

Canadian  
Transportation  
Agency



Office  
des transports  
du Canada

Canadian Transportation Agency

# Annual Report 2011-2012

Making transportation efficient and accessible for all



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March, 2012  
Catalogue No. TT1-2012  
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# May 2012

The Honourable Denis Lebel, P.C., M.P.  
Minister of Transport  
Tower C – Place de Ville  
330 Sparks Street  
Ottawa, ON K1A 0N5

Dear Minister:

Pursuant to section 42 of the *Canada Transportation Act*, I have the honour to present to you the Annual Report of the Canadian Transportation Agency for the period 2011-12, including the Agency's assessment of the operation of the Act and any difficulties observed in its administration.

Yours sincerely,



Geoff Hare  
Chair and Chief Executive Officer





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# Our Record of Innovation and Leadership in Canadian Transportation

## Message from the Chair and CEO

Over the past five years, I have had the pleasure of leading the Canadian Transportation Agency. During this period, the Agency has focussed its efforts and resources on striving for excellence as both a tribunal and economic regulator.

As we conclude the first year of our 2011-2014 Strategic Plan, we remain on target to achieve our goals of enhancing client service, renewing our regulatory regime and focussing on our people. This past year, we met or exceeded most of the performance targets we set for our dispute resolution and regulatory responsibilities, while also maintaining a focus on fairness and balance, to promote a competitive, inclusive national transportation system.

## Delivering quality services

In today's ever-changing transportation sector, it is increasingly critical that the Agency reach out to engage with and inform its clients and stakeholders. The Sample Tariff, launched early in the year, is an example of an innovative best practice document aimed at helping airlines use clear, understandable language in their contracts of carriage with passengers.

We also know how important it is for clients and stakeholders to understand how we work. With this in mind, we created a new series of interpretation notes covering a range of topics, such as the rules regarding the Canadian ownership of airlines and the Agency's revenue cap program for the movement of western grain. These, along with several guidelines and innovative resource tools, help better explain what we do and how we do it, facilitating a clearer understanding of the Agency's responsibilities and access to its services.

With the help of its Technical Advisory Committee, the Agency released a Rail Noise Measurement and Reporting Methodology. This methodology sets out procedures for the assessment of noise levels from rail activities, to guide the parties in conducting assessments and to support Agency review of the noise complaints it receives.

## Supporting open government

This past year, the Agency found new ways to broaden its efforts to obtain the views of Canadians. For example, we successfully launched an innovative online web 2.0 consultation on

“Our achievements this past year demonstrate the value of having a sound, clear and results-oriented strategic plan that is aligned with government priorities and effectively implemented by a team of skilled and dedicated staff.”



the development of new regulations requiring air carriers to include all costs in their advertised prices. Canadians were invited to provide their suggestions through “crowdsourcing” – leveraging ideas from the broader public by means of an online forum.

Our commitment to open dialogue led us to consult with stakeholders on other topics. For example, our Accessibility Advisory Committee provided us with views on improving the accessibility of the transportation network, and we sought input from industry stakeholders on a revised methodology for determining the cost of capital for railways.

We also launched a more user-friendly website that makes it easier for our clients to find useful information about the Agency’s regulatory mandate and dispute resolution services. We have worked to ensure that virtually all of the Agency’s web content, including over 31,000 rulings, is fully accessible. We will continue to enhance the site’s accessibility and usability in the coming months.

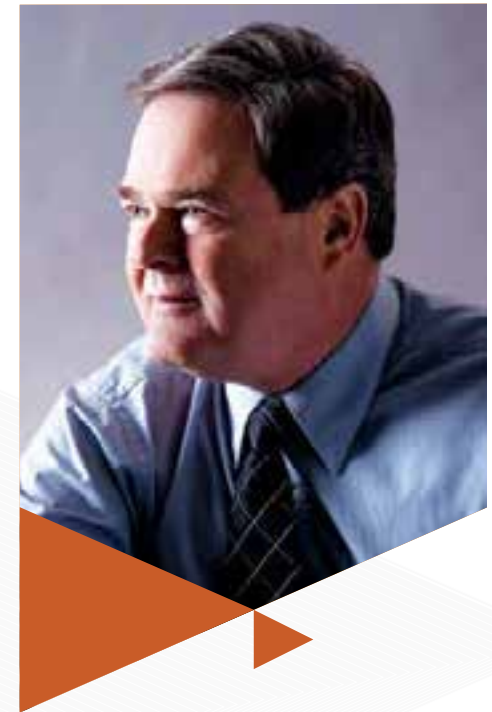
## Striving for excellence

The Agency believes that delivering high quality client service and a modernized regulatory regime requires a supportive workplace and continued investment in our employees.

Identifying the factors that drive the satisfaction of our clients, stakeholders and employees has enabled us to effectively implement targeted initiatives, resulting in a significant improvement in all our areas of service – as well as our work environment.

Regardless of the nature of transactions, the Agency’s client satisfaction survey results demonstrated a 77% rate of overall client satisfaction, a 10% increase over 2010-11. Highly favourable results were also noted in the 2011 Public Service Employee Survey, most notably in the areas of employee engagement, work-life balance, career development, and the Agency as a high-performing organization.

Next year, we will focus on completing the Action Plan for year two of our Strategic Plan. In doing so, we will continue to use our resources wisely and apply innovative approaches in support of a fair, accessible and efficient transportation system for the benefit of all Canadians.



“A remarkable 91% of Agency employees stated that they are proud of their work.”

Geoff Hare  
Chair and Chief Executive Officer





# Highlights

In its 2011-2014 Strategic Plan, the Agency identified three priorities for action. What follows is a brief summary of key accomplishments regarding each of these three priorities in 2011-12.

## Client Service

- ▶ Obtained valuable and highly positive feedback through the Agency's latest client satisfaction surveys
- ▶ Established innovative new policies to find additional efficiencies in the way the Agency manages cases
- ▶ Upgraded our website and significantly improved web accessibility, in compliance with the World Wide Web Consortium's Web Content Accessibility Guidelines
- ▶ Made significant progress in resolving complaints related to the appropriate accommodations to meet the needs of travellers with disabilities due to their allergies to cats in aircraft cabins
- ▶ Engaged in proactive dialogue with shippers, carriers, industry associations and Canadians to better understand their needs and explain Agency processes
- ▶ Facilitated 96% of all consumer air travel complaints, an efficient alternative to formal adjudication
- ▶ Resolved two complex rail noise and vibration cases, laying the foundational framework to more efficiently and consistently address future cases





## Regulatory Regime Renewal

- ▶ Launched consultations for the development of air services price advertising regulations, which included an innovative online web 2.0 platform to engage Canadians
- ▶ Developed a new methodology, through consultation, to determine the cost of capital for federally-regulated railway companies
- ▶ Published two interpretation notes to explain factors the Agency takes into account when determining Canadian ownership of an air carrier
- ▶ Played a leadership role in updating the International Civil Aviation Organization's accessibility guidance material and standards
- ▶ Consulted with the Agency's Accessibility Advisory Committee on updates to two regulations, a new code of practice, and a resource tool about mobility aids
- ▶ Published a Sample Tariff to help air carriers develop clear, simplified and understandable tariffs for travellers
- ▶ Issued a decision on the recognition of pension costs for the Volume-Related Composite Price Index, a component of the Agency's administration of the western grain revenue cap program
- ▶ Consulted with stakeholders on the status of limited distribution tariffs and issued a report on what was heard

## People

- ▶ Developed an Agency framework for employee engagement to promote effective dialogue and collaboration, and to ensure employee retention, productivity, performance and trust
- ▶ Obtained very positive results in the 2011 Public Service Employee Survey, including significant improvements over 2008 survey results
- ▶ Launched a custom careers page to help recruit people with the skills and competencies the Agency needs
- ▶ Developed "onboarding" checklists for new employees and their managers as part of the Agency's orientation program
- ▶ Developed and delivered a full curriculum of customized in-house training courses to ensure staff have the information and training they need
- ▶ Offered developmental opportunities to encourage mobility within the Agency, retain employees, and help them in their career progression



# Who We Are

The Canadian Transportation Agency is an independent, quasi-judicial tribunal and economic regulator. It makes decisions and determinations on a wide range of matters involving air, rail and marine modes of transportation under the authority of Parliament, as set out in the *Canada Transportation Act* and other legislation.





## Our Mandate includes:

- ▶ **Economic regulation**, to provide approvals, issue licences, permits and certificates of fitness, and make decisions on a wide range of matters involving federal air, rail and marine transportation.
- ▶ **Dispute resolution**, to resolve complaints about federal transportation services, rates, fees and charges.
- ▶ **Accessibility**, to ensure Canada's national transportation system is accessible to all persons, particularly those with disabilities.

## Our Vision

is a competitive and accessible national transportation system that fulfills the needs of Canadians and the Canadian economy.

## Our Mission

is to be a respected and trusted tribunal and economic regulator through efficient dispute resolution and essential economic regulation.

## Our Values

- ▶ **Integrity.** We act with honesty, fairness and transparency.
- ▶ **People.** We treat people with fairness, courtesy and respect, and foster a cooperative, rewarding working environment.
- ▶ **Quality Service.** We provide the highest quality services through expertise, professionalism and responsiveness.
- ▶ **Communication.** We promote constructive and timely exchange of views and information.
- ▶ **Innovation.** We commit to creative thinking as the driving force to achieve continuous improvement.
- ▶ **Accountability.** We take full responsibility for our obligations and commitments.







“I am proud to say that the Agency has made great strides in becoming a more efficient, forward-looking and client-focussed organization. In delivering services to clients and stakeholders, Agency Members and staff uphold the highest standards of transparency, impartiality, fairness and efficiency in everything we do.”

– Geoff Hare,  
Chair and CEO

## Employees

The Agency employs more than 250 people with a variety of backgrounds and skill sets. Our workforce is made up of economists, engineers, lawyers, financial analysts, human resource and communications specialists, mediators, as well as case management, licensing and enforcement officers, and other support staff. Because the Agency is a relatively small entity within the public service, we work closely together – creating a tightly knit group that understands the far reaching effects of its work within and outside the Agency.

What’s more, there is a strong sense of unity as diverse talents are often assembled into multi-disciplinary teams to tackle complex transportation matters. This ability to work together contributes greatly to the Agency’s effectiveness by establishing a collaborative and collegial atmosphere where each employee’s contribution is sought and valued.

## Members

The Agency’s five full-time Members are appointed by the Governor in Council. The Members are the quasi-judicial decision-makers responsible for rendering decisions and orders related to formal complaints or applications, as well as addressing other issues affecting Canada’s national transportation system.

In 2011-12, the Agency issued **1,826** rulings, virtually all of which required the involvement of Members of the Agency.

These rulings included:

- 546** orders;
- 467** decisions;
- 635** permits;
- 19** final letter decisions; and
- 159** interim decisions.





# Where We're **Going**

The Canadian and global transportation sector, the needs and expectations of clients and stakeholders, as well as our operating environment, continue to evolve – and the Agency needs to be able to respond to these changes. In May 2011, the Agency published a new three-year Strategic Plan that ensures we are well prepared to anticipate and deal with future challenges and to continue to perform at a high level.

Our 2011-2014 Strategic Plan builds on the investments we have made in setting a solid foundation – a foundation that supports the effective delivery of our mandate through high quality service. While it is ambitious in scope, it also ensures that we make the most effective use of the resources available to us. It takes into account key emerging issues and prepares the Agency to respond to them. It is informed by feedback on our performance – and insights gained – from our clients and stakeholders through our client satisfaction surveys and extensive outreach efforts. And it is supported by a comprehensive set of performance measures and stretch targets covering the full range of services we provide.

The Strategic Plan charts a clear three-year course, ensuring that the Agency's collective efforts, as well as our financial and human resources, are effectively and fully focussed on realizing the goals we have identified. Simply put, with this plan in hand, the entire Agency team shares a vision, understands it clearly, and has its sights set on achieving it.

For more on the Agency, its role and its vision, go to

**[www.cta.gc.ca/eng/aboutus](http://www.cta.gc.ca/eng/aboutus)**

For more on how the Agency works, go to

**[www.cta.gc.ca/eng/process](http://www.cta.gc.ca/eng/process)**

For a complete listing of Agency decisions currently before the Federal Court of Appeal or the Supreme Court of Canada, go to

**[www.cta.gc.ca/eng/courts](http://www.cta.gc.ca/eng/courts)**



To read the Agency's 2011-2014  
Strategic Plan, go to  
**[www.cta.gc.ca/eng/2011-14sp](http://www.cta.gc.ca/eng/2011-14sp)**

## Implementing our 2011-2014 Strategic Plan

The Agency is pursuing three strategic priorities:

1. A key to the Agency's successful future is high **quality client service**.

By improving and modernizing our services, the Agency will better meet the needs of our clients. As well, by being aware of our constantly changing environment, we will be able to anticipate changes and proactively respond to our clients' changing requirements.

2. The Agency's ability to fulfill its vision is dependent on an effective and efficient **regulatory regime** that is responsive to the Canadian transportation industry while serving the interests of Canadians.

We are committed to reviewing and renewing the regulatory regime and how it is administered in order to be responsive to the ever-changing reality of the Canadian transportation system and remain aligned with government priorities.

3. Ultimately, the Agency's ability to remain an effective tribunal and economic regulator rests on the knowledge, skills and dedication of its **people**.

In today's environment, we are faced with the simultaneous challenges of enhancing services to Canadians and responding to changing workforce demographics. We will continue to sustain and build the Agency's knowledge base through effective recruitment and development. We are committed to continuing to invest in our most important asset: our people.



