



# Canadian Transportation Agency

## Performance Report

For the period ending  
March 31, 2002

Canada

## The Estimates Documents

Each year, the government prepares Estimates in support of its request to Parliament for authority to spend public monies. This request is formalized through the tabling of appropriation bills in Parliament.

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

The Estimates, along with the Minister of Finance's Budget, reflect the government's annual budget planning and resource allocation priorities. In combination with the subsequent reporting of financial results in the Public Accounts and of accomplishments achieved in Departmental Performance Reports, this material helps Parliament hold the government to account for the allocation and management of funds.

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## Foreword

In the spring of 2000, the President of the Treasury Board tabled in Parliament the document “Results for Canadians: A Management Framework for the Government of Canada”. This document sets a clear agenda for improving and modernising management practices in federal departments and agencies.

Four key management commitments form the basis for this vision of how the Government will deliver their services and benefits to Canadians in the new millennium. In this vision, departments and agencies recognise that they exist to serve Canadians and that a “citizen focus” shapes all activities, programs and services. This vision commits the Government of Canada to manage its business by the highest public service values. Responsible spending means spending wisely on the things that matter to Canadians. And finally, this vision sets a clear focus on results – the impact and effects of programs.

Departmental performance reports play a key role in the cycle of planning, monitoring, evaluating, and reporting of results through ministers to Parliament and citizens. Departments and agencies are encouraged to prepare their reports following certain principles. Based on these principles, an effective report provides a coherent and balanced picture of performance that is brief and to the point. It focuses on outcomes - benefits to Canadians and Canadian society - and describes the contribution the organisation has made toward those outcomes. It sets the department’s performance in context and discusses risks and challenges faced by the organisation in delivering its commitments. The report also associates performance with earlier commitments as well as achievements realised in partnership with other governmental and non-governmental organisations. Supporting the need for responsible spending, it links resources to results. Finally, the report is credible because it substantiates the performance information with appropriate methodologies and relevant data.

In performance reports, departments and agencies strive to respond to the ongoing and evolving information needs of parliamentarians and Canadians. The input of parliamentarians and other readers can do much to improve these reports over time. The reader is encouraged to assess the performance of the organisation according to the principles outlined above, and provide comments to the department or agency that will help it in the next cycle of planning and reporting.

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This report is accessible electronically from the Treasury Board of Canada Secretariat Internet site:  
<http://www.tbs-sct.gc.ca/rma/dpr/dpre.asp>

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Canadian  
Transportation  
Agency

Office  
des transports  
du Canada

# CANADIAN TRANSPORTATION AGENCY

Performance Report

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period ending  
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Hon. David M. Collenette, P.C., M.P.  
Minister of Transport

Canada



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## Section 1 Chairman's Message

In a country the size of Canada, transportation has always been a critical component of Canada's continuing growth and prosperity. The Government of Canada's transportation policy calls for an accessible, competitive sector that is regulated only when necessary. Legislation has been designed to encourage carriers to do what they do best: carry people and goods reliably, safely and efficiently. Within this framework, travellers deserve fair treatment; carriers and shippers deserve even-handed regulation; and Canadians have the right to expect an efficient transportation network.

These concerns are the responsibility of the Canadian Transportation Agency, an independent regulator and quasi-judicial tribunal that decides on a wide range of matters affecting Canadian air, rail and marine transportation. Whether making travel easier for persons with disabilities, ensuring fair rates for transporting Western grain, resolving disputes and complaints, licensing carriers, providing information to travel agents or monitoring legal compliance with federal statutes, the Agency has been working constantly to help ensure that the Canadian transportation industry operates for the benefit of all.

While the transportation industry is constantly evolving and adapting, events in 2001–2002 created significant new challenges. The Agency strove to be flexible, responsive, open and efficient as it carried out its mandate. During this period, the Agency made decisions on a number of cases that will have far-reaching effects on Canada's transportation industry.

Adjudication and regulation will always be important, but the Agency also sees great value in trying to resolve problems before they become formal disputes that affect the functioning of the transportation system. In this respect, the Agency continued to offer mediation services that make it simpler for parties to resolve their issues. Staff of the Agency also supported the Office of the Air Travel Complaints Commissioner, which provided another avenue for resolving complaints. Agency services were enhanced by making information and complaint-handling processes available online. As well, the Agency continued to educate and consult with those who use and provide transportation services in Canada. By working closely with these people, the Agency can more effectively administer the *Canada Transportation Act*.

The Minister of Transport is expected to present proposals for amendments to transportation legislation during fiscal year 2002–2003. As a result, there may be some changes to the Agency's future mandate and activities. The Agency will continue to evolve with the transportation industry and, I believe, it will continue to make an important contribution towards a healthy and accessible transportation system.

Marian L. Robson



## Summary

### Strategic Outcomes

**To contribute to the attainment of an efficient and accessible Canadian transportation system that serves the needs of shippers, carriers, travellers and other users.**

<b>Demonstrated by</b>	<b>Avenue</b>	<b>Achievement reported in</b>
Sound decisions within statutory time frames	<ul style="list-style-type: none"><li>• quasi-judicial process</li></ul>	<ul style="list-style-type: none"><li>• See Section 3.4.1</li></ul>
Effective and essential regulation	<ul style="list-style-type: none"><li>• consultation with interested parties</li></ul>	<ul style="list-style-type: none"><li>• See Section 3.4.2</li></ul>
Protection of consumers and carriers	<ul style="list-style-type: none"><li>• Air Travel Complaints Commissioner</li><li>• domestic pricing complaints investigation program</li><li>• air carrier licensing system</li><li>• international air agreements</li><li>• international air tariffs</li><li>• rail certificates of fitness</li><li>• regulatory compliance program</li></ul>	<ul style="list-style-type: none"><li>• See Section 3.4.3</li></ul>
Alternative dispute resolution mechanisms	<ul style="list-style-type: none"><li>• mediation pilot project</li></ul>	<ul style="list-style-type: none"><li>• See Section 3.4.4</li></ul>
Improved access to the Canadian transportation system for persons with disabilities	<ul style="list-style-type: none"><li>• investigation of complaints</li><li>• monitoring of activities</li><li>• formulation of Codes of Practice</li><li>• public education</li></ul>	<ul style="list-style-type: none"><li>• See Section 3.4.5</li></ul>
Administration of revenue cap regulation of Western Grain movement	<ul style="list-style-type: none"><li>• established Agency statistical analysis and costing procedures</li></ul>	<ul style="list-style-type: none"><li>• See Section 3.4.6</li></ul>
Advice to the government	<ul style="list-style-type: none"><li>• annual review of the operation of the Act</li><li>• submission to the Review Panel responsible for the statutory review of the Act</li></ul>	<ul style="list-style-type: none"><li>• See Section 3.4.7</li></ul>

