-cost regional carrier and has grown into Canada's second-largest airline. It now operates a global network, including transatlantic and transpacific routes.

LCC's and ULC's

The Canadian market hosts several Low-Cost and Ultra-Low-Cost Carriers, including Air Transat, Swoop and Flair. Both Air Canada and WestJet also offer LLC & ULC services through Air Canada Rouge and Sunwing Airlines, respectively.



Modern Impact

Decentralized Airport Management

Local Airport Authorities manage operations, infrastructure, and finances independently from federal funding.

Economic Contributions

Airport Authorities contribute significant taxes, rents, jobs and salaries, driving regional economic growth in their areas. In 2018, Airport Authorities paid \$175 million in municipal taxes, \$400 million in rent to the federal government, and employed more than 100,000 people directly and indirectly, who earned over \$550 million in salaries.



Key Legislation

- Air Commerce Act of 1926
- Civil Aeronautics Act of 1938
- Surplus Property Act of 1944
- Federal Airport Act of 1946
- Federal Aviation Act of 1958
- Airport and Airway Development Act of 1970
- Anti-Head Tax Act of 1973
- Airline Deregulation Act of 1978
- Airport Noise and Capacity Act of 1990
- Aviation and Transportation Security Act of 2001



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Civil Aeronautics Act of 1938

- “[T]he Administrator shall not acquire any airport by purchase or condemnation.” Sec. 302(a)
- “The Authority shall make a field survey of the existing system of airports and shall present to the Congress definite recommendations as to whether the Federal Government should participate in the construction, improvement, development, operation, or maintenance of a national system of airports.” Sec. 302(c)



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Federal Airport Act of 1946

- Federal-Aid Airport Program
- Federal grants with required local match
- Apportionment and discretionary fund
- Participation based on inclusion in National Airport Plan
- Grant Assurances
 - Public use
 - Prohibition on exclusive rights
 - Operation and maintenance
 - Protection of aerial approaches
 - Accounting and recordkeeping



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The US Airport Experience

- Essential structure in place for 80 years
- Local governments own and operate airports
- Federal government provides grant funding for planning and development
- Federal government regulates airspace, aircraft and pilots
- States are mostly boosters for aviation and airports
- Local governments responsible for land use and zoning
- Neighbors feel impacts with limited recourse



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