## Strategic Priority

## Outcome

Client Service

Our dispute resolution services are high quality and our clients are well informed and served in a responsive and timely manner.

Regulatory Regime Renewal

Our regulatory and non-regulatory approaches and their administration are up-to-date, well understood and delivered effectively and efficiently.

People

Our employees are engaged, knowledgeable, respected and provide excellent service.

## Measuring our performance

The following pages set out our 2011-12 accomplishments against our Strategic Plan priorities and desired results, which together support the Agency's vision of a competitive and accessible national transportation system that fulfills the needs of Canadians and the Canadian economy.

The Agency strives for high performance in everything it does. The key performance targets found throughout this report allow us to measure progress towards providing ever-improving quality service, as well as timely decisions and determinations. In addition, in support of its three main priorities, the Agency aims to complete the strategic actions identified in its Strategic Plan by March 2014. Ongoing monitoring and reporting annually on our progress will help us assess where we are and how we are faring in meeting our objectives.

## Strategic Action (Target 2014)

**Measure and monitor client and stakeholder satisfaction and program performance to identify opportunities for improvement and respond to client and stakeholder needs**

- ✓ Action plans developed based on feedback from client survey results and consultations
- ✓ Stakeholder satisfaction with regulatory programs measured and analyzed
- ✓ Updated Performance Measurement Framework for dispute resolution services
- Take into consideration stakeholder feedback obtained through meetings and participation in industry events in the modernization and ongoing administration of the regulatory regime
- Monitor service performance standards; prepare and disseminate reports, including course correction plans



Client Satisfaction  
Performance Target:

70%

Overall client service satisfaction

As of March 31, 2012:

77%

“I think the relationship is very solid, and the senior management and mid-management people make a real effort in working with us and being transparent, more so than ever.”

– Railway association executive

# We're Listening

Because transportation matters affect us all, the Agency is committed to finding new and innovative ways to consult with and engage Canadians. We want to not only ensure that our clients and stakeholders are well informed, but also that we understand and are responsive to their needs.

## Listening to our clients and stakeholders

Each year, the Agency conducts client satisfaction surveys to gauge its success as a client-centred organization. These surveys help us to better understand our clients' and stakeholders' needs and how our services could be improved. The ongoing collection of feedback on our services, relationships and performance from transportation users and providers is a key part of our process for continuous improvement.

Clients surveyed include those who used the Agency's dispute resolution services, applied for new air licences, as well as carriers and terminals that underwent an inspection. Respondents were asked to rate their satisfaction with respect to several aspects of service from the Agency.

The 2011-12 survey results show that, regardless of the nature of their interaction, 77% of clients are satisfied with the overall quality of service provided by the Agency – a 10% increase over 2010-11 results and well above the 70% performance target set out in the Agency's Strategic Plan.

Three in four respondents felt that the Agency's process met their objectives, compared to three in five the year before. Respondents also noted improvements in Agency response times, and both clients and stakeholders are overwhelmingly positive about Agency staff: they are described as courteous, professional, customer-focussed and collaborative.

Both industry and associations alike are generally very satisfied with the opportunities for dialogue provided by Agency staff and senior management, and these relationships are seen as strengthening. This high level of satisfaction is universal to all groups surveyed in 2011-12, with stakeholders reporting a noticeable increase in outreach from the Agency.





## Improving website accessibility and usability

Informed by client feedback that its website required improvements, the Agency undertook efforts over the past year to enhance the organization, comprehensiveness and clarity of information provided on its website. These efforts have clearly paid off. The Agency's 2011-12 client satisfaction surveys indicated a significant increase in satisfaction with the ease of use and clarity of information on our website.

The Agency prides itself on having a website that meets, and in many cases exceeds, current web accessibility standards. This past year, the Agency proactively ensured that all new web content was compliant with the World Wide Web Consortium's Web Content Accessibility Guidelines, as required by the Government of Canada's Standard on Web Accessibility.

Even before the release of this new standard in early August, the Agency had already set to work enhancing the accessibility of all of its existing web content, including over 31,000 rulings. The accessibility work is nearly complete and is expected to be finalized by early spring 2012, well ahead of the Standard's implementation deadline.

While users' satisfaction with the Agency's website is much higher than in previous years, given its prominent role as a key source of information, the Agency will continue to focus on improving its accessibility and usability.

## Consulting with Canadians

The Agency recognizes that a key to its effectiveness and success is the extent to which its initiatives – policies, regulations, guidelines and decisions – are grounded in current realities and are fair in balancing the interests of the transportation sector's many and diverse clients and stakeholders.

The main vehicle through which this insight comes is formal consultation processes. These consultations allow us to better understand the perspectives of a wide range of citizens, stakeholders and experts to help us develop more informed and effective dispute resolution and regulatory services, including the ongoing modernization and administration of our regulatory regime.

Transparency  
Performance Target:  
**100%**

of formal decisions published  
on the Agency's website within  
one business day

As of March 31, 2012:

**94%**

“Keep up the great  
work in terms of recent  
improvements such as  
consultations [...]”

– Airline executive



For a list of ongoing and past consultations, go to [www.cta.gc.ca/eng/consultations](http://www.cta.gc.ca/eng/consultations) or visit [www.consultingcanadians.gc.ca](http://www.consultingcanadians.gc.ca)

To read the client satisfaction survey reports, go to [www.cta.gc.ca/eng/surveys](http://www.cta.gc.ca/eng/surveys)

“It is indeed wonderful for you to ‘open-up’ the consultation process to the travelling public and we thank you for that.”

– Canadian couple,  
on air services consultation

Formal consultations on the following subjects were completed or ongoing in 2011-12:

- New regulations for air services price advertising;
- Updating Canada’s *Air Transportation Regulations* (Phase 1);
- Review of the Railway Cost of Capital Methodology;
- Updating the *Railway Interswitching Regulations*;
- Recognition of pension costs for the western grain revenue cap program;
- The status of limited distribution tariffs; and
- *New Guidelines Respecting Net Salvage Value Determination Applications*.

The Agency also consulted with its Accessibility Advisory Committee – made up of representatives from the community of persons with disabilities, the transportation industry and other interested parties – on the following initiatives:

- Updating Part VII of the *Air Transportation Regulations*, which addresses the terms and conditions of carriage of persons with disabilities;
- Updating the *Personnel Training for the Assistance of Persons with Disabilities Regulations*;
- A new code of practice for the accessibility of terminals not part of the National Airports System; and
- A new resource tool for the carriage of mobility aids onboard aircraft, rail cars and ferries.

Respondents to the Agency’s client satisfaction surveys noted a significant increase in the number of consultations, both formal and informal. More significantly, these consultations are considered by stakeholders to be meaningful, serving as an opportunity to provide substantive input into issues affecting Agency policy, procedures and priorities.

## Consultation: Air services price advertising regulations

In December 2011, the Government of Canada announced that the Agency would develop new regulations requiring air carriers to include all fees and taxes in their advertised prices. The intent of the regulations is to ensure greater transparency for Canadians and allow consumers to easily determine the total cost of an air service in order to make informed choices.





The Agency sought broad public input on the development of the new regulations by initiating a two-pronged consultative approach. Face-to-face meetings were held with key carriers, air industry and consumer associations, as well as other interested parties. At the same time, the Agency conducted its first-ever proactive consultation with consumers aimed at obtaining input before new regulations were drafted.

An innovative online consultation platform using web 2.0 “crowdsourcing” allowed Canadians to easily post ideas, as well as to comment on and support the ideas they liked best – providing a forum for the Agency to tap into the views of Canadians across the country. Through initiatives such as this, the Agency supports the Government of Canada’s commitment to open dialogue, by expanding engagement and giving Canadians a greater say.

Canadians and industry stakeholders across the country answered the call to action. In the two-week online consultation, over 3,500 Canadians visited the site to gather information and participate in the forum. Promotion using social media resulted in numerous tweets by Canadian influencers, industry and government stakeholders about the consultation, with a direct impact on the consultation website’s traffic. Interested parties also had the opportunity to provide formal written submissions, with 60 posted on the site in support of a transparent consultation process.

Feedback from client satisfaction survey participants indicates that this consultation format was particularly well received by stakeholders and is seen as a good model for future consultations.

Input received during the consultation is contributing to the Agency’s drafting of airfare price advertising regulations. In the summer of 2012, the Agency plans to publish the draft regulations in the *Canada Gazette*, Part I to give all Canadians the opportunity to review and comment on them. It is expected that the final regulations will be published in Part II of the *Canada Gazette* by December 2012.



## Strategic Action (Target 2014)

**Engage in proactive dialogue  
with clients to better  
understand their needs**

- ☑ Meetings and consultations with carriers, shippers, and industry associations on air travel, rail and marine issues through various mechanisms
- ☑ Face-to-face consultation with the Agency’s Accessibility Advisory Committee
- ☑ Quarterly roundtables with the Agency’s Technical Advisory Committee for Rail Noise and Vibration



Any successful organization –  
in the public or private sector –  
well understands that its  
employees are its greatest asset.

### Strategic Action (Target 2014)

#### **Provide our people with professional development opportunities**

- ✓ Learning roadmaps introduced to help employees plan their careers
- ✓ Quarterly employee movement reports to provide a snapshot of staffing processes
- Introduce Agency Developmental Assignment Program tailored to individual and Agency needs





# Our People

The Agency relies on the knowledge and skills of its employees to provide support to its dispute resolution process and to maintain an effective and responsive regulatory framework.

Experienced, professional and talented people are key components of the Agency's commitment to further enhance its responsiveness to client and stakeholder needs and its reputation as a respected, trusted tribunal and economic regulator.

Targeted recruitment, staff development and knowledge transfer initiatives are being undertaken to ensure stakeholders and clients remain confident that Agency staff have the expertise and institutional memory to effectively deliver on their mandate.

"I want to thank you, first for successfully resolving my complaint, but most of all, for the courteous and customer-friendly manner in which you handled the matter. It has been an absolute pleasure dealing with you."

– Ineke Stovel, to her case officer

## Engaging with and listening to our employees

The results of the Government of Canada's Public Service Employee Survey (PSES) provide an important source of feedback and help the Agency determine the pulse of staff satisfaction, identify concerns, and understand where to focus efforts. Following the release of the 2008 PSES results, an internal employee-led working group was established to provide advice to senior management on workplace improvements.

To make the Agency an even better place to work, while maintaining and ultimately enhancing employee expertise in support of effective client service and regulatory renewal, the Agency integrated this employee-led group's recommendations into its 2011-2014 Strategic Plan.

As a result, actions were – and are being – implemented to enhance employee engagement, communications and dialogue, conflict resolution, new employee orientation, and training and career development.

### Strategic Action (Target 2014)

**Ensure our people have the knowledge and tools to carry out their work**

- ✓ Expanded investment in learning and training, including the ongoing delivery of a full curriculum of customized in-house training courses
- Develop inter-branch mentorship program for new employees
- Formalize a knowledge management strategy
- Develop Agency learning strategy, including internal and external training opportunities

## Strategic Actions (Target 2014)

### **Recruit and retain people with the skills and competencies required by the Agency**

- ✓ New careers page launched to attract talent
- ✓ Onboarding checklists for new employees and their managers
- ✓ Updated new employee orientation information on the intranet
- Develop a targeted Agency recruitment strategy

### **Ensure ongoing communication and dialogue throughout the Agency**

- ✓ Internal communication activities in support of enhanced dialogue:
  - ✓ Launched the Communications and Dialogue Wheel to better explain roles and responsibilities
  - ✓ Updated the Agency's Governance Framework
  - Workplace communications training

To address employee concerns about their mobility and career progression, the Agency has worked to ensure the availability of developmental opportunities, with the ultimate goal of continuing to provide consistent, quality service to its clients and stakeholders.

In parallel, to keep in step with changing staff demographics, the Agency continues to focus on the capture and preservation of corporate knowledge and expertise through knowledge transfer projects. New courses on file hearings, communicating with parties and decision writing have also contributed to more efficient and consistent dispute resolution services.

In today's competitive marketplace, recruiting and retaining people with the specialized skills and competencies that the Agency needs requires coordinated, sustained efforts. As a result, the careers section of the Agency's website was redesigned to appeal to candidates motivated by the Agency's reputation for offering a dynamic and positive work environment, challenging work, and career opportunities in transportation.

Effective service to clients starts by sustaining and nurturing an environment that supports shared values of communication, respect and trust throughout the Agency. With this in mind, the Agency's governance framework was updated and strengthened to ensure that it continues to support collaboration, coordination and two-way dialogue at all levels.

## Employee feedback demonstrates positive headway

The many initiatives implemented in 2011-12, as well as in the previous two fiscal years, appear to have contributed to dramatically improved 2011 PSES survey results as compared to the 2008 results. With over 85% of Agency employees participating in this survey – our highest participation rate to date – the results clearly support the Agency's determination to be, and to be seen as, an employer of choice.

Indeed, Agency employees are increasingly satisfied with their work, indicating that they:

- feel that the Agency treats them with respect;
- have a clear understanding of how their work contributes to Agency goals; and
- agree that the Agency regularly evaluates its progress and does a good job of communicating its vision, mission and goals.

Overall, Agency results in the 2011 PSES were highly favourable and marked a significant improvement over the 2008 survey. The most improved results were in the areas of employee engagement, a high-performing organization, work-life balance and career development. For example, 91% of Agency employees indicated that they are proud of the work that they do.