## Section 2 Context: The Agency and its Environment

### 2.1 Who We Are

The Canadian Transportation Agency is responsible for the economic regulation of air, rail and marine transportation in Canada. It is also an independent, quasi-judicial, administrative tribunal that makes decisions on these modes of transport. In its administration of the Government of Canada's transportation legislation and policies, the Agency helps achieve, for the benefit of all Canadians, a federal transportation system that is efficient and accessible.

### 2.2 Mandate and Mission

The Agency performs all the functions vested in it by the *Canada Transportation Act* (the Act) and in other related legislation (see Sections C - 1 and C - 2 of Annex 2). The Agency licenses air and rail carriers, has the authority to resolve transportation rate and service disputes, handle complaints and issue codes of practice or make regulations when necessary. It also has the authority to remove undue obstacles to the mobility of persons with disabilities who use the federally regulated transportation network. In addition, the Agency implements transportation policy as established by Parliament in the *Canada Transportation Act* and is Canada's aeronautical authority on matters related to the economic regulation of air carriers. The Agency has all the powers, rights and privileges of a superior court, issuing decisions and orders on matters within its jurisdiction.

Education and consultation are integral to the Agency's effectiveness in carrying out its mandate. The Agency works closely with those who use and provide transportation services in Canada. It helps travellers, shippers, carriers, municipalities and others to fully understand not only their rights and obligations under the Act, but also the Agency's role and responsibilities. When appropriate, the Agency encourages parties to resolve disputes informally before issues escalate and affect the efficient functioning of the transportation system. The Agency consults as widely as possible on issues that are important to the transportation industry. By remaining open and by listening to all affected parties, the Agency strives to ensure that its decisions are both responsive and responsible.

Through its activities, the Agency helps the Government of Canada meet its economic objectives and it helps to improve the quality of life of all Canadians who travel, in particular those travellers who have a disability.

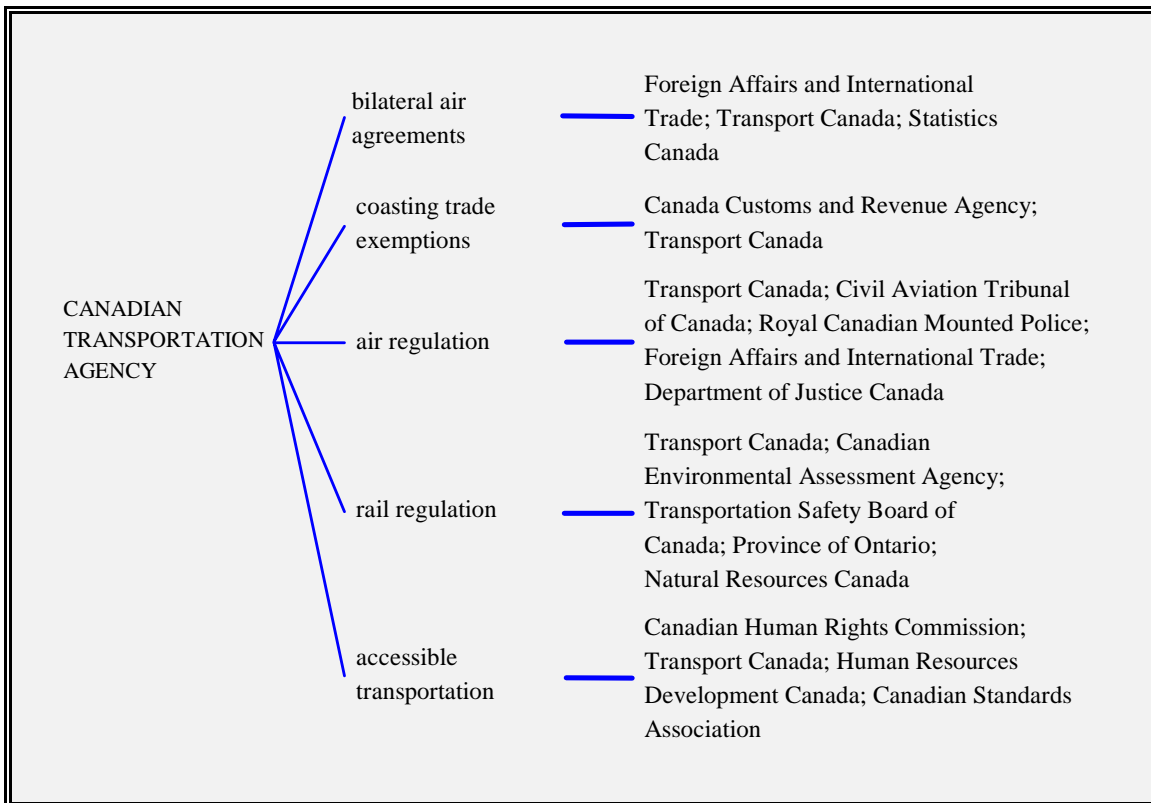
**Our mission is to administer transportation legislation and government policies to help achieve an efficient and accessible transportation system by education, consultation and essential regulation.**

## 2.3 Strategic Priorities

As the transportation industry evolves in today’s deregulated environment, the Government of Canada’s policy direction is best described as economic regulation only if necessary. Whenever possible, the marketplace should prevail without interference. The Agency recognizes this principle as it carries out its mandate.

