

Canadian
Transportation
Agency



Office
des transports
du Canada

Rail Complaints Directorate

Canada



INTRODUCTION

In most commercial situations, shippers and carriers negotiate freight rates and levels of service themselves. When negotiations break down, a number of alternatives are available to shippers. Part of the Canadian Transportation Agency's mandate is to help resolve disputes between shippers and rail carriers.

The Rail Complaints Directorate resolves rate and service complaints and conducts investigations to help shippers obtain rail service or access to competing rail lines.

WHAT WE DO

The Rail Complaints Directorate investigates complaints about the following topics:

- interswitching;
- competitive line rates;
- single line rates;
- joint rates;
- running rights;
- joint track usage; and
- level of service.

Each of these subjects is discussed briefly in this brochure.

Agency determinations on rates or conditions of service must be commercially fair and reasonable to all parties.

When shippers complain about transportation rates or services, the Agency may grant the relief they seek, in whole or in part. The Agency must be satisfied, after considering the circumstances of the case, that the applicant would suffer substantial commercial harm* if the Agency did not grant the relief.

The Canada Transportation Act also allows shippers and carriers to use final offer arbitration (FOA) to resolve private commercial disputes. The Rail Complaints Directorate administers the FOA** process.

INTERSWITCHING

A shipper with access to only one railway at the origin or destination of a haul may have its cars interswitched from one carrier to another at prescribed rates, if the shipper's siding is within a 30 kilometre radius of the interchange point. Under certain circumstances, the Agency can permit interswitching beyond the 30-kilometre limit.

COMPETITIVE LINE RATE (CLR)

A shipper located beyond the 30-kilometre interswitching limit may ask the Agency to set a competitive line rate (CLR) for moving goods over the originating railway to the interchange point, for transfer to another railway. First, arrangements must be completed with the connecting carrier for the balance of the freight movement. The Agency would base the CLR on applicable interswitching rates and on the revenue the railway company generates by moving the same or substantially similar commodities over similar distances.

SINGLE LINE RATES

A shipper who wants to move traffic over a single line route may ask a railway company to set a rate for moving the traffic. If the railway company refuses, the Agency can order the railway company to publish a rate.

JOINT RATES

A shipper may want to move traffic over a continuous route in Canada where the lines are operated by two or more railway companies. In such cases, the shipper may ask the companies to agree on a joint tariff for the continuous route and on the apportionment of the rate in the joint tariff. When the

companies cannot agree on the joint tariff and rate apportionment, the Agency can direct them to come to an agreement or it can make the determination.

RUNNING RIGHTS AND JOINT TRACK USAGE

A railway company can apply to the Agency for the right to run its trains over the tracks of any other federally regulated railway company when no negotiated agreement exists.

LEVEL OF SERVICE

Railway companies must provide adequate and suitable accommodation for the carriage of traffic. A shipper may file a complaint with the Agency if it feels that a railway company is not providing such service. If the Agency determines that the railway company has not met its service obligations, it can order the railway company to fulfill those obligations in a manner and within a time period the Agency deems proper.

If the Agency determines that rail service is inadequate on a *grain dependent branch* line, instead of ordering service to be improved, the Agency may order that the railway either grant running rights to another railway or to place the line on its list of lines it intends to stop serving. If the Agency orders the latter, a short line railway or government then have the opportunity to purchase the line and continue operating it.

FINAL OFFER ARBITRATION (FOA)**

The Agency encourages shippers and carriers to resolve rate and service disputes privately, where possible. However, if a shipper and a carrier have reached an impasse, the shipper can use FOA to resolve the dispute. The FOA process permits parties to choose an arbitra-

tor from the Agency's list. The arbitrator then selects either the shipper's or the carrier's final offer. The process ensures confidentiality, procedural flexibility and the enforcement of the arbitrator's decision as a decision of the Agency. Note that FOA is not an Agency proceeding and is not subject to the substantial commercial harm* test.

** More detail is provided in the Canadian Transportation Agency pamphlet, Substantial Commercial Harm.*

***More detail is provided in the Canadian Transportation Agency pamphlet, Final Offer Arbitration.*



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The forms and publications are available on the Agency's Internet site. You can find additional information about the Agency and its responsibilities, decisions and orders on that site, at the following address:

<http://www.cta.gc.ca>