While there are still some areas for improvement, in particular in the areas of job mobility and informal conflict resolution, employees showed increased confidence that Agency senior management will address concerns raised in the survey.

To strengthen the Agency's employee engagement, an Agency framework was developed to promote effective dialogue and collaboration and to help maintain and improve employee retention, performance and trust.

In 2011-12, the Agency also launched a new Informal Conflict Management System and will continue to address concerns raised in the 2011 PSES through ongoing promotion of the support available to employees and by ensuring that workplace conflicts are dealt with in a timely, respectful manner when they arise.

## Strategic Actions (Target 2014)

### **Champion public service values and ethics and a climate of trust, integrity and respect**

- ✓ Best practices in fostering a respectful workplace, including ongoing training, identified and implemented
- ✓ Renewed Informal Conflict Management System
- ✓ Employee engagement framework developed
- Develop an Agency employee Code of Conduct

### **Embed a workplace culture that promotes service quality and innovation**

- ✓ Improved Agency results on employee engagement in 2011 Public Service Employee Survey
- Implement a new Agency awards and recognition program





# Resolving Disputes





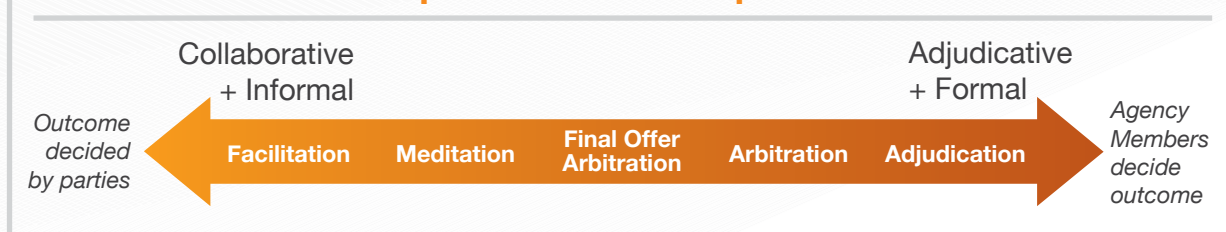


In 2011-12, as is the case each year, hundreds of transportation users and service providers turned to the Agency looking for ways to resolve their disputes about:

- transportation services;
- fares, rates and charges;
- terms and conditions of carriage; and
- accessibility.

The Agency provides a number of dispute resolution services, ranging from facilitation to mediation, final offer arbitration, arbitration and adjudication. The Agency has developed guidelines to streamline its approach to dispute resolution into two separate processes: informal and formal.

### Dispute Resolution Spectrum



Timely Dispute Resolution  
Performance Targets:

80%

of complex disputes resolved  
within 90 days  
(after pleadings are closed)

As of March 31, 2012:

46%

Average of

120 days

to resolve all other disputes  
(except coasting trade)

As of March 31, 2012:

89 days



## Strategic Action (Target 2014)

### **Introduce new and expanded client-oriented resources to facilitate access to and understanding of the Agency's dispute resolution services**

- ✓ Released Agency methodology for assessing railway noise
- ✓ Updated the publication Fly Smart, a one-stop resource tool for air travellers
- ✓ Enhanced online access to Agency dispute resolution services through implementation of stringent web accessibility standards
- Develop a client-oriented resource tool to help accessibility dispute applicants
- Revise Agency rules of procedure for disputes, in part to help unrepresented parties better understand the requirements and participate in the Agency's formal dispute resolution process
- Expand information resources on the website to support the resolution of air travel complaints

In its 2011-2014 Strategic Plan, the Agency identified client service as a key priority. Over the past year, we have worked hard to sustain our reputation as a service-oriented organization and to consistently strive for continuous improvement. This dedication to quality service is reflected in our vision, mission and values, but also in our day-to-day interactions with our clients.

Our strategic outcome is that our clients see our dispute resolution services as high quality, and that they feel they are well informed and are served in a fair, responsive and timely manner.

The Agency resolved 350 disputes in 2011-12.\*

Of these,

307 were resolved through facilitation; and

6 were resolved through mediation.

Of the 127 cases referred to formal adjudication at the start of the year:

37 were resolved through decisions issued; while

21 were withdrawn.

*\*Proceedings in some cases combined to gain efficiencies*







# Striving for efficiency in dispute resolution

With the launch of its 2011-2014 Strategic Plan, the Agency introduced several new performance targets for dispute resolution services and also modified existing ones based on the lessons learned, and the benchmarks established, between 2008 and 2011.

One important new performance measure we set is to have 80% of complex formal cases resolved in 90 days after the close of pleadings. Meeting this target in 2011-12 proved to be a challenge, and, ultimately, the Agency achieved it in 46% of cases.

Of the 13 complex formal cases, three were related to accessible transportation, five to air transportation, and five to rail transportation. All of these cases were not only complex, but many considered new issues and may provide a framework for future cases related to rail noise and vibration, accessibility for air travelers with disabilities due to their allergies, and air passenger rights.

While the target to resolve complex disputes in 90 days after the close of pleadings has not yet been achieved, the Agency did make significant improvements in the processing of such cases. The average number of days after close of pleadings was reduced from 173 in 2010-11 to 108 this year. This is reflected in the results of our most recent client satisfaction surveys, which recognize the Agency's efforts to improve the timeliness of its processes and services, while at the same time better managing clients' expectations, are paying off.

Initiatives that were introduced in the past year have clearly helped to streamline the dispute resolution process for less complex cases. The average time to resolve disputes of medium complexity was 89 days, which is faster than the 120-day performance target.

Four in five respondents to the Agency's 2011-12 client satisfaction surveys agreed that the Agency has made progress in educating applicants on what information must be submitted, that the dispute resolution process was clearly explained, and that it was conducted in a professional manner.

The Agency will continue to work hard to improve its case management practices and procedures over the next two years by introducing new information and guidance for parties as well as tools for staff, in order to gain further efficiencies in dispute resolution and to enhance client understanding of and access to these services.

In addition, the ongoing assessment of our results will help us determine if other innovations can be implemented in order to ensure the achievement of our performance targets.

## Strategic Action (Target 2014)

### **Improve case management practices and procedures**

- ✓ Streamlined processing of formal cases through triaging and delegation of administrative issues to staff
- ✓ Established new policies to improve the efficiency of the management of formal cases by combining proceedings, using decision trees and templates
- Increase facilitation and mediation of railway noise and vibration and air travel complaint cases





For more on the Agency's dispute resolution processes, go to

**[www.cta.gc.ca/eng/disputes](http://www.cta.gc.ca/eng/disputes)**

For detailed statistics on dispute resolution, go to

**[www.cta.gc.ca/eng/statistics](http://www.cta.gc.ca/eng/statistics)**

To learn more about the Agency's formal decision-making process, go to

**[www.cta.gc.ca/eng/decisions](http://www.cta.gc.ca/eng/decisions)**

Effective Mediation and Facilitation Performance Target:

**100%**

of disputes mediated within 30 days (when no extension is requested)

As of March 31, 2012:

**100%**

## Providing effective options to clients

In 2011-12, over 89% of complaints brought forward by individual consumers were resolved informally, either through facilitation or mediation. The advantages of this approach are that acceptable solutions are found quickly, while both parties typically save considerable time and expense by resolving the issue without resorting to the Agency's formal adjudication process.



The majority of complaints received by the Agency are resolved by facilitation – a process which involves an informal discussion with the parties, facilitated by Agency staff who contribute their expert knowledge of the federal transportation system and dispute resolution. In the past year, 307 disputes were facilitated – of these, 12 were related to accessibility, 293 were related to air and two were related to rail.

Mediation is an informal, voluntary and confidential process that promotes open and respectful communication. It allows the parties in a dispute to express their views, examine their interests and concerns, explore creative options and develop their own solutions in a timely and cost-effective manner.

The Agency met its target by completing all six fully resolved mediation cases within 30 days. An additional 14 cases were extended at the request of the parties.

Participants in the Agency's 2011-12 client satisfaction surveys credited Agency staff with making informal processes successful, "go-to" dispute resolution options that save time and resources for industry stakeholders and for the travelling public alike.

By actively promoting the expanded use of alternative dispute resolution as a cost-effective and timely option for resolving disputes informally, the Agency has reduced the demand for formal adjudication. For example, significant progress was made toward the development of a series of client-based resource tools for mediation and arbitration to explain the approaches and their advantages. The Agency also initiated a review of its approach to the administration of final offer arbitration with a view to improving the quality of service and strengthening its list of arbitrators.

## Strategic Action (Target 2014)

### Expand the use of alternative dispute resolution and actively promote it

- Develop and implement arbitration rules and procedures
- Introduce new resource tool for the mediation of disputes
- Review and consult on improvements to the current approach to final offer arbitration
- Through promotional efforts and "active offer," expand client use of alternative dispute resolution services

In 2011-12, **32** mediation cases were processed or opened:

- 6** cases were successfully resolved;
  - Of these,
    - 5** related to rail disputes; and
    - 1** related to an accessibility dispute.
  - 3** cases were partially resolved;
  - 13** cases were withdrawn, unresolved or declined by one party; and
  - 10** cases are currently in progress.





# Resolving Accessibility Disputes







The Agency has a responsibility to ensure that any undue obstacles to the mobility of persons with disabilities are removed from federal air, rail, and extra-provincial ferry and bus transportation.

To ensure a more accessible transportation network, the Agency removes undue obstacles in two ways:

- on a case-by-case basis, by resolving individual complaints; and
- on a systemic basis, by developing regulations and codes of practice to ensure accessibility.

## Progress report on accessibility

In 2011-12, the Agency exceeded its performance target for accessibility disputes with all 12 disputes using facilitation resolved within the 30-day target. The one mediated accessibility dispute was also resolved within the 30-day target.

An additional six cases were resolved through the Agency's formal process. In adjudication, the Agency has faced increasingly complex and unprecedented accessibility issues. For example, the Agency addressed the matter of cat allergies for the first time. Such complex cases often involve multiple parties and issues, and can require the submission of expert evidence.

In 2011-12, the Agency resolved **19** accessibility dispute cases.

Of these,

- 12** were resolved through facilitation;
- 1** was resolved through mediation; and
- 6** were resolved through adjudication.\*

In addition,

- 6** were withdrawn or closed due to lack of response from applicants; and
- 23** were still in progress at year end.

*\*Proceedings in some cases combined to gain efficiencies*



Effective Mediation  
and Facilitation  
Performance Target:

**80%**

of accessibility disputes  
facilitated within 30 days

As of March 31, 2012:

**100%**





For statistics on disputes involving the mobility of persons with disabilities,

go to

**[www.cta.gc.ca/eng/statistics](http://www.cta.gc.ca/eng/statistics)**

For updates on the Agency's allergy cases, go to

**[www.cta.gc.ca/eng/allergy-cases](http://www.cta.gc.ca/eng/allergy-cases)**

For more on resolving accessibility disputes, go to

**[www.cta.gc.ca/eng/access-disputes](http://www.cta.gc.ca/eng/access-disputes)**

### Decision: Peanuts and nuts in aircraft cabins

An allergy is not automatically considered to be a disability for the purposes of the *Canada Transportation Act*. However, the Agency has determined that a person with an allergy may be found to be a person with a disability if the allergy sufficiently limits the person's access to the federal transportation network.

In June, the Agency issued its final decision addressing Air Canada's accommodation of passengers disabled by an allergy to peanuts or nuts.

In earlier preliminary decisions, the Agency had determined that, when at least 48 hours advance notice is provided to Air Canada, the appropriate accommodation for these travellers is as follows:

- Air Canada will create a buffer zone for the passenger, in line with specific parameters set out in the decision;
- only peanut- and nut-free foods will be served within the buffer zone as part of its onboard snack or meal service; and
- personnel will brief passengers within the buffer zone that they can only eat foods that are peanut- and nut-free.

Air Canada agreed to create a buffer zone for such passengers and to provide a briefing to other passengers within the zone. However, Air Canada filed undue hardship arguments with respect to the requirement to serve only peanut and nut-free foods within the buffer zone, as there are currently no flight kitchens available to deliver on this guarantee.

In its final decision, the Agency accepted that Air Canada cannot guarantee that snacks or meals served in the buffer zone will be entirely free of traces of peanuts or nuts because of the risk of cross-contamination. Consequently, within the buffer zone, Air Canada is now required to serve only snacks and meals which do not contain peanuts or nuts as visible or known components.

### Decision: Cats in aircraft cabins

Following Air Canada's reintroduction in June 2009 of a policy accepting pets for carriage in aircraft cabins, the Agency received three cat allergy complaints. Complaints involving other pets (i.e. dogs and rabbits) were subsequently filed. However, the Agency deemed it





appropriate to issue its decision on the three cat allergy complaints before considering new applications which raise similar issues.

After examining evidence received from the complainants, as well as from Air Canada, Jazz and WestJet, against whom the complaints were filed, the Agency found that the complainants were, in effect, persons with disabilities for the purposes of the Act.

In a decision issued in December, the Agency found that the respondents' current policies on the carriage of cats in aircraft cabins constitute an obstacle to the mobility of people with cat allergies who are considered persons with disabilities as a result of their allergy.

The respondents must implement one of the appropriate accommodations identified by the Agency on the aircraft they operate, or else propose an equally responsive alternative or provide additional arguments to support a position that any form of accommodation would result in undue hardship for them. The Agency expects to issue its final decision on accommodation in the summer of 2012.

### **Decision:** Federal Court of Appeal rules on jurisdiction over accessible transportation cases

In November, the Federal Court of Appeal (FCA) issued a decision in a case involving the Agency and the Canadian Human Rights Commission.