In the years ahead, the Agency will continue in its role as an administrative tribunal and economic regulator in the transportation sector. At the same time, it will enhance its activities as a quasi-judicial body by using new ways to resolve disputes. Openly and informally, it will continue to communicate with parties involved in disputes and, when possible, help them resolve issues through facilitation and mediation as alternatives to adjudication or regulation. In addition, it will continue to inform both industry and consumers of their obligations and rights under the Act. To further these goals, the Agency maintains close ties with various co-delivery partners.

### Agency Partners



## **2.4 Social and Economic Factors**

Since 1996, when the *Canada Transportation Act* came into force, the federally regulated transportation industry—air, rail and marine—has evolved in response to the government’s intention to rely more heavily on market forces to dictate the industry’s structure and competitiveness. Since then, the industry has seen mergers, alliances, carriers entering and leaving the marketplace and rationalization of services and infrastructure. Parliament responded by amending the Act in 2000 to provide the Agency with new responsibilities for air and rail transportation. These legislative amendments resulted in the creation of the Office of the Air Travel Complaints Commissioner to deal with complaints on the quality of services provided by air carriers. They also provided a new regulatory role for the Agency on the transportation of Western grain. For more information on these new roles, see Sections 3.4.3 and 3.4.6 respectively.

From July 2000 to June 2001, a panel appointed by the Minister of Transport conducted a comprehensive review of the Act, as required by the legislation. The panel published its findings in a June 2001 report entitled *Vision and Balance*. The Minister is currently reviewing the government’s transportation agenda, which will build on the work of the Review Panel as well as on the proposals set out in *Creating a Transportation Blueprint for the Next Decade and Beyond: Defining the Challenges*. As a result, the Agency anticipates legislative changes, which could affect the Agency’s role and responsibilities.

The tragic events of September 11 had an enormous impact on the transportation industry. Although the initial impact of the tragedy on the Agency’s day-to-day activities was relatively minor, there is no doubt that it will greatly influence transportation policy in North America and around the world.

## **2.5 Managing Risk**

As part of delivering its mandate, the Agency has strict rules and judicial procedures governing its decision-making process. It recognizes and monitors legal and financial risks, as well as the risk to its credibility in the issuance of decisions. The Agency is considering a more structured and holistic risk management process that could be applied consistently across all activities and functions. This is one of a number of actions that are part of the Agency’s management excellence initiative (See Modern Comptrollership under Section 3.5.2) and could involve, for example, risk management training for staff.

## **2.6 Business Line, Organization and Program Composition**

The Agency is a single business line—the Canadian Transportation Agency Program. It is divided into four sub-business lines: Members and Regulatory Support, Rail and Marine Transportation, Air and Accessible Transportation, and Corporate Management.

The Agency exercises its powers through a Chairman, a Vice-Chairman and up to five full-time and three temporary Members, all appointed by the Governor in Council. At year-end, the Agency had nine members: the Chairman, the Vice-Chairman, five full-time Members and two temporary Members, one of whom was the Air Travel Complaints Commissioner. The Agency has two program branches: Rail and Marine, and Air and Accessible Transportation. In addition, a Legal and Secretariat Services Branch and a Corporate Management Branch support the overall program.

The Agency's headquarters are in the National Capital Region. However, to support enforcement activities for air and accessible transportation, the Agency also has field offices in Moncton, Montréal, Mississauga, Winnipeg, Edmonton and Vancouver.

More information about the Agency can be found on its Web site ([www.cta-otc.gc.ca](http://www.cta-otc.gc.ca)).

## Section 3 Performance

This Performance Report accounts for the Canadian Transportation Agency's activities to Parliament and to all Canadian citizens. It draws a representative profile of the Agency's initiatives and the possible impact of those initiatives on Canadians. It also reports on the Agency's commitments made in the *Report on Plans and Priorities 2001–2002*. This document may be consulted on the Treasury Board's Web site ([www.tbs-sct.gc.ca/tb/estimate/20012002/rCTA\\_e.pdf](http://www.tbs-sct.gc.ca/tb/estimate/20012002/rCTA_e.pdf)).

### 3.1 Strategic Outcome

**To contribute to the attainment of an efficient and accessible Canadian transportation system that serves the needs of shippers, carriers, travellers and other users.**

### 3.2 Summary of Strategic Outcomes

Canadian Transportation Agency	
To provide Canadians with:	Performance indicators
an administrative tribunal that helps achieve an efficient and accessible Canadian transportation system for all modes under federal jurisdiction	<ul style="list-style-type: none"> <li>• sound decisions within statutory time frames</li> <li>• effective and essential regulation</li> <li>• protection of consumers and carriers</li> <li>• Alternative Dispute Resolution mechanisms</li> <li>• improved access to the Canadian transportation system for persons with disabilities</li> <li>• administration of revenue cap regulation of Western Grain movement</li> <li>• advice to the government</li> </ul>

### 3.3 Resources Used

Canadian Transportation Agency	
<b>Planned Spending</b>	<b>\$ 24,271</b>
<b>Total Authorities</b>	<b>\$ 26,696</b>
<b>Actual Spending</b>	<b>\$ 25,767</b>
<b>Actual FTEs Utilised</b>	<b>274</b>

### 3.4 Results Achieved

Demonstrating impartiality is the overriding principle of fair dispute resolution. But doing so is rarely easy, given the Agency's need to engage the Canadian public in its processes. When communicating with parties to inform them of their rights and obligations under the Act, or to consult them on regulatory changes that will affect the transportation industry, the Agency ensures that all concerned receive the same information and that all Agency activities are conducted or applied impartially and broadly.

#### 3.4.1 Sound Decisions within Statutory Time Frames

As an administrative tribunal, the Agency's primary activity in 2001–2002 was to render decisions on matters under its jurisdiction. The Agency's decision-making process is governed by the rules of fairness, which ensures that all parties in a complaint or an application are dealt with fairly and equitably. Further information on this process can be obtained from the Agency's Web site ([www.cta-otc.gc.ca/about-nous/decision\\_process\\_e.html](http://www.cta-otc.gc.ca/about-nous/decision_process_e.html)).

