



Rail Review Submission

We thank Transport Canada for launching this rail review and commend the department for engaging with various stakeholders. Below are recommendations from the Grain Growers of Canada (GGC) and grain farmers from across Canada on areas that impact producers.

About the Grain Growers of Canada

As the national voice for Canada's grain farmers, Grain Growers of Canada (GGC) represents over 65,000 producers through our 14 national, provincial, and regional grower groups. Our members are trade oriented, sustainable, and innovative. As a farmer-driven association for the grains industry, GGC advocates for federal policy that supports the competitiveness and profitability of grain growers across Canada.

Maximum Revenue Entitlement (MRE)

In the duopolistic system that shippers operate in, the MRE is critical to the health of the overall grain production and shipping market. It ensures that carriers are compensated fairly for the grain that they transport within a service provider environment that is absent of effective competition. It also allows railways price flexibility by allowing them to increase rates based on the goods and services they use. Because of this, the MRE provides shippers, and by extension western grain farmers who pay the rail freight, some price protection and predictability for the shipment of grain to export markets.

We believe that continued investments in Canada's railways are essential to keeping us internationally competitive and that the MRE provides enough price flexibility for carriers to make growing profits, while also investing back into the system. The built-in flexibility of the MRE accounts for changes in inflation on items such as labour, fuel, materials, and capital purchases. It encourages railway investment to improve efficiencies, especially since those improvements accrue to the bottom-line of carriers. Recent years also show that within the structure of the MRE, carriers have been able to increase profits, keeping stakeholders continuously satisfied. In particular, Canadian railways have earned over \$50 billion in excess income in the last decade over what Canadian regulators would consider necessary for financial viability coupled with the best operating ratios in the North American railway industry¹.

Remitted amounts that exceed the MRE cap should continue to be returned to activities that directly benefit western Canadian grain farmers who initially paid these surplus shipping costs. The Western Grains Research Foundation (WGRF) since 1981 has greatly benefitted the sector with production research and continues to be the right organization for this purpose. Moving forward, the WGRF should consider allocating a portion of its resources to grain transportation initiatives, such as railway performance monitoring, as an investment that benefits all farmers across western Canada. Incremental improvements in the grain transportation system today, supported by sector monitoring, will strengthen

¹ Coalition for the Factual Analysis of International Rail Rates. (2023, Sept 26). *Rail Rates in Canada White Paper*. <https://www.fairrail.ca/>

the ability of western Canada to transport the increased crop volumes of tomorrow. GGC continues to advocate for greater investments in public and private research and development, and the WGRF is a prime example of the benefits to farmers and thus to Canada of an organization that enables this.

Extended Interswitching

In the absence of competition in Canada's railway system, extended rail interswitching is a tool that will foster a competitive market between the two major carriers. This is why GGC commends the Government of Canada for the introduction of an 18-month pilot project for extended rail interswitching. However, more must be done to create a balanced relationship between the rail carriers and grain companies that grain farmers rely on.

First, extended rail interswitching must be made permanent. While the 18-month pilot project is appreciated, the length of the project is not long enough to provide any real data to the government or to stakeholders. Furthermore, grain companies may be reticent to utilize extended interswitching as it could impact their relationship with rail carriers over the long-term.

Second, while the 160km radius benefits over 90% of grain elevators in the prairies, there continues to be elevators, and grain farmers, that are unable to access this policy tool. For example, farmers in northern Alberta and northern Saskatchewan are still unable to access extended interswitching, meaning they continue to be beholden to a single carrier.

Lastly, extended rail interswitching must be expanded across Canada. While we appreciate that this practice benefits most grain farmers in the prairies, there continues to be grain farmers both in the prairie region and across the country who are unable to access this competitive framework. For example, were extended interswitching expanded to 500km, it would still not benefit farmers in British Columbia who share the Peace River Country that is split by the provincial border.

Contracting Practices

Contracting Out

GGC strongly believes that the allowance to contract out provisions related to the Canada Transportation Act (CTA) via confidential contract negotiations should be prohibited for several reasons. First and foremost, allowing companies to contract out provisions set by legislation and law does not follow the will of Parliament. Members of Parliament have been elected by Canadians to create legislation and policies based on the will of the populace. If these laws are circumvented via the contractual process, they go against the will of Parliament and those who elected them.

Second, contracting out favours the rail companies as shippers are under continued pressure to rely on one of two companies. Due to this power imbalance, rail companies can contract out provisions that are to the detriment to the shipper, and therefore grain farmers. Without adequate competition in the space, rail companies know that they can draw out negotiations until shippers need to accept the terms, since there are no alternatives for the shipper. For example, with extended rail interswitching now in effect through the pilot project, rail companies may choose to contract out this provision to not have to abide by the new regulations. This would also impact the very pilot project that Transport Canada is hoping to attain information and data from for a longer-term solution.

Surcharges

Fuel surcharges were initially introduced to address fluctuating fuel prices during long-term contracts so that the carrier could pass on increases to the shipper. With the creation of shorter-term contracts, fuel surcharges have become a new revenue stream for railway companies. For example, in reports to their stakeholders, some companies have begun to list the surcharges as a revenue stream. Furthermore, surcharges are not added to the maximum revenue entitlement, allowing rail companies to make extra revenue at the expense of shippers and grain farmers.

While fuel prices continue to fluctuate, GGC recommends that Transport Canada seek new ways of addressing fluctuations. A potential solution could be the establishment of an automatic system that compensates either the carrier or the shipper based on if there is an increase or decrease in fuel costs. Unfortunately, the current model only compensates the carrier, even if the cost of fuel decreases over the time of the contract.

Grain and Winter Plans

Grain plans were originally mandated through the CTA for several reasons. This includes ensuring railways are publishing available capacity for rail, publishing enhancements that have been introduced to improve capacity and efficiency, giving shippers a baseline to plan monthly capacity, and to flag any risk such as labour agreements for the upcoming year.

Unfortunately, several issues with the grain plans have arisen since then. First, instead of being solely information documents, grain plans have begun to include advocacy information. For example, recent grain plans took positions against extended rail interswitching. GGC believes this to be inappropriate, especially since grain plans are mandated through the CTA.

Second, the voluntary consultation periods that some carriers perform with shippers and stakeholders are too short and not transparent. We recommend that Transport Canada mandate carriers to consult with stakeholders. We also recommend that consultations be done publicly, that carriers post the information that they have collected, and show how they properly responded.