The Commission had appealed a 2010 ruling in which the Federal Court of Canada set aside a decision by the Canadian Human Rights Tribunal (CHRT) in favour of a decision that had already been rendered in the same case by the Agency.

In doing so, the Federal Court agreed that the Agency has exclusive jurisdiction to deal with human rights complaints that relate to a carrier's policies, tariffs or transportation regulations within the federal transportation network, citing from a past Supreme Court of Canada decision that "the Agency has the unique specialized expertise to balance the human rights of those with disabilities against the practical realities of the federal transportation system". It also concluded that it was inappropriate for the CHRT to sit in appeal of the Agency's decision.

In its decision issued in November, the FCA upheld the Federal Court's ruling, stating that the CHRT cannot reconsider a matter already adjudicated by the Agency. However, the FCA did not address the question of whether the Agency has exclusive jurisdiction over disability-related cases involving the use of federal transportation. The FCA stated that for the purpose of the appeal, it was sufficient to assume, without deciding, that the Tribunal did have concurrent jurisdiction with the Agency.



"I have been again impressed by the thoroughness and professionalism demonstrated by the Agency. [...] We Canadians are most fortunate to have an agency like the CTA."

– W. Kirby Rowe, to his accessibility dispute case officer





# Resolving Air Travel Disputes





In the past year, air passenger rights and the provision of timely and quality services by air carriers have gained attention not only in Canada, but around the world. For example, several countries have adopted various forms of regulations and measures to protect air passenger rights.

The Flight Rights Canada initiative communicated to travellers their rights vis-à-vis carriers relating to delayed or cancelled flights, lost or damaged baggage, tarmac delays and other problems associated with air travel. Four major Canadian air carriers have since voluntarily incorporated these rights in their tariffs, which makes them enforceable by the Agency. In fact, complaints filed regarding some of these tariff provisions are currently in the Agency's adjudication process.

The Agency has a mandate to address a broad range of consumer protection issues related to air travel, including baggage, flight disruptions, tickets and reservations, denial to board, refusal to transport, passenger fares and charges, cargo, and carrier-operated loyalty programs.

Air-related complaints that the Agency can address are assessed against the air carrier's tariff – its terms and conditions of carriage – as well as Canadian transportation law and applicable international conventions. Where it appears that a carrier has not met its obligations, Agency staff will approach the carrier and informally attempt to resolve the issue. The vast majority of such complaints are resolved in this manner.

The Agency does not have jurisdiction over safety issues and generally refers these complaints to Transport Canada. The Agency also does not have the mandate to deal with air travel complaints involving the quality of air carrier services, such as the attitude of airline staff; such issues are the sole responsibility of airline management.

The Agency is, however, required by legislation to report on the number and nature of all air travel complaints received.

## Progress report on air disputes

In 2011-12, 293 cases were facilitated, with 95% of these handled within the Agency's 90-day target. This marks not only higher performance than the 80% goal, but also a significant improvement over previous years. The improved performance is due in part to a significant reduction in the backlog of cases. The average active time per case has also been greatly reduced, by 65 days, due to enhanced efficiencies in case management practices.

Far fewer cases are now dealt with through the Agency's formal process, with informal approaches, such as facilitation, proving to be an effective solution; of the cases that first went to facilitation, only three could not be resolved and were referred to the formal process.



Effective Mediation  
and Facilitation  
Performance Target:

80%

of air travel complaints  
facilitated within 90 days

As of March 31, 2012:

95%



For more on resolving air disputes, go to [www.cta.gc.ca/eng/air-disputes](http://www.cta.gc.ca/eng/air-disputes)

For statistics on air travel complaints, go to [www.cta.gc.ca/eng/statistics](http://www.cta.gc.ca/eng/statistics)

Nineteen cases were submitted directly to the Agency for adjudication. Of these, 13 cases were successfully resolved. Such cases are generally very complex, often involving overarching policy issues and the interpretation and application of international conventions in Canada.

### Total air travel complaints

In 2011-12, the Agency received a total of **518** air travel complaints – **499** for informal facilitation and **19** for formal adjudication. It also began the year with a carry-over caseload of **77** complaints which had not been resolved in the previous year, bringing the Agency's total active caseload to **595** air travel complaints.

### Informal process – addressed

**365** air travel disputes were addressed through the Agency's informal resolution process.

Of these,

- 60** were determined to be outside the Agency's mandate;
- 1** was determined to be about a carrier that had ceased operations;
- 8** were withdrawn;
- 293** were settled through facilitation; and
- 3** were referred to the Agency's adjudication process.

**53** additional cases were still undergoing facilitation at year end.

### Informal process – referred to carrier

**In addition, 147 complaints submitted to Agency staff without first being brought up with the carrier were referred for resolution between the complainant and the carrier.**

Of these,

- 120** cases were resolved between the complainant and the carrier;
- 24** cases were not resolved between complainant and carrier; and
- 3** cases referred to the carriers by Agency staff were still being reviewed by the carrier at year end.





## Formal process – resolved

### **13 air travel disputes were resolved through adjudication.**

Of these,

- 5** related to allegations that a carrier had failed to respect its tariff;
- 1** related to allegations that the provisions of a carrier's tariff were unreasonable;
- 5** related to allegations of unreasonable domestic airline pricing; and
- 2** related to other topics.

## Formal process – withdrawn, dismissed or ongoing

In addition,

- 4** air travel disputes were withdrawn or dismissed from the Agency's adjudication process; and
- 13** cases were still in adjudication at year end.

## Monitoring trends in facilitated air travel disputes

In the last year, there has continued to be an overall decline in the number of complaints received by the Agency for referral to the carrier.

This is due in part to the communication and education initiatives the Agency has used to encourage passengers and carriers to work together to first find their own solutions before coming to the Agency. Modifications made to the Agency's website more clearly spell out its processes, the issues it can and cannot deal with, and what outcomes can be realistically expected.

This trend may also point to improved customer service, greater consistency in the application of tariff provisions by air carrier staff and renewed efforts to resolve issues when they first arise.

On the other hand, in 2011-12, the Agency saw a rise in the number of complaints submitted for facilitation. This may be due in part to consumers' increased awareness of their rights and responsibilities, as well as of the obligations of their air carrier with respect to delayed or cancelled flights, lost or damaged baggage, tarmac delays and other problems associated with air travel. Another contributing factor to the increase may be the issuance of Agency decisions that have clarified carriers' liability with regard to mishandled baggage.



“I was seriously impressed with the attention and efficiency with which this complaint was handled. In all my dealings with government offices I don't think I've ever encountered a process that was as efficient and responsive as this one was. [...] The staff were all friendly and supportive and clearly answered any questions.”

– Hans Rollman,  
air travel complaints client



“I was fortunate to be assigned to [my case officer] who was incredibly helpful. I was also impressed with the way in which she kept me up to date through email and phone calls. It was a wonderful example of great customer service!”

– Peter S. Taylor,  
air travel complaints client



## Categories of complaints

For the third year in a row, quality of service was the most common issue raised in complaints received for facilitation, even though it is outside the Agency’s mandate to resolve complaints about such matters. This issue was cited 551 times by complainants.

Flight disruptions also continue to be a concern for air travellers, having been cited 226 times in complaints brought to the Agency’s attention in 2011-12. Issues related to lost, damaged or delayed baggage, and other baggage-related concerns, were cited 123 times in complaints.

## Canadian air carriers

Most of the complaints in the facilitation process were about Canada’s major carriers, with smaller carriers accounting for 2% of all complaints. Specifically, in the past year, there were 215 complaints about 11 Canadian carriers, compared to 219 complaints in 2010-11 and 235 complaints in 2009-10.

Overall, in 2011-12, there were fewer complaints about major air carriers than in the previous year. Notably, the number of complaints about Air Transat and Jazz both fell by six – from 29 to 23 for Air Transat and from 16 to 10 for Jazz. The number of complaints about Sunwing decreased from 16 to 12. In addition, the number of complaints about WestJet decreased from 11 to eight.

Only in the case of Air Canada were more complaints received than in the previous year – with a total number of 152 in 2011-12 as compared to 135 in 2010-11.

## Foreign air carriers

The number of complaints about U.S. carriers brought to the Agency’s attention in 2011-12 remained at 29, the same number as in 2010-11. Although fewer complaints were submitted about major U.S. carriers such as Continental and Delta, the number of complaints about United Airlines doubled to 16.

In contrast, the number of complaints about European Union air carriers rose to 55 in 2011-12 from 41 in 2010-11. This can be attributed in part to the fact that there were more EU air carriers subject to complaints – 14 in 2011-12 compared to six in 2010-11. There was also a notable rise in the number of complaints about British Airways – from four to 13. While the number of complaints about other EU air carriers such as KLM and Alitalia varied slightly from their 2010-11 levels, only those for Air France showed a notable decrease – from 12 to six.





The number of complaints about all other foreign carriers also rose from 49 in 2010-11 to 61 in 2011-12. This year, more foreign, non-EU air carriers were subject to complaints – 24 carriers in 2011-12, compared to 21 in 2010-11.

### **Decision:** Air Canada's exemption from liability

In August 2011, the Agency issued a final decision in response to a complaint about Air Canada's exemption from liability for the carriage of fragile, perishable or valuable articles on international flights for itineraries where neither the Warsaw Convention nor the Montreal Convention apply. In its decision, the Agency determined that it is reasonable to apply the principles of the Montreal Convention to those itineraries.

### **Decisions:** Pricing complaints

The Agency can address complaints concerning unreasonable fares and rates, or an inadequate range of fares and rates, for Canadian domestic routes on which there is no, or limited, competition. The Agency issued five decisions in 2011-12 on airline pricing complaints.

Three complaints were dismissed as the Agency determined that there were reasonable alternative domestic services. One complaint was dismissed on the basis that there was no conclusive evidence to support the allegation that the carrier was offering an inadequate range of fares. In the remaining case, Air Canada was directed to increase the range of fares on its Toronto-Timmins route.

### **Suspended:** Air Canada's international tariff revision

In November, Air Canada submitted revisions to its international tariffs – which were to come into effect in January – to reflect that it will no longer transport non-human primates for research.

Before Air Canada's proposed tariff revisions came into effect, the Agency received complaints that the revisions are unjust, unreasonable or unduly discriminatory as per the *Canada Transportation Act* and the *Air Transportation Regulations*.

The Agency has suspended Air Canada's revisions while it considers the complaint through a file hearing.



“Thank you so much for your help in resolving our complaint. It's been a really quick and efficient way to receive a response from [the airline].”

– Dr. Quynh Le Ba, to his case officer





# Resolving Rail Disputes





Part of the Agency's mandate is to help resolve disputes between railway companies and shippers or other parties, as well as between railway companies.

The Agency investigates complaints and applications on the following topics:

- rail noise and vibration;
- railway crossings;
- transfer and discontinuance of railway lines;
- interswitching;
- running rights and joint track usage;
- level of service;
- public passenger service; and
- incidental charges, such as demurrage.

When negotiations break down, the Agency can be asked by one or both parties to assist, through facilitation or mediation, or to deal with a complaint through its adjudicative process.

An additional resolution mechanism is final offer arbitration, used to settle rate and service disputes between a shipper and a carrier. Final offer arbitration is administered by the Agency and conducted by an independent arbitrator, who will select either the final offer of the shipper or the carrier.

For more information on resolving rail-related disputes, go to [www.cta.gc.ca/eng/rail-disputes](http://www.cta.gc.ca/eng/rail-disputes)

Effective Mediation and Facilitation  
Performance Target:

80%

of rail disputes facilitated  
within 30 days

As of March 31, 2012:

100%







“The FOA [final offer arbitration] is an effective tool but we see a lot more opportunity for the Agency to play [...] more of that role as an adjudicator to help to level the playing field [...]. We see a lot more potential for the Agency.”

– Railway executive

## Progress report on rail transportation

The Agency proactively offers alternative dispute resolution mechanisms that are timely, cost effective and meet the needs of rail shippers and railways.

Two rail disputes were facilitated in 2011-12, and both of these cases were successfully resolved within the performance target of 30 daysz, surpassing our performance target of resolving 80% of such cases in this timeframe.

An additional nine disputes were resolved through adjudication. The Agency continues to address complex issues related to railway noise and vibration – an area that presents some specific challenges. Such complaints are usually filed by multiple parties or individuals representing community interest groups and complainants are often not familiar with the Agency’s formal quasi-judicial process.

The Agency has drawn on the experiences and the decisions in a number of these cases to develop a framework that can be used to deal with future cases in a more efficient, effective and timely manner.

The Agency is committed to guiding parties through its processes and helping them to understand their dispute resolution options.

In 2011-12, the Agency resolved 16 rail dispute cases

Of these,

- 2 were resolved through facilitation;
- 5 were resolved through mediation; and
- 9 were resolved through adjudication.

In addition,

- 7 disputes were withdrawn; and
- 22 cases are currently in progress.



## **Published:** Railway Noise Measurement and Reporting Methodology

The Agency has a specialized, technical mandate to resolve disputes relating to railway noise and vibration.

To assist parties in preparing a complaint application, the Agency published the Railway Noise Measurement and Reporting Methodology, which sets out procedures for the assessment of noise levels from existing rail installations and installations under construction.

In addition, working with its Rail Noise and Vibration Technical Advisory Committee, the Agency is currently developing best practices to help establish a baseline for noise and vibration levels and to identify potential noise mitigation measures.