The Act specifies that the Agency must issue decisions within a statutory deadline of 120 days, unless the parties involved agree to an extension. During fiscal year 2001–2002, the Agency issued 1,268 formal decisions and orders. All formal Agency decisions and orders can be found on its Web site ([www.cta-otc.gc.ca/rulings-decisions/index\\_e.html](http://www.cta-otc.gc.ca/rulings-decisions/index_e.html)).

To meet the needs of the transportation industry, the Agency renders many of its decisions within much shorter deadlines. The Agency and its staff are devoted to providing high quality and timely services to their clients. For example, due to the nature of air operations, the Agency deals expeditiously with many applications for charter permits, often within a few hours of receipt of the application. Authorizations may be required outside of normal business hours and the Agency offers a 24/7 telephone service to deal with emergency situations. On average, the Agency renders its decisions within about 56 days of receipt of the application or complaint.

The Agency believes that, by providing timely decisions and resolving disputes expeditiously on matters affecting transportation, it helps attain an efficient and accessible Canadian transportation system. The 120-day statutory deadline is appropriate in the majority of cases and, as stated above, decisions are often made far more quickly. However, it can be problematic to meet this statutory deadline in cases involving incomplete applications, procedural or preliminary legal issues, or systemic problems. The Agency has requested that the Act be amended to allow the Agency to extend, on its own initiative, the 120-day limit in cases where not doing so would cause prejudice to one or more parties.

In the case of a complaint on accessibility by the Council of Canadians with Disabilities against VIA (see Section 3.4.5), a final decision could not be rendered within the statutory deadline. VIA filed an application for leave to appeal with the Federal Court of Appeal, arguing that the Agency had lost jurisdiction to deal with the issue. The Court denied the application and, at the end of the fiscal year, the Agency continued its investigation on that case.

This issue was particularly acute last year in the area of accessible complaints, where unusually complex issues led to the Agency being unable to issue all its decisions within the statutory time frame.

To address this

problem, the Agency advised the parties involved of the situation and allocated additional human and financial resources to expedite the issuance of decisions. As a result, the Agency was able to issue eight decisions on accessibility during the last quarter of 2001–2002, compared to a total of 10 during the first, second and third quarters of the fiscal year. The Agency expects to resolve the situation during the course of 2002–2003 and to be able to render its decisions on accessible transportation within the legislative time frame.

Another performance measure used to monitor Agency decisions is the number of decisions appealed to, and overturned by, the Federal Court of Appeal. During the period covered by this report, nine Agency decisions were appealed, one appeal was dismissed, two were discontinued by the appellant and six continue with the Court. No decisions were overturned.

Despite the traditionally small number of Agency decisions that are appealed and overturned, the Agency always has and will continue to take very seriously the reasons for, and the outcome of, these appeals. As a result of a decision issued in 2000 by the Federal Court of Appeal, the Agency reviewed the structure of its decisions on accessibility so as to provide better information about the Agency's basis for rendering its decisions. As a result, parties now receive decisions that are easier to understand and that establish more clearly the reasons for the Agency's decisions.



### 3.4.2 Effective and Essential Regulation

The Agency has sole responsibility for 10 regulations (see Section C - 3 of Annex 2) that apply to various areas of the transportation industry. More information about these regulations can be found on the Agency's Web site ([www.cta-otc.gc.ca/legislation/regs\\_e.html](http://www.cta-otc.gc.ca/legislation/regs_e.html)).

The Government of Canada has committed to enhancing options for Canadian travellers in international markets and to avoiding unnecessary economic regulatory constraints to the efficient operation of international charter services. In response, the Agency continued its work on amendments to the *Air Transportation Regulations* (ATRs). During 2001–2002, the Agency consulted extensively with stakeholders, including air carriers, underwriters, brokers and associations.

As a result, some of the major proposed amendments would:

- ensure that the public is made aware of the identity of the operator of the aircraft for domestic services;
- eliminate the passenger charter constraints (such as advance booking requirements, minimum stay and the prohibition on one-way travel), as they no longer meet the needs of the travelling public;
- reduce the regulatory burden and administrative costs to carriers while providing sufficient regulation to carry out government policy objectives and to protect consumers;
- reduce the number of charter types from ten to four (transborder charters and international charters will be operating under similar rules);
- no longer require that the entire capacity of the aircraft be chartered by only one charterer; and
- simplify the tariff provisions and the prescribed certificate of insurance form.

These proposed amendments are essential to make the ATRs consistent with Canada's Policy on International Passenger Charter Air Services as well as with the International All-Cargo Charter Policy.

The provisions in the ATRs, which ensure that carriers protect advance payments from charterers so that they can provide refunds to consumers in cases of non-performance, were effective when Canada 3000 Airlines Limited ceased its operations in November 2001. They helped to augment the protection that was put in place by the provinces.

In 2001–2002, the Agency also drafted proposed amendments to Part VII of the *Air Transportation Regulations — Terms and Conditions of Carriage of Persons*. The existing regulation prescribes the nature and extent of services to be provided to persons with disabilities when travelling on aircraft of 30 passenger seats or more. The proposed

changes will extend coverage to include aircraft with 20 to 29 passenger seats, thereby improving the services for persons with disabilities on small commercial aircraft.

### 3.4.3 Protection of Consumers and Carriers

In July 2000, an amendment to the *Canada Transportation Act* created the **Office of the Air Travel Complaints Commissioner**. The Commissioner resolves consumer complaints about the quality of services provided by air carriers that operate to, from and within Canada. While the range of complaints that the Commissioner handles varies widely, most disputes involve the quality of carrier service, baggage handling and flight schedules. The Commissioner also deals with complaints concerning domestic pricing on competitive routes and those arising when scheduled carriers discontinue or reduce service to a community served by several carriers.

A toll-free call centre (1-888-222-2592) is staffed by bilingual agents who responded to more than 12,900 calls from consumers in 2001-2002.

