



Canadian  
Transportation  
Agency

Office  
des transports  
du Canada

# Providing Information to Own Motion Investigations of Freight Rail Service: A Guide

Canadian Transportation Agency

Canada 

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# 1. Introduction

This is a guide for rail shippers and other freight rail stakeholders. It explains what information would be helpful for you to provide if you believe the Canadian Transportation Agency (CTA) should open – or it has already opened – an "own-motion" investigation (OMI) into possible rail service issues. In particular, the guide explains:

- the purpose of OMIs;
- the information the CTA needs to open an OMI;
- the kinds of information you could provide; and
- the key OMI question your information helps answer.

In an OMI, any conclusions the CTA reaches must be based on an impartial assessment of the information it gathers. This is why you should consider providing details about the possible service issues being investigated. If you don't, it may be impossible for the OMI to produce clear conclusions.

## 2. Purpose of OMIs

The CTA holds an OMI to look into possible rail service issues. If the OMI finds such issues, the CTA can order the railway companies (railways) involved to correct them. This protects shippers' rights to service and helps keep the rail system working efficiently.

The CTA also resolves issues by mediating or adjudicating rail level of service complaints, but there are differences between the complaints process and an OMI:

- **Complaints:** In the complaints process, a shipper or other person who believes a railway is not meeting its service obligations applies to the CTA for help. There are both informal and formal ways of resolving such disputes. The informal method (mediation) depends on both sides being willing to work towards an agreement that resolves the matter. The formal method (adjudication) is court-like, with the CTA making a binding decision based on evidence and arguments from both parties. Either way, any solution is usually specific to that one dispute.
- **Investigations:** No one applies for an OMI. If enough information suggests there could be a problem, and the Minister of Transport agrees, the CTA may decide to investigate. OMIs are well-suited for looking into possible widespread or systemic service issues. Any solution might apply to multiple shippers and even multiple railways.

The CTA, which has existed in some form for over 100 years, has a long history of resolving rail service disputes. It has had this OMI power only since 2018.

For more information about disputes, see [Freight Rail Service and Rates: A Guide](#). That guide explains shippers' rights to freight rail service in Canada and how the CTA resolves individual service complaints. It also includes a short section on Investigations that is about OMI.

## 3. Before the OMI

### Deciding whether to investigate

As noted, the CTA decides whether to hold an OMI based on information that there may be a problem. This can be any type of problem that creates service shortcomings. However, the CTA is more likely to open an OMI if the information points to possible shortcomings that:

- are potentially broad in scope (for example, affect multiple shippers and/or have lasted a long time); and/or
- may affect a regional or the national economy.

The CTA continually monitors the rail system and could identify a problem as part of that work. That said, shippers and other rail users are a key source of information. You are the ones with records showing what kind of service you are receiving. Without information from you, the CTA may not find enough cause for concern to justify launching an OMI.

The process for considering your information is less formal at the pre-OMI stage than it is during the OMI itself. Pre-OMI, the focus is on gathering, assessing, and discussing information. The purpose is to see whether there seem to be service shortcomings and if so, how serious or widespread they are.

In the pre-OMI stage, we may ask you and other rail users for more details. We will also ask the railway(s) involved about the situation and what they think is causing it. It may be that any issues can be resolved without an OMI.

If information suggests an OMI is warranted, and the issues have not been resolved, the CTA informs the Minister of Transport. If the Minister agrees that the situation should be investigated, the OMI can begin.

## Announcing the investigation

The CTA opens an OMI by announcing it and providing information, such as the steps the OMI is expected to follow. These could include collecting written documents and data and holding in-person interviews or hearings. The CTA will ask one or more of its [Members](#) to lead the OMI. Members are CTA decision-makers who have powers similar to judges.

### **A fair and neutral process**

Launching an OMI does not mean the railway(s) involved failed to meet their service obligations. The OMI is the fair and neutral process for finding that out. Compared to the pre-OMI stage, it collects and assesses more information and hears from more people. At any OMI, shippers, railways and anyone else with relevant information will have a chance to provide evidence.

The CTA will impartially consider all the evidence and arguments before making findings and possibly an order.

## 4. During the OMI

Once the OMI begins, all affected stakeholders should be prepared to submit relevant information, including data they have. For shippers, among others, this includes data that you believe helps to prove a systemic or serious shortcoming in freight rail service. Again, without detailed evidence, the investigation may not be able to reach a clear conclusion.

Focus your evidence on the specific issues the OMI is investigating. For example:

- if the OMI is looking at possible long cycle times, consider submitting data you have on things like the average car cycles between relevant points in the network and average car cycle over time; or
- if the OMI is looking at possible insufficient supply of cars, then data on the number of cars you requested and received would be important.

### **Confidential contracts**

When a shipper and railway have a confidential contract setting out the railway's level of service obligations, the terms of the agreement are binding on the CTA in any decisions it makes. In an OMI, this can mean the OMI Panel won't be able to look into some issues the shipper raises. The panel might not be able to use information the shipper gives as evidence of a service failure or to order a remedy.

In the past, information suggesting a possible service issue has come from shippers, terminal facilities, and others affected by it. It has come in the form of call logs, emails, and meeting notes from discussions with the railway(s). These items became pieces of evidence in the OMI. They showed things like:

- the number of cars ordered from the railway and the number it delivered;
- the number of loaded cars ready for the railway and the number it took;
- the time the railway arrived at the shipper's or terminal's siding, the time it left, and the number of hours in between (hours on site);

- the capacity available at terminals (daily unloading capacity and the average number of cars unloaded daily, compared to the average daily number of cars in the area destined for the terminal and awaiting placement); and
- details about embargoes affecting shippers and/or terminal facilities.

These are examples only. What will be useful depends on the specific issue(s) being investigated. What is certain is that shippers, facilities, and other rail users – and the railway(s) – are a critical source of evidence during an OMI.

### The deciding question

The CTA uses the evidence to answer the following question: **Is the railway providing the highest level of service it reasonably can, in the circumstances?**

This means the CTA will look closely at what your evidence says about the circumstances around the service issue, including:

- the operating needs and restrictions of the shippers and railway(s) involved;
- the shippers' service needs and requests and whether the requests were reasonable;
- the traffic and any volume or other commitments shippers made about it;
- each railway's legal obligations (including any to passenger railways); and
- each railway's back-up plans for dealing with service issues, if relevant.

The law requires the CTA to consider **the question above**. If the answer is yes, the railway is meeting its service obligations. If the answer is no, there is a service failure, which the CTA can order the railway(s) to correct.

## 5. We're here to help

Any time an OMI opens, we put information about it on our website. For other OMI questions, you can call our Rail Help Line at [1-877-850-7148](tel:1-877-850-7148).