Finally, in November, the Agency signed a memorandum of understanding with Transport Canada on the coordination of efforts related to railway noise and vibration complaints, as well as related to the opening and closing of road, utility, and private crossings.

## **Appeal:** Quayside Community Board

In September, the Federal Court of Appeal (FCA) ruled on an appeal brought by railway companies (including CN and CP) regarding an Agency decision in a noise and vibration complaint filed by the Quayside Community Board (QCB), an association of condominium owners in New Westminster, B.C.

Initially, following successful mediation in 2008, the QCB and the railway companies had arrived at a settlement; however, in April 2010, the QCB filed a second complaint with the Agency, stating that the mediated solution had failed.

The railway companies' appeal to the FCA centred on the issue of whether the Agency had jurisdiction to hear the complaint, given their assertion that the issue had previously been settled through the Agency's mediation process. In its decision, the Agency maintained that it still had jurisdiction to hear the second complaint, as it had not yet issued a decision regarding the first complaint.

However, the FCA found that mediation may replace the Agency's adjudicative process if the settlement agreement was intended to be final and binding. The FCA returned the matter to the Agency so that it could determine if this was the case.

In its latest decision, issued in March, the Agency found that the settlement agreement was intended to finally resolve the issues that were raised in the first complaint and that therefore, the QCB may not bring those same issues before the Agency for adjudication. This result is significant because it may apply to settlement agreements for future cases with similar circumstances.





For detailed statistics on railway infrastructure and construction, go to [www.cta.gc.ca/eng/statistics](http://www.cta.gc.ca/eng/statistics)

“My relations with staff, and my colleagues’ relationship with staff, deserves an A+.”

– Railway executive

## Decisions: Rail construction and its impact on our environment

Laying new railway track of any length can affect the environment through which it is to run. The Agency is empowered by the *Canadian Environmental Assessment Act* to assess the impact of new construction on the environment for specific projects. The Agency can only approve the construction of a railway line if an environmental assessment is conducted and the Agency determines that it will not cause any significant adverse environmental effects.

In 2011-12, the Agency was involved in 27 ongoing environmental assessment processes for proposed rail line construction projects, and issued four decisions giving authority to construct railway lines.

Additionally, another 41 environmental assessment processes for projects such as road and utility crossings required Agency involvement.

## Agreements: Crossings

This past year, the Agency processed 130 agreements filed by parties who had successfully conducted their own negotiations related to crossings. These agreements became orders of the Agency. Where no agreement could be reached, the Agency was called upon by the parties involved to assist them in reaching a fair and equitable resolution.

In 2011-12, the Agency issued 3 decisions on crossings through its adjudication process. It also resolved 1 case through facilitation and 3 cases through mediation.

Of these,

6 concerned private or road crossings; and

1 concerned utility crossings.



## Decision: Rate determination for a public passenger service provider

In April 2011, the Agency resolved a complex rail dispute case involving a rate determination for a public passenger service provider. The decision was only the second of its kind since changes to the *Canada Transportation Act* were introduced in 2007.

After an arrangement between VIA Rail and Goderich-Exeter Railway Company Limited expired, the Agency was asked to determine the rate to be paid by VIA Rail for its use of the railway's infrastructure.

The Agency applied its methodology for determining railway costs in regulatory applications to calculate the rate to be paid by VIA Rail. After the decision was issued, Agency staff conducted a post-mortem analysis of the two rate determination cases in order to identify lessons learned that can be applied in future similar cases.



“We have a better relationship with the Agency than so many other agencies [...] in some areas the relationships have gotten stronger and more meaningful.”

– Railway association executive





# Resolving Marine Disputes



Marine disputes can involve user fees at ports, charges for pilotage services, or coasting trade applications for foreign or non-duty paid ships to work in Canadian waters.

The Agency examines marine complaints in the following areas:

- disputes related to coasting trade applications;
- tariffs proposed by pilotage authorities;
- fees fixed by port authorities;
- final offer arbitration of northern resupply carrier disputes; and
- unreasonable price increases or reductions of service by a shipping conference.



Timely Dispute Resolution  
Performance Target:

80%

of disputed coasting trade  
applications (with offers)  
resolved within 90 days

As of March 31, 2012:

89%







For more information on resolving marine disputes, go to [www.cta.gc.ca/eng/marine-disputes](http://www.cta.gc.ca/eng/marine-disputes)

## Progress report on marine transportation

In the past year, the Agency has observed a decrease in the number of offers of Canadian ships for coasting trade applications.

The Agency resolved nine disputed coasting trade applications where a Canadian ship was offered. Of these, 89% were concluded within 90 days – well above the Agency's 80% target. These cases were moderately complex, and six resulted in the Agency ruling that a Canadian ship was suitable and available to perform the activity for which a foreign ship was proposed. One case presented a unique challenge, as it involved Canada's only seismic ship and its capacity to conduct unique ocean exploration work using different methods of collecting data.

In 2011-12, the Agency resolved 9 coasting trade disputes.\*

In addition,

9 coasting trade applications were withdrawn; and

1 coasting trade case is currently in progress.

*\*Proceedings in some cases combined to gain efficiencies*





### Applications: Canadian-flagged non-duty paid ship for seismic surveys

In May, the Agency received an application under the *Coasting Trade Act* to allow the use of a foreign ship, the *Sanco Spirit* to conduct seismic surveys off the east coast of Canada in 2011. The Agency determined that a Canadian ship, the *GSI Admiral*, was available and suitable to conduct the work. Following the determination, the applicant applied to Transport Canada to have the *Sanco Spirit* registered as a Canadian non-duty paid ship.

In July, the Agency received another application to use the *Sanco Spirit* to conduct seismic surveys in 2011. During the application process, the *Sanco Spirit* obtained its certification as a Canadian-registered vessel, at which point the Agency determined that there was no longer a basis for objecting to its use in Canadian waters.

However, the registration of the *Sanco Spirit* reverted to that of a foreign ship in October and the *GSI Admiral* was sold to foreign interests. In November, the Agency received an application to use the *Sanco Spirit* to conduct seismic surveys. It determined that there was no suitable Canadian ship available to conduct the work.





# Regulating the Industry





The Agency prides itself on its working relationships with, and on providing quality service to, its regulated stakeholders. In the fast-paced and ever-changing realm of transportation, it is essential for the Agency to be responsive to the evolving ways of doing business and to the needs of the industry.

A modernized regulatory regime – comprising essential regulation, guidelines, codes of practice and their administration – more effectively aligns with the current transportation and government policy framework. It also ultimately:

- improves the transparency of the Agency's decision-making process;
- minimizes the need for unnecessary applications;
- facilitates the processing of applications;
- reduces the unnecessary burden on industry; and
- strengthens compliance.

The Agency also recognizes that there are opportunities to make effective use of information technologies to serve stakeholders in a more timely and efficient manner. We are taking steps to introduce web-based services and streamline business processes to position the Agency to better respond to stakeholder needs and more efficiently use its resources.

Our strategic outcome is to ensure that the Agency's regulatory and non-regulatory approaches and their administration are up-to-date, well understood and delivered effectively and efficiently.



“[They] understand the industry, they can be flexible, and they can share ideas on ways of addressing complex issues.”

– Airline executive





For more on regulation, go to  
[www.cta.gc.ca/eng/industry](http://www.cta.gc.ca/eng/industry)

Within the specific powers assigned to it by legislation, the Agency participates in the economic regulation of modes of transportation under federal jurisdiction, including:

- licensing air carriers and acting as one of Canada's aeronautical authorities;
- determining whether terms and conditions of air travel are just and reasonable;
- approving the adequacy of the protection of advance payments made by charter companies contracting with air carriers;
- setting railway revenue caps for moving western grain;
- setting financial and costing frameworks for certain federally-regulated railways;
- issuing certificates of fitness for federally-regulated railways;
- setting interswitching rates and establishing the net salvage value of railway lines to facilitate their orderly transfer;
- administering regulations and codes of practice regarding accessibility in air, rail and extra-provincial ferry transportation; and
- determining if Canadian ships are available and suitable to perform services that a resident of Canada has requested be provided by foreign ships in Canadian waters.

The Government of Canada's national transportation policy, as set out in the *Canada Transportation Act*, permits the market to largely self-regulate. However, it also acknowledges that regulation may be required to meet public objectives or in cases where parties are not served by effective competition.





## Striving for efficiency in regulation

The Agency continues to evaluate its processes to determine where efficiencies can be achieved. As part of our 2011-2014 Strategic Plan, we are:

- systematically reviewing and updating regulations;
- developing and updating non-regulatory approaches; and
- streamlining regulatory administrative processes.

We have met or exceeded most of our industry regulation performance targets – a significant achievement and a clear indicator of the effective regulation of the national transportation system. In particular, the Agency surpassed its targets for the timely issuance of air licences and rail determinations.

“I find the Agency’s perspective of helping us learn and understand the regulations around accessibility to be invaluable. In my experience, the Agency is always focussed on providing Jazz with more knowledge and offering more solutions than simply enforcing the rules. I greatly appreciate their approach.”

– Kim McIver, Manager, Learning and Development, Jazz Aviation LP

### Strategic Action (Target 2014)

#### **Streamline the Agency’s regulatory administrative processes**

- ✓ Updated railway cost of capital methodology
- ✓ Reported on what was heard in consultations regarding the status of limited distribution tariffs
- ✓ Issued decision on the recognition of pension costs for regulatory purposes
- ✓ Improved usability of the Uniform Classification of Accounts
- Implement e-service channels for online delivery of regulatory services
- Review and streamline regulatory applications, licensing and permitting processes



# Regulating Canada's Air Carriers





When it comes to regulating air transportation, the Agency is responsible for:

- issuing licences, authorities and charter permits to Canadian and foreign air carriers offering services to the public;
- enforcing all applicable licensing requirements;
- participating in the negotiation and implementation of international air transport agreements as part of the Government of Canada negotiating team;
- regulating international air tariffs according to bilateral air transport agreements and Canada's *Air Transportation Regulations*; and
- regulating the accessibility of Canadian air transportation and the training of carrier personnel to assist travellers with disabilities.

The Agency also ensures consistency with Canadian legislation and regulations, including with respect to:

- air fares;
- rates and charges;
- terms and conditions of carriage; and
- code sharing, wet leasing and charters.



Timely Regulatory  
Determinations  
Performance Target:

92%

of charter permits and  
amendments issued within 30  
days of receipt of application

As of March 31, 2012:

92%



## Strategic Action (Target 2014)

### Strategic Action (Target 2014) Systematically review and update the Agency's regulations

- Amendments to Parts I-VII of *Air Transportation Regulations*
- Amendments to *Personnel Training Regulations*
- Amendments to *Railway Interswitching Regulations*

### Consultation: Updating Canada's *Air Transportation Regulations*

The Agency is continuing work on a major initiative to update the *Air Transportation Regulations* that govern the implementation of Part II of the *Canada Transportation Act*.

The regulations are being updated in three phases, and each phase includes consultations with stakeholders. The first series of proposed updates deal with financial requirements, provision of aircraft with flight crew, and conditions of domestic and international licences. The Agency has moved forward to bring these amendments to the regulations into force.

### Published: Interpretation notes on airline ownership

Canada's requirements for airline ownership ensure that strategic decisions about air services within Canada, or operated in the right of Canada under an agreement or arrangement, are made by Canadians.

As part of its commitment to increasing transparency, the Agency has posted two interpretation notes – on the Canadian Ownership Requirement and Control in Fact – to help potential applicants understand the factors the Agency takes into account when determining whether an air carrier is owned by Canadians.

### Applications: Canadian ownership and control

The Agency reviewed 45 Canadian applicants already operating or proposing to operate domestic or international air services in 2011-12.

Three reviews involved major investigations because the companies had complex ownership structures, or included non-Canadian minority shareholders or business associates who might have exercised control over the applicant.

After verifying that the companies were incorporated in Canada, that at least 75% of their voting interests were owned and controlled by Canadians, and that they were controlled in fact by Canadians, the Agency approved 44 applications, while one was denied.





## Applications: Licensing

The Agency licenses Canadian applicants to operate air services within Canada. It also licenses Canadian and foreign applicants to operate scheduled or non-scheduled international air services to and from Canada.

The Agency processed 873 air licensing activities over the course of 2011-12, including applications for new licences, cancellations, suspensions, and reinstatements.

The Agency continues to maintain a licensing regime that ensures that publicly available air services:

- meet the applicable Canadian air ownership and control requirements;
- have appropriate liability insurance;
- meet certain financial requirements when they start operations, if they are Canadian; and
- hold a Canadian aviation document issued by Transport Canada.

Of the 98 applications for new licences processed in 2011-12:

- 2 were withdrawn;
- 1 was denied; and
- 95 resulted in a licence being issued.

Of these,

- 11 were issued to 3 Canadian applicants for the operation of a scheduled international air service using large aircraft between Canada and a foreign country.

New licences were issued for services between:

| Canadian Airline | Country  |
|------------------|--|
| Air Canada       | Bahrain, Egypt, Israel, Kenya, Mali, Saint Kitts and Nevis, Sri Lanka, Qatar |
| Sunwing Airlines | Aruba, Bahamas   |
| WestJet          | Aruba  |

Timely Regulatory  
Determinations  
Performance Target:

90%

of air licences issued  
within 14 days of receipt of  
complete application

As of March 31, 2012:

94%

“We deal with international agencies around the world for aviation purposes and I have to say [...] we are proud of how our regulator deals with these complex issues.”