During 2001–2002, the Commissioner received 2,529 written complaints. Of these, in addition to the 1,123 complaints that had not been closed at the end of the previous fiscal year, 2,595 were completed while 1,057 were carried over. Of the cases closed, 680 required the direct assistance of the Commissioner and his staff to investigate and facilitate the negotiations between the carriers and the complainants. When asked if they were happy with the resolution of their complaints, 61 per cent of the consumers said they were totally or partially satisfied (compared to 77 per cent in 2000–2001). This decrease in the level of satisfaction can be attributed to various factors. Partly, in response to the increased scrutiny of complaint results by the Air Travel Complaints Commissioner, most carriers have put improved complaint resolution systems in place allowing them to resolve more complaints to the satisfaction of the complainant, without the direct assistance of the Commissioner. As a result, only the more difficult and complex cases reach the office of the Commissioner. Some of those cases cannot always be resolved satisfactorily, because complainants have expectations of settlements that are beyond what the carriers are willing to provide by way of compensation. Many complainants said that without the assistance of the Commissioner, they would not have likely been able to reach a settlement with the carrier.

The Agency must also deal with a far greater than expected demand for its complaint-resolution services. To cope, the Agency has re-examined its processes and re-allocated resources from other areas. However, the Agency cannot keep re-allocating resources without seriously affecting its other statutory mandates. To address this challenge, additional resources will be provided to the Agency in fiscal year 2002–2003.

Information about the Air Travel Complaints Office; the complaints handling process; helpful publications and links; and the air travel industry, including telephone and fax numbers and addresses of consumer services representatives of various carriers, is available on the Agency's Web site ([www.cta-otc.gc.ca/cta-otc2000/menu\\_e.htm](http://www.cta-otc.gc.ca/cta-otc2000/menu_e.htm)). The Commissioner's bi-annual reports, which include recommendations to address identified systemic problems, are also available on the Agency's Web site.

The Canadian Standard Travel Agency Registry complained to the Agency that several carriers were applying surcharges to air fares. In its decision (No. 242-A-2001), the Agency expressed its concern, saying that "air carriers should ensure that consumers are well informed of all prices associated with air transportation and that, where practicable, carriers should make every effort to incorporate miscellaneous charges into fare levels and to avoid

The Agency makes every effort to resolve consumers' complaints informally, but this is not always possible. When the complaint falls within the Agency's quasi-judicial mandate, it is referred to a panel of Agency Members for a formal decision. For example, some complaints required the panel to determine whether the carrier has applied its tariff properly.

As the **Canadian licensing authority for publicly available air services**, the Agency:

- issues licences for domestic and international air services;
- verifies that start-up carriers with large and medium-sized aircraft meet financial requirements before they begin service;
- ensures that only Canadians operate domestic services or exercise traffic rights granted to Canada in bilateral air agreements;
- ensures that carriers protect advance payments from charterers so that they can provide refunds to consumers in cases of non-performance;
- verifies that carriers have abided by the terms and conditions of carriage set out in their tariffs; and
- ensures that air carriers provide notification when they discontinue or, in certain situations, reduce services, thereby alerting other operators that a commercial opportunity exists and giving the community time to seek replacement carriers.

Licences to provide publicly available air services are granted when the Agency is satisfied that the applicant has a Canadian aviation document indicating its ability to maintain safe operations; that it has prescribed insurance coverage; that it has not contravened specific prohibitions regarding the sale of an air service; and, where necessary, that it has met certain financial requirements. Chapter 6 of the Agency's Annual Report, available on its Web site ([http://www.cta-otc.gc.ca/publications/ann-rpt/2001/6\\_e.html?600](http://www.cta-otc.gc.ca/publications/ann-rpt/2001/6_e.html?600)) provides detailed statistics on licensing and charter activities.

In the **rail industry**, the Agency issues certificates of fitness when it is satisfied that a company proposing to construct or operate a railway has adequate liability insurance to protect the interests of shippers and the public. Where competition may be inadequate, shippers are further protected by the provisions of the Act, which ensure that they have access to alternative railways, a proper level of service or reasonable rates. These provisions are administered by the Agency, allowing it to resolve both formal and informal disputes between carriers and shippers.

The Act allows the Agency to grant running rights, which allow regulated access by one railway to the line of another railway. In many cases, shippers see this as a means of increasing competition. In 2001–2002, the Agency issued decisions on two applications for these rights which clarified the circumstances where such rights can be granted. The Agency determined that the Act, as now constructed, does not empower it to grant running rights for the express purpose of soliciting traffic along a host’s railway line. Therefore, it dismissed the applications. At year-end, the Agency was considering two additional applications seeking running rights.

The Agency also resolves disputes between railways and municipalities, road authorities, utility companies, landowners and private citizens concerning property rights and access, the apportionment of costs and other issues. In doing so, the parties can avoid lengthy and costly court procedures.

When it gets applications related to **railway construction**, the Agency must assess the potential environmental impacts of the proposal under the *Canadian Environmental Assessment Act*. The preamble of this legislation says that an “environmental assessment provides an effective means of integrating environmental factors into planning and decision-making processes in a manner that promotes sustainable development.” In 2001–2002, the Agency made seven environmental screening decisions. In each case, it allowed the projects to proceed once it was clear that the applicant would comply with appropriate measures to mitigate any significant adverse environmental impacts. At year-end, the Agency was considering a project to relocate a portion of Canadian Pacific Railway line near Milk River, Alberta, as a result of the proposal of the Government of Alberta to twin Highway 4.

The Agency has formed and chairs an interdepartmental screening committee to advise it on the screening level environmental assessment of this project. The other members on the committee are Transport Canada, Environment Canada, and Fisheries and Oceans Canada. Public consultations on this project will continue in 2002–2003.

On the **marine** side, the Agency investigates whether tariffs issued by pilotage authorities are in the public interest. Following a public hearing held in 2000–2001, the Agency concluded that the tariff increase proposed by the Pacific Pilotage Authority was not prejudicial to the public interest.

Under the *Coasting Trade Act*, the Minister of Revenue cannot issue a coasting trade licence authorising a foreign vessel to conduct commercial activities in Canadian waters unless the Agency has determined that no suitable Canadian vessel is available for the proposed activity. In 2001–2002, the Agency received 101 coasting trade applications and approved 82 applications for the use of foreign vessels in Canadian waters.

