

Potential Policy Options for the Canada Transportation Act Review

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Rail Transportation Task Team

What we heard from shippers

- **The next decade will see growing demand for rail service; this is not just a temporary grain problem**
- **Lack of rail freight service and capacity are constraints on growth of commodity export industries**
- **Rail freight service issues impact Canada's international reputation as a reliable supplier of goods**
- **Many shippers in Western Canada are captive to one railway**

What we heard from shippers

- **The commercial relationship between shippers and railways must be rebalanced**
- **Communication from railways regarding service disruptions and delays is poor**
- **Shipper protection processes are expensive and time consuming. Relief granted is limited to one year.**

Canada Transportation Act (CTA) Review

- **The CTA Review will play a vital role in modernizing Canada's transportation and logistics system, as well as preparing it for exceptional growth over the next decades**

Desired Outcomes

- **Recognition of importance of rail transportation in Western Canada**
- **Recognition that many shippers in Western Canada are “captive: to a single railway and need protection from the railways’ exercise of market power**
- **Changes to the CTA that provide a better balance between railways and shippers**

Canada Transportation Act (CTA) Review

Desired Outcomes

- **Enhanced transparency and monitoring of the rail supply chain**
- **Enhanced investigative powers for the Canadian Transportation Agency**
- **Faster and less adversarial shipper protection processes**

CTA Review

Major Themes in the Government of Alberta Submission

- **Rail capacity**
- **Reliable and consistent service**
- **Increased transparency and monitoring**
- **Role of the Canadian Transportation Agency**
- **Safety and liability**

Rail capacity

Most difficult problem to address?

Growing commodity exports will require an increase in rail capacity

Periodic surges in exports require an ability by railways to “surge”

In a fully competitive environment railways would have clear incentives to provide adequate capacity or risk losing customers.

Railways need to be profitable and able to invest in infrastructure, power and people

There appears to be no clear measure of the capacity of the current rail network

Rail capacity

Policy Options

- **A mandatory reporting and measurement system that applies to the entire rail supply chain would provide useful information about capacity and performance**
- **Information from such a system would be useful to railways and shippers in planning for future growth and requirements**
- **A definition of “adequate and suitable” that provides clarity on a railway’s obligations to shippers could provide an incentive for railway investment in added capacity**

Rail capacity

Policy Options

- **Retain running rights provision and modify to apply in geographic areas where there is no effective competition and an ongoing shortfall in service**
 - Entry of new rail providers provides a boost in capacity
 - Shippers could invest in cars and power to guarantee adequate capacity
- **Inter-switching**
 - Use of provision by a third railway could increase capacity

Consistent and reliable service

Most commonly identified problem by shippers

- **Lack of competition is viewed as main driver of poor service**
- **Few opportunities to increase competition**

Policy Options

- **Definition of “adequate and suitable”**
 - Minimum service standards (on time car delivery and pick up, percentage of car orders filled in a time window, communication protocols)
- **Improved service level agreements (SLA’s)**
 - SLA’s viewed by many as best tool to rebalance relationships and provide flexibility for railways and shippers to determine individual needs for service
 - Reciprocal accountability (i.e. financial consequences for failure to meet performance standards)
 - Limited force majeure clause
 - Quick arbitration process for contract disputes

Consistent and reliable service

Most commonly identified problem by shippers

- **Transparency and monitoring**
 - Performance measurement gives shippers information to judge the service they receive
- **Improved shipper protection mechanisms**
 - Faster, less costly processes
- **Improved running rights provisions**
- **Inter-switching**
 - Require that inter-switching points be maintained
 - Monitor use of inter-switching provisions

Transparency and monitoring

Lack of clear information on system capacity and performance results in unproductive finger pointing and arguments

Rail system is complex. Regulating and managing it without reliable performance data is unnecessarily difficult

Policy option

- **Establish a mandatory performance measurement system that covers the entire rail supply chain (origin shipper, railway, destination)**
 - Models exist in other jurisdictions
 - Models in the grain industry – Grain Monitor program, Ag Transport Coalition

Role of the Canadian Transportation Agency

The Agency currently has power to investigate only when it receives a complaint.

The Agency has no power to address anti-competitive or abusive behaviour.

Policy Options

- **Give the Agency the mandate to independently investigate rail service or capacity shortfalls**
- **Broaden the Agency's mandate to include abusive behaviour such as inequitable car ordering systems, off-loading of liability, discrimination against a shipper who has filed a complaint, etc.)**
- **Require that one member of Agency be from western Canada**
- **Add voluntary mediation service to Agency (alternative to more costly shipper protection processes)**

Rail safety and liability

- **As the movement of goods by rail increases adequate safety and liability regimes are needed to maintain social license**
- **The rail network and fleet are integrated across the border. Safety regulations in Canada need to be aligned with US regulations**

Policy Options

- **Liability for dangerous goods must be assigned appropriately**
 - Shipper is responsible for proper identification, classification, safe loading, and proper means of containment
 - Railway is responsible for movement of the goods
 - Receiver is responsible for safe unloading
- **Access to indemnity funds must be equitable**

Rail safety and liability

- **Revised tank car standards in both US and Canada.**
 - Harmonization of standards among US and Canada.
 - Transport Canada's proposed improvements to safety features require a sufficient transition period of industry's existing tank car fleets.
- **Rail system needs to be safe and efficient**

Questions?

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Grain specific CTA provisions

Maximum revenue entitlement (i.e. Revenue cap)

- Keep it in the CTA
- Can examine inequities, update methodology but MRE must remain

Grain dependent branch line abandonment process

- Make no major changes
- Monitor to ensure sale agreements do not contain overly restrictive provisions for the buyer of the line (e.g. must order cars from selling railways, cannot purchase or lease own fleet).

Grain specific CTA provisions

Grain movement targets

- Keep as a tool in the CTA
- Examine better ways to set targets (weighted across corridors, by ton-mile, etc.)
- Set targets with an allowable variance to accommodate winter operating conditions (e.g. 500,000 tones per week plus or minus 10%)?
- Remove distorting effects of current targets

Questions?

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