– Airline executive





To learn more about charter permits, go to **[www.cta.gc.ca/eng/charters](http://www.cta.gc.ca/eng/charters)**

For more information on the Agency's role in bilateral relations, go to **[www.cta.gc.ca/eng/bilateral](http://www.cta.gc.ca/eng/bilateral)**

For more information on the regulation of Canada's air transportation sector, go to **[www.cta.gc.ca/eng/air-industry](http://www.cta.gc.ca/eng/air-industry)**

## Reviews: Financial fitness

In 2011-12, the Agency completed two reviews of the financial fitness of Canadian applicants seeking to offer domestic or international services using aircraft with more than 39 seats.

The purpose was to ensure that the applicants had a reasonable chance of success, which minimizes disruptions in service and protects consumers. Both were approved by the Agency.

## Agreements: Bilateral air transportation

In 2011-12, the Agency participated in negotiations with 16 countries. New or revised agreements were concluded with India, Mexico, Japan, Pakistan, Rwanda, Turkey, Honduras, China, Nicaragua, Curaçao, St. Maarten and Colombia.

In addition, the Agency participated in consultations with 22 countries regarding administrative matters under current agreements or discussions to develop a basis for negotiating new air transport agreements.





### **Suspended:** Air China's application to amend Terms and Conditions of Carriage

The Agency suspended Air China's application to make changes to its international tariff rules to deny acceptance of service animals on its flights to or from Canada. The carrier's proposed rules were found to be unduly discriminatory, unjust and unreasonable towards persons with disabilities.

Subsequently, Air China filed amendments stating that it will now carry service animals on flights to or from Canada at no charge. These amendments were accepted by the Agency.

### **Suspended:** Sunwing's application of proposed new tariff rules

The Agency suspended Sunwing's application to change its international tariff rules regarding charges and liabilities for additional baggage. The proposed rules were found to be unclear and contrary to the Montreal Convention. Sunwing filed revised tariff rules, which were then accepted.

For more information on tariffs, go to

**[www.cta.gc.ca/eng/tariffs](http://www.cta.gc.ca/eng/tariffs)**

For more information on the Agency's air licensing activities, including an air carrier licence search tool, go to

**[www.cta.gc.ca/eng/licensing](http://www.cta.gc.ca/eng/licensing)**



Timely Regulatory  
Determinations  
Performance Target:

**100%**

of international code-sharing  
and wet lease authorities  
issued within 45 days

As of March 31, 2012:

**97%**



# Regulating Canada's Rail Carriers







The Agency sets the railway revenue caps for the Canadian Pacific Railway Company (CP) and the Canadian National Railway Company (CN) for the movement of western grain and the regulated railway interswitching rates. It also processes applications for certificates of fitness for the proposed construction and operation of railways, and approvals for railway line construction.

In addition, the Agency regulates the accessibility of passenger rail transportation and the training of service provider personnel to assist travellers with disabilities.

### Updated: Approach to managing the revenue cap program

The revenue caps are a form of economic regulation that enables CN and CP to set their own rates for services, provided the total amount collected remains below the ceiling set by the Agency.

It is a complex process that sees the Agency annually consult with grain producers, the Canadian Wheat Board, shipper organizations, railway companies, grain companies, other federal departments, and provincial and municipal governments to set revenue caps. At the end of the year, the Agency must then determine whether or not each cap has been exceeded by the railway company and, if so, assess financial penalties based on the amount.

Over the past year, the Agency adopted a more strategic approach to managing the revenue cap program to ensure that it is more predictable, efficient and transparent for all parties involved.

The Agency also published an interpretation note titled *Routing of Grain and the Revenue Cap Program*. It presents different typical situations, along with maps, to help identify which routings of grain do or do not qualify under the revenue cap program.

### Consultations and decisions: Cost of capital and pensions

The Agency considers it good practice to periodically undertake substantial reviews of the methodologies it uses. After substantive consultations and a comprehensive review process, the Agency issued two decisions on the methodologies that it will use to determine the cost of capital and for recognizing pension costs.



Timely Regulatory  
Determinations  
Performance Target:

95%

of rail determinations issued  
within 120 days

As of March 31, 2012:

100%



For a list of federally-regulated railway companies, go to [www.cta.gc.ca/eng/rail-industry](http://www.cta.gc.ca/eng/rail-industry)

## Strategic Action (Target 2014)

**Develop and update non-regulatory approaches to enhance transparency and understanding**

- Publish interpretation notes on various issues:
  - ✓ Routing of grain shipments and the revenue cap program
  - ✓ Canadian ownership requirement for air licensing and whether a company is “controlled in fact” by Canadians
- Air carrier tariff signage and public inspection of tariffs
- Requirement to hold an air service licence

The cost of capital is the return on investment that investors require when providing funds for capital investments. The decision, issued in December 2011, introduces a new methodology that is nearly identical to the previous methodology but that differs in establishing the cost rate of equity.

In its March 2012 decision, the Agency also adopted a new methodology for determining the pension costs for multi-year averaging in the labour price index. Essentially, the methodology specifies that the costs must be real economic costs, must match the time period over which the work done to incur the costs was performed, and be commercially fair and reasonable to all parties. Pension costs are one of five components in labour costs, which form the labour price index.

Both the cost of capital and the labour price index are used in calculating the Volume-Related Composite Price Index, which in turn is used in calculating the revenue cap for railways.

### **Determined:** Increase in revenue cap inflation factor (crop year 2011-12)

In April 2011, the Agency announced a 3.5% increase in the Volume-Related Composite Price Index – essentially an inflation factor – for CN and CP’s revenue caps for the movement of western grain. This decision set the index at 1.1777 for the 2011-12 crop year beginning August 1, 2011.

### **Determined:** Railway revenues (crop year 2010-11)

In December 2011, the Agency announced that CP’s revenues for the movement of western grain had exceeded its revenue cap for crop year 2010-11. The Agency also ruled that CN’s revenues from grain transportation for the same period were below its cap. CP’s grain revenue of \$443,822,775 was \$1,252,034 above its revenue cap of \$442,570,741 while CN’s grain revenue of \$508,403,510 was \$913,447 below its cap of \$509,316,957.

### **Denied:** CN request for review of revenue cap determination (crop year 2010-11)

The Agency denied CN’s request for a review of how interswitching and exchange switching would be determined within the revenue cap decision for crop year 2010-11 and later years. Specifically, CN requested that the Agency accept one of two options: either to include the grain tonnage and length of haul figures associated with the switching activities within the revenue cap entitlement formula, or simply assign the revenue for the switching activities to the line-haul carrier.

The Agency, in a confidential letter to the railways, provided reasons for denying CN’s request. CN was granted leave to appeal the Agency’s decision to the Federal Court of Appeal.



## Denied: CN request for review of revenue cap tonnage (crop year 2008-09)

CN requested a review of the revenue cap decision for crop year 2008-09 – specifically, that the Agency accept the higher grain tonnage figure that CN had submitted in place of the figure determined by the Agency, which was based on data from the Canadian Grain Commission. Given that CN's revenue exceeded its cap in crop year 2008-09, accepting the higher grain tonnage figure that CN had submitted would have meant that CN was entitled to a partial reimbursement of the excess amount penalty it paid to the Western Grains Research Foundation.

The Agency found that there was no change in facts or circumstances that would warrant a review or variance of the decision.

## Consultation: *Railway Interswitching Regulations*

Significant proposed changes to the methodology the Agency uses to determine interswitching costs incurred by the railways were made during two rounds of pre-consultations on the Agency's *Railway Interswitching Regulations*. The Agency has reviewed the submissions and prepared the proposed amendments, which are expected to be in place next year.

## Consultation: Status of limited distribution tariffs

In November 2011, the Agency completed its consultations on limited distribution tariffs and issued a report summarizing the submissions received. Limited distribution tariffs are a type of agreement between railway companies and shippers that is becoming more widespread, but that is not provided for under the *Canada Transportation Act*.

The consultations helped the Agency to gain a better understanding of the current and possible future use of limited distribution tariffs, the role they are playing in the marketplace, and whether they should be permitted within the existing legislative regime.

## Consultation: Guidelines Respecting Net Salvage Value Determination Applications

When a federal railway company seeks to discontinue use of a railway line, the Agency can be called upon to help determine the net salvage value of the railway assets.

Following changes to the *Canada Transportation Act*, the Agency began work on guidelines for applications pertaining to the determination of net salvage value. The Agency has consulted with stakeholders on a draft version of these guidelines. The new guidelines are expected to be published by mid 2012.

## Strategic Action (Target 2014)

**Develop and update non-regulatory approaches to enhance transparency and understanding (cont.)**

- Update or develop Agency guidelines on:
  - ☑ Foreign licences for air transportation
- Domestic licences for air transportation
- Net salvage value determinations of railway lines
- Update codes of practice for aircraft, ferry and rail passenger car accessibility
- Develop new code of practice for the accessibility of non-National Airports System terminals
- Introduce new resource tool for air, rail and ferry carriers regarding the carriage of mobility aids





# Regulating Canada's Marine Industry





The Agency determines if Canadian ships are suitable and available to operate commercial services in Canadian waters, which may otherwise be provided by foreign or non-duty paid ships upon request by a resident of Canada.

The Agency provides a comprehensive description of the application process in its *Guidelines Respecting Coasting Trade Licence Applications*.

In particular, the Guidelines clarify:

- The Agency's expectations with respect to the timing of applications and offers;
- The content of submissions to ensure that they contain all relevant facts and circumstances;
- The roles and responsibilities of the applicant, the ship offeror and the Agency throughout the decision-making process;
- The Agency's mandate under the Coasting Trade Act; and
- The Agency's administrative process, under which Canadian owners or operators of suitable and available vessels may object to applications for the use of foreign vessels in Canadian waters.

In addition, the Agency regulates the accessibility of extra-provincial ferries and the training of personnel to assist travellers with disabilities.

## Progress report on marine regulation

In 2011-12, the Agency received 77 coasting trade applications for which no offer of a Canadian vessel was made. Of these, four were not processed in time to meet the Agency's performance target. These applications were filed late, making it very difficult to process them by the time requested while still providing an opportunity for operators of Canadian-registered ships to offer their vessel for the proposed activity. The Agency is striving to better communicate its expectations to stakeholders with respect to timing.

On the whole, during in-depth interviews conducted as part of the Agency's most recent client satisfaction surveys, marine industry stakeholders indicated broad satisfaction with the coasting trade licensing process.

Respondents also highlighted satisfaction with the increased transparency of the Agency's marine sector processes, and noted improvements in overall dialogue with key industry stakeholders.

For detailed statistics regarding coasting trade applications, go to [www.cta.gc.ca/eng/statistics](http://www.cta.gc.ca/eng/statistics)

Timely Regulatory  
Determinations  
Performance Target:

95%

of coasting trade applications  
processed prior to  
commencement date  
(no objections)

As of March 31, 2012:

95%





# Ensuring Compliance







## Enforcement

The Agency's enforcement officers ensure compliance among transportation providers subject to the *Canada Transportation Act*, the *Air Transportation Regulations* and the *Personnel Training for the Assistance of Persons with Disabilities Regulations*.

The Agency has generally found Canadian companies extremely co-operative and constructive in finding ways to ensure compliance.

Agency enforcement officers may, however, use their powers to levy fines until compliance is achieved. In very rare cases, the Agency has turned to law enforcement agencies to prosecute offenders when transportation laws have been violated.

In 2011-12, Agency enforcement staff undertook 250 inspections, and completed 41 investigations.

Of these,

- 108 resulted in informal warnings;
- 13 resulted in formal warnings; and
- 8 notices of violation were issued.

### **Inspections:** Personnel training for the assistance of persons with disabilities

In 2011-12, Agency enforcement officers conducted 32 periodic inspections of passenger terminals to assess compliance with the *Personnel Training for the Assistance of Persons with Disabilities Regulations*. These regulations require certain air, rail and marine carriers and terminal operators to ensure that their employees and contractors are trained to provide suitable transportation services to persons with disabilities.

Where there were issues, Agency staff worked directly with the terminals and carriers to ensure that full compliance was achieved.





Timely Regulatory  
Determinations  
Performance Target:

100%

compliance with targeted  
inspections on accessibility  
requirements as outlined in  
the *Personnel Training for the  
Assistance of Persons with  
Disabilities Regulations*

As of March 31, 2012:

100%

### Decision: OC Transpo and calling out bus stops

OC Transpo is the municipal public transit authority for the City of Ottawa. As an extra-provincial bus carrier with routes between Ontario and Quebec, it is under the Agency's jurisdiction for accessibility by persons with disabilities. In May 2011, the Agency issued a decision on the City of Ottawa's request that the Agency modify its order requiring OC Transpo bus drivers to call out stops. The City of Ottawa wanted the Agency to take into account the installation of an automated Next Stop Announcement System (NSAS) on its buses.

In earlier decisions, the Agency found that the failure by OC Transpo's drivers to comply with the company's policy to call out stops was an undue obstacle to a complainant and other persons who require that a stop be called because of their disability. The Agency therefore ordered OC Transpo to ensure that bus operators call out major and requested stops on all of its routes. On two occasions, enforcement officers found that drivers were still failing to call out stops, and the Agency issued two penalties.

Following its investigation, the Agency found that the NSAS was an appropriate accommodation for the complainant and other persons with similar disability-related needs, along with an enforced OC Transpo policy which requires that OC Transpo operators announce major and requested stops when the NSAS is not installed or not working.





## Monitoring

In addition to enforcement methods, the Agency ensures compliance by monitoring the federally-regulated transportation industry. The Agency conducts periodic assessments of compliance with its rulings, regulations and voluntary codes of practice. Agency staff then worked closely with industry and other parties to assist them in any areas where compliance has not been achieved.