#### **3.4.4 Alternative Dispute Resolution Mechanisms**

The Agency believes that, in certain cases, mediation is a more appropriate way to resolve disputes than traditional procedures, because it is often simpler and faster. Mediation also helps improve the lines of communication between parties, especially those that have an ongoing relationship. In addition to these benefits, parties usually have high levels of commitment to a mediated agreement, since they are jointly involved in crafting a solution that meets their specific needs.

The Agency extended for another year its Mediation Pilot Project, which began in June 2000 in the Rail and Marine Branch. This pilot project was designed to give parties an additional tool to resolve disputes, as well as to complement the Agency's traditional hearing process. Of the 10 requests for mediation brought before the Agency in 2001–2002, three cases proceeded to mediation. Of these, two ended with an agreement between parties and one case was not resolved. In four cases, the responding party would not voluntarily agree to participate in a mediation and three cases were in progress at year-end. As well, two other cases were resolved through Agency staff facilitation without the use of the formal mediation process. Although the Agency's experience indicates that the transportation industry has been slow initially to accept a non-traditional method of resolving disputes, parties that have used the Agency's mediation process find it useful, stating that they would use this process again in the future if the need arose. In 2002–2003, the Agency will evaluate the merits of running a permanent mediation service to resolve disputes.

In 2001–2002, the Agency explored the use of mediation in other areas of its jurisdiction, specifically accessible transportation. To develop a mediation process that meets the needs of persons with disabilities, the Agency consulted with its Accessibility Advisory Committee, as well as with various tribunals and organizations in Canada and the United States that mediate similar issues or that work with similar client groups. Based on its consultations, the Agency developed a framework specifically designed for a mediation pilot project in the area of accessible transportation.

#### **3.4.5 Improved Access to the Canadian Transportation System for Persons with Disabilities**

Eliminating undue obstacles to the mobility of Canadians with disabilities continues to be an important component of the Agency's responsibilities. The Agency removes undue obstacles in two ways: on a systemic basis, by developing Codes of Practice and regulations; and on a case-by-case basis, by resolving individual complaints.

The president of a major aircraft manufacturer states in a letter to the Chairman of the Agency: “The Code of Practice is certainly a valuable document to bring additional motivation to our design engineers, in order to comply with the passengers with disabilities’ needs.”

**Codes of Practice** are advantageous because the Agency can implement them more quickly than regulations. The Agency has developed and implemented three codes of practice (air, rail and ferry) for federally regulated public transportation systems in Canada. The Agency’s codes were developed in consultation with associations of and for persons with disabilities, seniors, manufacturers, carriers and service providers. Although industry

groups support the use of codes of practice in lieu of regulation, the success of these codes remains dependent on their willingness to abide by them.

The Agency monitors, measures and evaluates industry’s compliance with regulations and codes of practice related to persons with disabilities. Monitoring activities include conducting surveys, reviewing transportation service providers’ training records, inspecting sites and investigating complaints. In 2001–2002, monitoring questionnaires were sent to all air and rail carriers, and ferry operators covered by the codes. The Agency received a 100 per cent response rate. These questionnaires will enable the Agency to determine to what extent carriers and operators have complied with the existing codes. A report for each mode will be issued in 2002–2003.

The Agency is drafting a fourth code of practice to remove communication barriers for travellers with disabilities. This new code is a complex set of criteria that will apply to air, rail and ferry service providers and terminals. It will improve the communication of information for travellers with disabilities. During 2001–2002, the proposed code was reviewed by the Agency’s Accessibility Advisory Committee, as well as by a special working group consisting of representatives of organizations of and for persons with sensory disabilities. The public consultations on the new code and its implementation will take place in 2002–2003. While this new code will focus on the information needs of travellers with disabilities, it is expected to benefit all travellers.

As a result of its work, the Agency has recognized that there can be problems at times, particularly when travel arrangements are made by a third party. To address this issue and to improve air travel for persons with disabilities, the Agency developed a **reservation checklist** to help travel agents and other service providers make travel arrangements for their customers. The document lists the services that air carriers should provide, such as helping passengers get to the boarding gate, providing specific seating to accommodate a disability and transporting mobility aids at no charge. The checklist was distributed to all Canadian travel agencies and offered to airlines operating in

Following the distribution of the checklist, several travel agents called to get further information. The feedback was very positive; many callers thanked the Agency for

Canada. The feedback was very positive. Consumers may also find this tool helpful for communicating their needs to travel agents or reservation staff. The checklist is available on the Agency's Web site ([www.cta.gc.ca/access/reservation/index\\_e.html](http://www.cta.gc.ca/access/reservation/index_e.html)) or by calling 1-800-883-1813.

When travellers with disabilities believe they have encountered an undue obstacle, they may contact the Agency for help. The Agency will investigate the complaint to determine whether an obstacle exists and whether it is undue. Last year, the Agency received 71 complaints involving travellers with disabilities. Of the 47 complaints closed during the year, 18 resulted in the issuance of an Agency decision. Ten cases were closed after Royal Aviation Inc. and Canada 3000 Airlines Limited ceased operations, twelve were withdrawn, and the others were dismissed or referred to the Air Travel Complaints Commissioner. Examples of these complaints can be found in the Agency's 2001 Annual Report available on its Web site ([www.cta-otc.gc.ca/publications/ann-rpt/2001/cover\\_e.html](http://www.cta-otc.gc.ca/publications/ann-rpt/2001/cover_e.html)).

Investigation and the resulting decisions can have an impact well beyond the resolution of a particular case. It can change a carrier's policies and procedures in ways that benefit future travellers. It can also clarify what the Agency sees as an undue obstacle.

The Agency issued a decision in response to an application from an obese person regarding the seating arrangements provided to her and the air carrier's policy to charge 1.5 fares to passengers who require two seats to accommodate their size. Following an intensive evaluation and an oral hearing, the Agency concluded that obesity, per se, is not a disability for the purposes of the Act. Nevertheless, the Agency recognized that there may be obese individuals who have a disability that can be attributed to their obesity. The Agency will consequently decide, case by case, whether applicants are in fact persons with disabilities for the purposes of the Act. If so, the Agency will then proceed to examine the merits of the applications. At year-end, three complaints on this matter were before the Agency for consideration.

In 2001–2002, the Agency heard extensive arguments concerning a complaint filed by the Council of Canadians with Disabilities regarding the level of accessibility of the Renaissance cars purchased by VIA Rail. If the Agency finds that some of the features in the final design of the rail cars constitute undue obstacles, it can require corrective measures regarding the design, construction and modification of that equipment. At year-end, the Agency was continuing with its investigation.

### **3.4.6 Administration of Revenue Cap Regulation of Western Grain Movement**

The Agency must determine the maximum revenue entitlement (or revenue cap) and actual revenue for Canadian National (CN) and Canadian Pacific (CP) for the movement of western grain for each crop year beginning with crop year 2000–2001. It must do so by December 31 following each crop year, which ends on July 31. If the railway company revenue exceeds its revenue cap, it must pay out the excess amount in addition to the penalty specified in regulations. This provides a more flexible railway pricing regime for western grain rail transportation while safeguarding grain shippers and farmers from excessive rail rate increases.

The Agency consults with parties in the grain handling and transportation industry, including producer representatives, shipper organizations, railway companies, grain companies and federal, provincial and municipal governments. It also verifies and audits detailed information contained in railway submissions. The consultation feedback, the analysis and review of all information, and the audit findings are assessed before making an Agency decision.

In Decision No. 669-R-2001, for example, the Agency found that CN and CP revenues for moving western grain did not exceed their revenue caps for crop year 2000–2001. To do so, the Agency thoroughly examined, verified and audited detailed railway submissions of grain traffic and revenue information. A copy of the decision is available on the Agency's Web site ([www.cta-otc.gc.ca/rulings-decisions/decisions/2001/R/669-R-2001\\_e.html](http://www.cta-otc.gc.ca/rulings-decisions/decisions/2001/R/669-R-2001_e.html)).

### **3.4.7 Advice to the Government**

#### **Assessment of the Act**

The Agency provides an annual report to Parliament on its assessment of the operation of the Act and on any difficulties encountered in its administration. This assessment is based on the Agency's experience with the Act and on comments received from transportation providers and users. Some of the issues raised in its 2001 report related to the transfer and discontinuance of railway lines; railway line construction; compensation processes for discontinuance of grain dependent branch lines; requirements for notice of discontinuance; and reduction of air services.

A more complete description of these difficulties can be found in Chapter 2 of the Agency's 2001 Annual Report, available on its Web site ([www.cta-otc.gc.ca/publications/ann-rpt/2001/2\\_e.html](http://www.cta-otc.gc.ca/publications/ann-rpt/2001/2_e.html)).



## **Submission to the *Canada Transportation Act* Review Panel**

In June 2001, the *Canada Transportation Act* Review Panel published a report entitled *Vision and Balance*. The panel's mandate was to assess whether the Act (and other transportation legislation) provided Canadians with an efficient, effective, flexible and affordable transportation system. It was also asked to recommend any necessary or desirable amendments to the Act. The Agency contributed to this review through its assessment of the Act in each of its annual reports since 1996 and by meeting with the Review Panel to discuss difficulties the Agency has encountered in the administration of the Act. The Agency provided additional documents and expertise to the Review Panel on various subjects.

During the year, Agency staff met with Transport Canada officials as they considered, not only the recommendations of *Vision and Balance*, but also the proposals set out in the Minister of Transport's *Creating a Transportation Blueprint for the Next Decade and Beyond: Defining the Challenges*.

### **3.5 Reporting on Other Government Themes and Management Issues**

#### **3.5.1 Sustainable Development in Government Operations**

Although the Agency does not have an official policy on sustainable development, some activities related to that topic have been included in its procedures. It has implemented green procurement measures, has provided staff with waste recycling bins and has given its surplus electronic data products (equipment and software) to the "Computers for Schools" program administered by Industry Canada.

#### **3.5.2 Modern Comptrollership**

During the past fiscal year, the Agency took steps to modernize its management practices in line with the President of the Treasury Board's report *Results for Canadians: A Management Framework for the Government of Canada*. To this end, the Agency created a Project Management Office during 2001–2002 in response to the government's Modern Comptrollership initiative. The Agency has assessed its current capabilities in terms of the principles as defined in the Treasury Board Modern Comptrollership assessment tool. In 2002–2003, the Agency will develop and implement an action plan. It will start taking appropriate measures to address those areas where further improvements are required.

#### **3.5.3 Government of Canada On-Line**

Government On-Line is another key pillar in the Government's Results for Canadians agenda. The Agency's Web site provides quick and easy access to information about the Agency, its decisions and activities. In 2001–2002, the Agency established an electronic subscription service that alerts subscribers when new content is put on the Agency Web

site and when there are general announcements. Canadians who want to make a complaint against an air carrier may now do so on-line through the Agency's Web site. The Agency also participated with Transport Canada and other government departments to create an accessible transportation portal that provides comprehensive information on accessible transportation services to seniors and persons with disabilities.

### **3.5.4 Human Resource Management**

As in other government departments and agencies, a large number of the Agency's knowledge workers will retire over the next five to seven years. To be well prepared for these departures, the Agency has started to develop a five-year succession plan to identify vulnerabilities as well as specific actions that will address them.



## ANNEX 1: Financial Performance

### Financial Performance Overview

As with most administrative tribunals, approximately 80 per cent of the Agency's expenditures are related to personnel costs. The Agency does not have any major capital projects. Other operating expenditures relate to the delivery of Agency activities and range from the costs associated with holding public hearings to ensuring that Agency employees have the proper electronic tools to do their job.

### Financial Summary Tables

The Agency is a single business line—the Canadian Transportation Agency Program.