### Making air tariffs available

Under Canadian law, all air carriers are required to have tariffs and make them available to the public. A tariff is the contract between an air carrier and its passengers. The Agency enforces the application of tariffs and may hear complaints from passengers that a tariff provision is not being applied, or is unreasonable or unjust.

Legislation now requires air carriers to post their tariffs on their websites if these are used to sell air services. Carriers are also required to make their tariffs available to the public at their business offices and to post signage to this effect. In addition, air carriers who offer transportation to and from Canada are required to refer to the Montreal Convention – the 1999 treaty governing international flight – in their international tariffs. Agency staff have worked with international carriers to ensure that 100% of their tariffs refer to the Montreal Convention.

Agency follow-up has also ensured that 100% of Canadian air carriers and 95% of international carriers who sell transportation to and from Canada online have posted their tariff on their websites. The remaining 5% of foreign carriers, including new entrants to the Canadian market, are working with the Agency to update their tariff or have been referred for enforcement.

The Agency provides sample signage for air carriers to post in their business areas. All National Airports System carriers now display prominent signs indicating that their terms and conditions of carriage are available at their business office.

### Strategic Action (Target 2014)

#### **Enhance regulatory compliance through voluntary and non-voluntary means**

- ✓ Launched and promoted Sample Tariff to help airlines provide passengers with clear contracts of carriage
- ✓ Ensured that terms and conditions of carriage of air carriers selling air services are available to consumers on their websites
- ✓ Ensured that air carriers operating as part of the National Airports System have prominent signs indicating that their terms and conditions of carriage are available at their business office
- ✓ Ensured that air carriers reference the Montreal Convention in their tariffs applicable to international transportation





For more on the Agency's enforcement activities, go to **[www.cta.gc.ca/eng/enforcement](http://www.cta.gc.ca/eng/enforcement)**

For detailed statistics on enforcement, go to **[www.cta.gc.ca/eng/statistics](http://www.cta.gc.ca/eng/statistics)**

“We applaud the Agency for this practical initiative. [...] The sample tariff will be a valuable resource for both new and existing air carriers. It provides a comprehensive reference document for creating, updating or adding tariffs.”

– John McKenna,  
President and CEO of the Air  
Transport Association of Canada

### **Published: Sample Tariff**

To help air carriers provide the clearest possible language in their tariffs, the Agency created a Sample Tariff. It is designed to assist carriers in meeting their obligations in a way that will help Canadian and international air travellers understand their rights and responsibilities as passengers.

Air carriers can voluntarily adopt this useful tool in whole or in part when establishing or updating their tariffs. Through the course of its development, the Agency consulted industry stakeholders and has received positive feedback from Canada's air carriers.

The Sample Tariff serves as a concrete example that a clear, simplified and understandable tariff is achievable. It covers 28 topics, ranging from fares and fees to flight delays, carriage of children, baggage handling, and service for persons with disabilities.

The Agency alerted more than 700 licensed air carriers operating scheduled services to, from and within Canada on the availability of this Sample Tariff, as well as undertook extensive promotion of this resource to industry at large.

The Sample Tariff will be updated periodically to reflect Agency decisions and evolving industry practices.

### **New self-reporting tools for monitoring compliance**

This year, the Agency introduced three new self-reporting tools to assist carriers in determining how they are meeting various accessibility requirements. The tools assist carriers in assessing their compliance with:

- *Accessibility Guidelines for Small Aircraft;*
- *Code of Practice: Aircraft Accessibility for Persons with Disabilities;* and
- *Code of Practice: Passenger Rail Car Accessibility and Terms and Conditions of Carriage by Rail of Persons with Disabilities*

The Agency distributed online self-reporting tools to small aircraft operators, larger air carriers and major rail carriers. Once the results have been compiled, Agency staff will work with carriers to improve compliance as needed.



## Compliance Report: Level of accessibility at Marine Atlantic

The Agency completed a Monitoring and Compliance Summary Report on Marine Atlantic's efforts to comply with the Agency's three voluntary codes of practice that apply to federally-regulated marine transportation accessibility:

- the *Code of Practice: Ferry Accessibility for Persons with Disabilities*;
- the *Code of Practice: Passenger Terminal Accessibility*; and
- the *Code of Practice: Removing Communication Barriers for Travellers with Disabilities*.

The summary report shows that Marine Atlantic continues to demonstrate leadership in improving passenger ferry and terminal accessibility and overall is "largely compliant."

Agency staff will continue to work with Marine Atlantic to address specific areas for improvement as part of future monitoring efforts of voluntary code compliance.

To read the compliance summary report, go to **[www.cta.gc.ca/eng/compliance](http://www.cta.gc.ca/eng/compliance)**

To learn more about the codes of practice for transportation service providers, go to **[www.cta.gc.ca/eng/codes-of-practice](http://www.cta.gc.ca/eng/codes-of-practice)**



## Strategic Action (Target 2014)

**Enhance regulatory compliance through voluntary and non-voluntary means (cont.)**

- ✓ Issued report on Marine Atlantic's compliance with three voluntary codes of practice related to accessibility for persons with disabilities
- ✓ Provided self-reporting tools on accessibility and assistance in improving compliance to carriers



# Assessment of the Act







The *Canada Transportation Act* is the Agency's enabling statute to implement prescribed economic elements of the federal government's transportation policies.

To ensure effective administration of its enabling legislation, the Agency monitors all aspects of the operation of this Act on an ongoing basis. The Act requires the Agency to assess the operation of, and any difficulties observed in, the administration of this Act and to report its findings to Parliament through its Annual Report.

## Ongoing monitoring of the *Canada Transportation Act*

The following table provides the Agency's assessment of the operation of this Act based on activities of the Agency, including applications before it and its findings on them. Specifically, it highlights the difficulties observed by the Agency in the administration of this Act and provides its views on possible approaches to address these issues for consideration of Parliament. Several of these difficulties have previously been included in the Agency's annual reports to Parliament.

The Agency's regulations, codes of practice and guidelines are the principal instruments by which the provisions of the Act are applied in the everyday context of the federal transportation sector. However, while regulations can support the functioning of efficient, fair markets, they can also prove unduly burdensome if poorly designed or implemented. In addition to its ongoing responsibility to monitor the Act and guided by the recommendations of the Red Tape Reduction Commission, the Agency also engages in ongoing assessments of its regulatory regime to ensure that it is streamlined and reflective of the evolution of government policy, the transportation industry and Agency practices. Several consultations have already been undertaken in this regard, which have been noted in this Annual Report.





# Rail Transportation

|             |   |
|-------------|---|
| Topic       | Railway line transfers and discontinuances  |
| Description | The Agency and the Federal Court of Appeal have rendered significant decisions concerning the determination of the net salvage value (NSV) of rail lines. In a judgment of the Federal Court of Appeal regarding a Decision of the Agency (Decision No. 383-R-2007) under subsection 144(3.1) of the Act, the Court clarified jurisprudence on NSV determinations by ruling that Division V of the Act is a complete code and operates according to definite timelines that cannot be modified by the Agency.   |
| Assessment  | The Agency has no discretion to modify the timeline established for the completion of the discontinuance and abandonment process, and, in particular, within the 6-month period foreseen under subsection 144(4) of the Act. Accordingly, it is likely that the Agency will encounter difficulties completing the NSV of rail lines under this subsection within the timelines prescribed in the Act when there are difficult issues to be resolved, such as the assessment of environmental remediation costs or when winter weather conditions prevent the inspection of a railway line to assess track conditions. This may, in some cases, prevent the Agency from rendering the services it has been instructed by Parliament to provide to the parties involved. Parliament may wish to consider whether there are exceptional circumstances under which the Agency should be allowed to extend the timelines set in Division V of the Act to meet the intent of legislation and ensure the application of procedural fairness. |

# Rail Transportation

|             |  |
|-------------|--|
| Topic       | Power to order parties to produce reports at their cost  |
| Description | <p>Sections 144 to 146 of the Act require the Agency to provide a service to determine net salvage value. However, there is no explicit legislative requirement for parties involved to undertake studies in order to provide necessary information for the Agency to make an informed and full determination.</p> <p>Such studies may involve evaluations, environmental assessments or technical reports. While the Agency may request such information, and has the legislative authority to ensure it is reimbursed for its costs by the applicant under subsections 144(3.1) and 146.3(1), there is no clear requirement on the part of the parties under subsections 145(5) or 146.2(7) to pay for the costs of studies requested by the Agency to support its decision-making process. The costs associated can be substantial. The Agency, however, is still expected to make a determination with or without this information.</p> <p>In a recent case, the Agency decided to request that studies be performed to enable it to make a ruling. This decision led to the creation of new procedures on the allocation of related costs among the parties involved. While the procedure was successful in that case, there is still no clear obligation on the part of the parties to provide the information required by the Agency, nor to cover the costs in the case of determinations under subsections 145(5) or 146.2(7) of the Act.</p> |
| Assessment  | A modification to the Act could serve to clarify that the Agency can order a party or parties to produce necessary studies at their cost (and to determine the apportionment of costs between the parties where appropriate), or to reimburse costs incurred by the Agency to obtain the necessary studies.  |





# Air Transportation

|             |   |
|-------------|---|
| Topic       | Authority to investigate and suspend unreasonable domestic tariff provisions  |
| Description | <p>Sections 67.1 and 67.2 limit the Agency's authority to cases where a complaint has been received, thereby limiting the Agency's ability to conduct investigations concerning a carrier's adherence to its domestic tariff and the reasonableness of a carrier's terms and conditions of domestic carriage.</p> <p>There are no similar complaint-driven constraints in respect of international tariffs.</p> <p>This means that a decision requiring a carrier to change its international tariff because it has been determined to be unreasonable cannot be extended to the equivalent domestic tariff unless there has been a specific complaint about the domestic tariff. However, should the Agency find a domestic tariff provision unreasonable, it can order changes to be made to a carrier's domestic tariff while also ensuring these are reflected in the carrier's international tariff.</p> <p>Subsection 67.2(1) of the Act allows the Agency to suspend a domestic tariff against which a complaint has been filed, but only after the Agency has first determined that the tariff is unreasonable. This differs from the international regime where the Agency has the ability to suspend an international tariff pending the results of its investigation and decision on the matter.</p> <p>Over the years, the Agency has received several complaints that relate concurrently to both domestic and international carriage, and has suspended the international condition at issue pending investigation, while the domestic condition remains in effect.</p> |
| Assessment  | <p>The inability of the Agency to take action on its own motion regarding domestic tariffs can result in unequal treatment between domestic and international air travellers and increases the complexity of compliance for industry. It can also create confusion for passengers when dealing with the same air carrier, since different rules may apply for domestic and international legs of a flight.</p> <p>A potential solution to avoid such confusion would be to allow the Agency to broaden its review to include the domestic tariff when investigating an international tariff provision, whether the investigation is of its own initiative or as a result of a consumer complaint. This could provide consistency in approach and eliminate situations where the Agency has found an international tariff to be unreasonable, but can take no action against the same provision domestically with the same carrier.</p> <p>Allowing the Agency to also suspend a potentially unreasonable domestic tariff provision pending its determination, in cases when it has taken similar action for the same international tariff provision, could also potentially eliminate an inconsistency that can confuse consumers.</p>  |



# Air Transportation

|             |  |
|-------------|--|
| Topic       | Authority to address systemic issues related to international tariffs  |
| Description | <p>In exercising its jurisdiction as one of the Canadian aeronautical authorities to address the issue of non-compliance with Canadian law (e.g., the Montreal Convention), the Agency can act on its own motion as it deals with an international tariff. However, such matters must currently be addressed on a carrier-by-carrier basis.</p> <p>To obtain consistency, based on existing legislation, Agency staff must launch processes with each and every carrier individually. The Agency regulates hundreds of carriers operating international air services and tariffs typically contain many pages of legal text addressing liability matters.</p>  |
| Assessment  | <p>The legal framework governing the Agency's activities in respect of air transportation requires that tariffs be just and reasonable, and to be such, tariffs must comply with Canadian law, both domestically and internationally.</p> <p>Allowing the Agency to address systemic issues of non-compliance with international conventions and Canadian law on a systemic basis would provide the Agency with additional leverage and methods to compel all non-compliant carriers to comply with Canadian law.</p> <p>One approach to dealing with this issue may be to provide the Agency with the power to substitute or suspend terms and conditions of air carriage for all, or a group of, carriers and allow the Agency to issue an order applying to all air carriers to implement tariffs consistent with Canadian law and international conventions signed by Canada. Such an order, if disregarded by those carriers not in compliance with Canadian law, could be enforced by administrative monetary penalties.</p> <p>It is the Agency's view that such an approach, while ensuring fairness among carriers, would also enable more efficient and effective enforcement of Canadian law.</p> |