**Table 1 Summary of Voted Appropriations**

<b>Financial Requirements by Authority (\$ thousands)</b>				
		<b>2001–2002</b>		
<b>Vote</b>		<b>Planned Spending</b>	<b>Total Authorities</b>	<b>Actual</b>
<b>Canadian Transportation Agency</b>				
30	Operating expenditures	21,232	23,526	22,604
	Contributions to employee benefit plans	3,035	3,163	3,163
(S)	Statutory Grants and Contributions	4	4	0
(S)	Spending of proceeds from the disposal of surplus Crown assets	0	3	0
<b>Total</b>		<b>24,271</b>	<b>26,696</b>	<b>25,767</b>

**Table 2 Comparison of Total Planned Spending to Actual Spending**

Canadian Transportation Agency	2001–2002		
	Planned Spending	Total Authorities	Actual Spending
<b>FTEs</b>	271	271	274
<b>(\$ thousands)</b>			
<b>Operating *</b>	23,501	25,926	24,985
<b>Capital</b>	766	766	782
<b>Statutory Grants and Contributions</b>	4	4	0
<b>Total Net Expenditures</b>	<b>24,271</b>	<b>26,696</b>	<b>25,767</b>
<b>Cost of services provided by other departments</b>	3,002	3,098	3,076
<b>Net Cost of the Program</b>	<b>27,273</b>	<b>29,794</b>	<b>28,843</b>

\* Includes contributions to employee benefit plans.

**Table 3 Historical Comparison of Total Planned Spending to Actual Spending**

Canadian Transportation Agency	Actual 1999–2000	Actual 2000–2001	2001–2002		
			Planned Spending	Total Authorities	Actual
<b>Total Net Expenditures</b>	<b>22,275</b>	<b>23,611</b>	<b>24,271</b>	<b>26,696</b>	<b>25,767</b>
<b>Capital Spending</b>	<b>705</b>	<b>1,281</b>	<b>766</b>	<b>766</b>	<b>782</b>

## ANNEX 2: Other Information

### A. Agency Annual Reports

*Annual Report 1997* (covering the period January 1–December 31, 1997)

*Annual Report 1998* (covering the period January 1–December 31, 1998)

*Annual Report 1999* (covering the period January 1–December 31, 1999)

*Annual Report 2000* (covering the period January 1–December 31, 2000)

*Annual Report 2001* (covering the period January 1–December 31, 2001)

Available on the Internet: [www.cta-otc.gc.ca](http://www.cta-otc.gc.ca)

### B. Contacts for Further Information

Postal address: Canadian Transportation Agency      Web site: [www.cta-otc.gc.ca](http://www.cta-otc.gc.ca)  
Ottawa, Ontario, Canada K1A 0N9

Performance Area	Contact Name	Title	Telephone Number and E-mail Address
Regulatory Support	Marie-Paule Scott, Q.C.	General Counsel and Secretary	(819) 953-6698 <a href="mailto:marie-paule.scott@cta-otc.gc.ca">marie-paule.scott@cta-otc.gc.ca</a>
Air and Accessible Transportation	Gavin Currie	Director General	(819) 953-5074 <a href="mailto:gavin.currie@cta-otc.gc.ca">gavin.currie@cta-otc.gc.ca</a>
Rail and Marine	Seymour Isenberg	Director General	(819) 953-4657 <a href="mailto:seymour.isenberg@cta-otc.gc.ca">seymour.isenberg@cta-otc.gc.ca</a>
Corporate Activities	Joan MacDonald	Director General	(819) 997-6764 <a href="mailto:joan.macdonald@cta-otc.gc.ca">joan.macdonald@cta-otc.gc.ca</a>
Planning	Carole Girard	Director	(819) 953-2829 <a href="mailto:carole.girard@cta-otc.gc.ca">carole.girard@cta-otc.gc.ca</a>
Communications	Craig Lee	Director	(819) 953-7666 <a href="mailto:craig.lee@cta-otc.gc.ca">craig.lee@cta-otc.gc.ca</a>

## C. Legislation and Regulations Administered

### C - 1 The Agency has primary responsibility for the following Act:

<i>Canada Transportation Act</i>	<i>S.C. 1996, c. 10</i>
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### C - 2 The Agency shares responsibility to Parliament for the following Acts:

<i>Access to Information Act</i>	<i>R.S.C. 1985, c. A-1</i>
<i>Budget Implementation Act, 1995</i>	<i>S.C. 1995, c. 17</i>
<i>Budget Implementation Act, 1996</i>	<i>S.C. 1996, c. 18</i>
<i>Canada Marine Act</i>	<i>S.C. 1998, c. 10</i>
<i>Canadian Environmental Assessment Act</i>	<i>S.C. 1992, c. 37</i>
<i>Civil Air Navigation Services Commercialization Act</i>	<i>S.C. 1996, c. 20</i>
<i>Coasting Trade Act</i>	<i>S.C. 1992, c. 31</i>
<i>Energy Supplies Emergency Act</i>	<i>R.S.C. 1985, c. E-9</i>
<i>Financial Administration Act</i>	<i>R.S.C. 1985, c. F-11</i>
<i>Pilotage Act</i>	<i>R.S.C. 1985, c. P-14</i>
<i>Privacy Act</i>	<i>R.S.C. 1985, c. P-21.</i>
<i>Railway Relocation and Crossing Act</i>	<i>R.S.C. 1985, c. R-4</i>
<i>Railway Safety Act</i>	<i>R.S.C. 1985, c. 32 (4th Supp.)</i>
<i>Shipping Conferences Exemption Act, 1987</i>	<i>R.S.C. 1985, c. 17 (3rd Supp.)</i>

**C - 3 The Agency has sole responsibility for the following regulations:**

*Air Transportation Regulations*

*Canadian Transportation Agency Designated Provisions Regulations*

*National Transportation Agency General Rules*

*Personnel Training for the Assistance of Persons with Disabilities Regulations*

*Railway Costing Regulations*

*Railway Interswitching Regulations*

*Railway Third Party Liability Insurance Coverage Regulations*

*Railway Traffic and Passenger Tariffs Regulations*

*Railway Traffic Liability Regulations*

*Uniform Classification of Accounts and Related Railway Records*

**C - 4 The Agency shares responsibility to Parliament for the following regulations:**

*Carriers and Transportation and Grain Handling Undertakings Information Regulations*

*The Jacques-Cartier and Champlain Bridges Inc. Regulations*

*The Seaway International Bridge Corporation, Ltd. Regulations*