# Air Transportation

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| Topic       | Investigation of systemic air transportation-related matters   |
| Description | <p>The Agency has the discretion to act on its own motion with respect to international air transportation tariffs on a carrier by carrier basis. However, the Act only allows the Agency to investigate all other air-related matters on complaint. In all instances, the Agency's power to order remedies is limited to the carrier that is the subject of an international tariffs investigation or the respondent to a complaint.</p> <p>While individual issues are effectively resolved through the complaint adjudication process, it is clear that in some cases, the issue goes beyond any particular carrier and may suggest a systemic problem. For example, in cases related to accessibility for persons with disabilities:</p> <ul style="list-style-type: none"><li>• Undue obstacles related to industry-wide policies or practices can only be resolved with the carrier named in the complaint. Persons with disabilities may continue to encounter the same undue obstacles with other service providers.</li><li>• Decisions placing requirements to remove undue obstacles to accessibility on only one or some service providers can create significant competitive cost and/or operational disadvantages among providers. Agency consultations held with air transportation providers have consistently highlighted concerns regarding individual remedies and a preference for levelling the playing field where systemic issues are concerned.</li></ul> <p>Examples of past systemic issues brought forward on complaint include the one-person-one-fare policy and the provision of oxygen on board aircraft and, more recently, matters related to the carriage of passengers with allergies aboard aircraft.</p> <p>As well, a complaint may be filed against a carrier's policies which may have a broad public interest component, but due to the nature of the complaint, the Agency is limited as to what it can investigate.</p> |
| Assessment  | <p>Parliament may wish to consider a legislative amendment giving the Agency the discretion, under certain conditions and when it is determined to be appropriate, to properly and judiciously define the scope of a case in order to investigate issues raised in a complaint on an appropriate basis (be it industry-wide or limited to a sector of the industry). Any remedies or orders flowing from such an investigation would also be applied on an appropriate basis, industry-wide or focusing on a narrower sector. Such an amendment could enable the Agency to more effectively review issues that have broad implications for stakeholders, while not necessarily placing individual transportation service providers at an unfair competitive disadvantage. It would also allow the Agency to stay an application that has ramifications for an entire sector while it completes a thorough investigation. Having the flexibility to investigate known broader issues at the beginning of a process rather than having to wait for further complaints would allow for greater efficiency.</p> <p>To preserve the integrity of the Agency's quasi-judicial adjudicative process, including undue hardship analysis in the case of accessibility disputes, any orders issued by the Agency would be applied on an individual service provider basis. This would only be done after ensuring interests are fully considered and weighed and after taking into consideration the operational and economic circumstances of each of the individual service providers.</p> <p>The current jurisdiction of the Agency limits its ability to expand the scope of its investigation into accessibility issues when it is appropriate to do so, thereby placing limits on the Agency's ability to act effectively and consistently.</p>  |





# Accessible Transportation

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| Topic       | Jurisdictional overlap with the <i>Canadian Human Rights Act</i>  |
| Description | <p>The Canadian Transportation Agency, the Canadian Human Rights Commission (CHRC) and the Canadian Human Rights Tribunal (CHRT) have the power under their respective legislation to address complaints by persons with disabilities regarding the accessibility of the federal transportation system.</p> <p>Sections 170 and 172 of the <i>Canada Transportation Act</i> explicitly set out the mandate of the Agency to ensure that undue obstacles to the mobility of persons, including persons with disabilities, are removed from federally-regulated transportation services and facilities.</p> <p>In 2007, the Supreme Court of Canada confirmed that Part V of the <i>Canada Transportation Act</i> is human rights legislation and that the principles of the <i>Canadian Human Rights Act</i> must be applied by the Agency when it identifies and remedies undue obstacles. The Supreme Court also acknowledged that the Agency uniquely has the specialized expertise to balance the requirements of persons with disabilities with the practical realities – financial, structural and logistic – of the federal transportation system.</p> <p>Section 171 of the Act requires the Agency and the CHRC to coordinate their activities in order to avoid jurisdictional conflict, and a memorandum of understanding designed to achieve this was entered into between the Agency and the CHRC. Despite this, the CHRT issued a Decision which dealt with the same complainant and identical issues while arriving at a different decision from one previously made by the Agency. In this case, the jurisdictional overlap resulted in a conflicting outcome.</p> <p>At the request of the Agency, the Federal Court undertook a judicial review on these jurisdictional issues at the end of 2009-10. In October 2010, the Federal Court overturned the CHRT's Decision, affirming the jurisdiction of the Agency as the principal expert tribunal in all transportation matters, including those related to accessibility.</p> <p>The Federal Court ruling was appealed by the CHRT. In November 2011, the Federal Court of Appeal (FCA) confirmed the Federal Court ruling to set aside the CHRT's decision, stating that the CHRT could not reconsider a matter already adjudicated by the Agency. However, the FCA did not address the question of whether the Agency has exclusive jurisdiction over disability-related cases involving the federal transportation network.</p> |



# Accessible Transportation

(CONT.)

**Assessment** This jurisdictional overlap can lead to the following problems:

- Complainants face uncertainty as to which body should address their complaints, particularly given the different remedies available under the *Canada Transportation Act* and the *Canadian Human Rights Act*. Although the Agency has the mandate to remove undue obstacles from the federal transportation network, it does not have the power to award compensation for pain and suffering, unlike the CHRT.
- Respondents (e.g., carriers, terminal operators) face the possibility that they will have to defend the same issues under two different legislative regimes.
- To the extent that both the Agency and the CHRC/CHRT deal with the same complaint, there is uncertainty, the possibility of conflicting outcomes from the two tribunals and added costs for the respondent and the Government of Canada.

In order to clarify the jurisdictional responsibilities of the Agency and the CHRC/CHRT, to provide for consistency and comparability with the CHRC/CHRT, and to avoid claims that the Agency is limited in its ability to provide a resolution that is satisfactory to all parties involved, the *Canada Transportation Act* could be amended to:

- confirm the Agency's exclusive mandate with respect to dealing with complaints by persons with disabilities regarding the accessibility of the federal transportation network;
- provide the Agency with the power to award costs for pain and suffering encountered, a power that the CHRT currently possesses; and
- provide the Agency with the jurisdiction to apply solutions on a wider, systemic basis, also a power that the CHRT currently possesses. Persons with disabilities would thereby be provided with the full range of remedies.



# General

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| Topic       | Clarification of the Agency's two main business functions   |
| Description | <p>The Canadian Transportation Agency is an independent body of the Government of Canada which currently performs two key functions within the federal transportation system.</p> <ul style="list-style-type: none"><li>• As a quasi-judicial tribunal, the Agency, informally and through formal adjudication, resolves a range of commercial and consumer transportation-related disputes, including accessibility issues for persons with disabilities. It operates like a court when adjudicating disputes.</li><li>• As an economic regulator, the Agency makes determinations and issues authorities, licences and permits to transportation carriers under federal jurisdiction.</li></ul> <p>In its role as an economic regulator, some of the Agency's decisions – including many pertaining to charter permits or licensing activities – have effectively become routine and involve little or no discretion. The delivery of such routine, non-discretionary regulatory services could be dealt with more effectively by staff.</p> <p>However, there are no provisions for such a delegation of authority to staff in the <i>Canada Transportation Act</i>.</p> <p>Currently, the Act:</p> <ul style="list-style-type: none"><li>• Provides limited guidance regarding the role of Members or the Chair/Chief Executive Officer (Chair/CEO);</li><li>• Requires Members to make all Agency decisions; and</li><li>• Makes no distinction between the adjudicative and regulatory provisions administered by the Agency.</li></ul> |
| Assessment  | <p>In the Agency's opinion, when the Act is next reviewed consideration should be given to clarifying:</p> <ul style="list-style-type: none"><li>• The authority of the Chair/CEO over the administration of economic regulations involving non-discretionary or routine decisions and powers of delegation in that respect; and</li><li>• The two distinct functions of the Agency and the procedural expectations vis-à-vis each function.</li></ul> <p>These changes would:</p> <ul style="list-style-type: none"><li>• Allow Members to concentrate on their core role as adjudicators;</li><li>• Help distinguish between the responsibilities carried out by the Agency as an administrative public service organization and those borne by its Members as a tribunal; and</li><li>• Provide for the efficient, effective and timely administration of the routine and regulatory matters within the purview of the Agency.</li></ul>   |





# General

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| Topic       | 120-day deadline  |
| Description | <p>Subsection 29(1) of the Act states that the Agency will make its decision in any proceeding before it as expeditiously as possible, but no later than 120 days after the originating documents are received, unless the parties involved agree otherwise.</p> <p>The Agency has set in place high performance standards. With a view to ensuring transparent, fair and efficient dispute resolution and administration of its regulatory responsibilities, in 2007, the Agency implemented a new Performance Measurement Framework based on client and stakeholder feedback and expectations. This framework was amended in late 2010-11 to support the Agency's current three-year Strategic Plan (2011-2014).</p> <p>Performance measures tailored to the specific requirements of, and based on benchmarks for, different areas of its service delivery have since been implemented and reported on in its Annual Report.</p> <p>For example, in 2011-12, the Agency exceeded its performance targets related to air licensing and charters by issuing 94 percent of all air licences within 14 days and 92 percent of all charter permits within 30 days. It has also consistently exceeded its performance target requiring that 80% of all marine coasting trade disputes be resolved within 90 days. In fact, even in complex cases, the Agency now targets a resolution within 90 days from the close of pleadings.</p> <p>As a result, the single 120-day deadline – which was set in 1996 – has been replaced in practice by the performance measurement framework the Agency has adopted, and has publicly reported on since 2009-10.</p>   |
| Assessment  | <p>The Agency has adopted a series of service-specific, time-related performance measures which are more effective for overall Agency accountability than the single maximum 120-day legislated timeframe for all proceedings before the Agency. In all cases, these measures are based on time-related targets of less than 120 days.</p> <p>The transportation industry has been informed of these targets and the Agency reports to Parliament and industry on its performance against them. In fact, client satisfaction survey results indicate that 77% of clients and stakeholders are satisfied with the overall service they receive from the Agency.</p> <p>These performance measures and processes are based on client and stakeholder feedback and expectations, are relevant to the nature of each of the Agency's business activities, and have been designed to ensure that its services are provided in an efficient, transparent and client service-oriented manner. Performance results are published in the Agency's Annual Report to Parliament and on its website for clients and stakeholders.</p> <p>Such results-focused performance indicators establish benchmarks and determine the level of service delivery the Agency needs to achieve to help maintain an efficient federal transportation system. They allow the Agency to track how closely its objectives are being met and to implement continuous improvements to enable it to meet the accountability expectations of Parliament and Canadians.</p> <p>Subsection 29(1) of the Act already requires the Agency to act as expeditiously as possible and the Federal Court has previously ruled that the 120-day legislated timeframe is not mandatory. In addition, the Supreme Court of Canada (SCC) has recognized that 120 days is not an appropriate timeline for all cases, stating that:</p> |



# General

(CONT.)

Where a relatively limited adjudicative investigation is being conducted by the Agency, the Agency will gear its process towards rendering a decision within 120 days. On the other hand, where an adjudicative proceeding is broad in scope and has far-reaching implications, the Agency will have to adjust its process to take account of these conditions. The 120-day period in s.29 does not preclude it from doing so or cause the Agency to lose jurisdiction if the 120-day period is exceeded.

Accordingly, the Agency recommends that the Act be modified to:

- Remove this 120-day deadline and that, in its place, the Agency be required to establish service-specific, time-related performance measures, which would continue to be reported on annually in the Agency's Annual Report to Parliament; or, alternatively,
- Reflect and qualify the expectation that in some cases, more time may be required, as has been recognized by the SCC.

These proposed changes would contribute to better managing expectations by recognizing that in all instances the Agency aims to issue its decisions in less than 120 days, while acknowledging that this is not possible in certain circumstances. Having the flexibility to investigate known broader issues at the beginning of a process rather than having to wait for further complaints would allow for greater efficiency.

To preserve the integrity of the Agency's quasi-judicial adjudicative process, including undue hardship analysis in the case of accessibility disputes, any orders issued by the Agency would be applied on an individual service provider basis. This would only be done after ensuring interests are fully considered and weighed and after taking into consideration the operational and economic circumstances of each of the individual service providers.

The current jurisdiction of the Agency limits its ability to expand the scope of its investigation into accessibility issues when it is appropriate to do so, thereby placing limits on the Agency's ability to act effectively and consistently.

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| Topic       | Improving annual reporting to Parliament  |
| Description | <p>Subsection 42(1) of the Act requires the Agency's Annual Report to be submitted to the Governor in Council by the end of May, two months following the close of the fiscal year ending March 31.</p> <p>The Agency's Departmental Performance Report is only required to be filed by the end of July, four months following the close of the fiscal year ending March 31.</p>  |
| Assessment  | <p>Allowing the Agency to submit its Annual Report by the end of July, rather than the end of May, would:</p> <ul style="list-style-type: none"><li>• Provide the Agency with a more reasonable time frame to finalize March 31 year-end data;</li><li>• Strengthen the linkages between the Annual Report and the Agency's Departmental Performance Report and Report on Plans and Priorities; and</li><li>• Create greater efficiency for the Agency to meet all of its reporting requirements to Parliament.</li></ul> |

The following statistical tables  
are available on the Agency's  
website at  
**[www.cta.gc.ca/eng/statistics](http://www.cta.gc.ca/eng/statistics)**

# Appendix: Statistics

## Agency Rulings I.

Total rulings by Members

## Dispute Resolution II.

Disputes resolved by the Agency

## Air Travel Complaints III.

Air travel complaints – informal facilitation

Air travel complaints in the facilitation process (Canadian carriers)

Air travel complaints in the facilitation process (foreign carriers)

Issues cited in air travel complaints in the facilitation process (all carriers)

Issues cited in air travel complaints in the facilitation process (major Canadian carriers)

## Air Licensing and Charters IV.

Air carriers by nationality

Air licences held by nationality

Air licensing activities

Charter permits issued

Charter flight notifications

## Rail Transportation V.

Railway infrastructure and construction

## Marine Transportation VI.

Coasting trade applications

## Enforcement VII.

Enforcement activities