



House of Commons  
CANADA

## **Standing Committee on Transport, Infrastructure and Communities**

---

TRAN • NUMBER 016 • 1st SESSION • 39th PARLIAMENT

---

**EVIDENCE**

**Tuesday, October 3, 2006**

—  
**Chair**

**Mr. Merv Tweed**

Also available on the Parliament of Canada Web Site at the following address:

**<http://www.parl.gc.ca>**

## Standing Committee on Transport, Infrastructure and Communities

Tuesday, October 3, 2006

• (1530)

[English]

**The Chair (Mr. Merv Tweed (Brandon—Souris, CPC)):** Thank you, and good afternoon everyone.

This is meeting 16 of the Standing Committee on Transport, Infrastructure and Communities. Following the orders of the day, we're here to deal with Bill C-11, an act to amend the Canada Transportation Act and the Railway Safety Act and to make consequential amendments to other Acts.

Joining us today are Gilles Dufault, Joan MacDonald, and Seymour Isenberg from the Canadian Transportation Agency.

As we are right on schedule, I would ask that you make your opening presentation, and the committee will then have some questions for you following that.

Mr. Dufault, the floor is yours.

[Translation]

**Mr. Gilles Dufault (Acting chairman, Canadian Transportation Agency):** Thank you, Mr. Chairman.

Mr. Chairman, committee members, my name is Gilles Dufault and I have been the Acting Chairman of the Canadian Transportation Agency since July 1<sup>st</sup> of this year. It is my pleasure to be with you here this afternoon to answer any questions that committee members might have with respect to Bill C-11. I am accompanied today by Mr. Seymour Isenberg and Ms. Joan MacDonald, respectively Director General of Rail and Marine Transportation and Director General of Air and Accessible Transportation.

First of all, I would like to take a few minutes to describe our organization and its responsibilities. Before I begin, it is worthwhile to point out that the current Canadian Transportation Agency is actually Canada's oldest administrative tribunal, one whose mandate and fields of jurisdiction have evolved along with the changes that have taken place in the country's transportation system.

[English]

**The Chair:** May I interrupt you?

Do you have a written presentation? I've had a request to ask if there's anything. Would you be prepared to share it with the committee as you go through it?

**Mr. Gilles Dufault:** I don't know if I have a copy of my text. I know we have given a copy to the translators to facilitate their work.

**The Chair:** That's fine. We quite often get the written presentation. We'll get it when they've finished preparing it.

• (1535)

**Mr. Gilles Dufault:** May I continue?

**The Chair:** I'm sorry for the interruption.

[Translation]

**Mr. Gilles Dufault:** The modern-day Agency is an independent administrative tribunal with a mandate to interpret and apply transportation legislation as well as the federal government's related policies, act as an economic regulator (when necessary), and via various means such as education, consultations and essential regulation, ensure that market forces prevail in the pursuit of an efficient and accessible federally-regulated transportation network.

The current legislation stipulates that the Agency is made up of a maximum of seven permanent members and three temporary members. The members, who are named by Order-in-Council, come from all regions of Canada and bring to our decision-making process a vast array of personal experience. The Governor-in-Council appoints from among the members a Chairperson, who serves as the organization's Chief Executive Officer in addition to being a full-time member, as well as a Vice-Chairperson, who replaces the Chair when absent. Currently the Agency has a complement of six permanent, full-time members.

Because of its mandate and various fields of jurisdiction, the Agency has built a multi-disciplinary team of a wide variety of experience and professional skills. Some 260 staff members support the members in their decision-making and in resolving disputes between transportation providers, shippers and transportation providers, and consumer and transportation providers.

The Agency is an independent quasi-judicial tribunal that renders decisions on a great number of economic matters related to modes of transportation subject to federal jurisdiction (that is, air, rail and marine) and has the powers of a superior court in exercising its jurisdiction. In doing so, we assist both providers and users in resolving their disputes outside the formal litigation process (when possible) and impose regulation only when necessary.

In the rail sector, the Agency issues certificates of fitness for the construction and operation of railways, rules on rate and service complaints as well as on disputes between railways and other parties on infrastructure and access issues. We also set interswitching rates, determine net salvage value for the transfer of lines and establish the maximum revenue entitlement for the transportation of Western grain.

On the marine side, the Agency is the tribunal of appeal for pilotage authority fees and has a mandate to protect Canadian shipowners by ensuring that Canadian-flagged vessels are given priority for any marine transportation between two ports in Canadian waters.

With respect to air transportation, the Agency issues licences to Canadian and foreign airlines, applies the requirements related to these licences and issues charter permits. It also takes part in negotiations for international air agreements and oversees their implementation, in addition to handling consumer air travel complaints.

Finally, the Agency enforces legislation in various areas and works toward the accessibility of Canada's transportation system. Eliminating undue obstacles to the mobility of persons with disabilities is an important part of the Agency's mandate. Through its decisions, issued in response to complaints, the Agency contributes to the progressive elimination of these obstacles. It has the power to impose regulations, but prefers a more flexible and effective approach: consultations, education, and voluntary code of practice development in cooperation with the community of persons with disabilities and industry representatives.

[*English*]

Given that much of our work is case-driven, the agency has developed mechanisms that allow it to deal with complaints quickly, effectively, and fairly. A review panel made up of at least two members hears every case and issues a decision. Our decisions are the result of a process based on integrity, transparency, and fairness to all. Thousands of cases, some major, some minor, but always important to the people concerned, are handled by the agency every year. In 2005 we ruled on some 3,800 cases. At any given time, each member carries a caseload of more than 100 files. The agency has duly noted the growth in the popularity of mediation and facilitation as dispute resolution options.

I'm convinced that we will increasingly use these alternative methods in the future in keeping with the expectation of businesses and citizens who look to the Government of Canada to answer their concerns more rapidly and efficiently. We will continue to fulfill our mandate by using modern approaches focused on clients and citizens through dispute resolution and by dealing with complaints filed on the Internet.

Our priority remains the same: being responsive to the transportation industry, its users, and Canadian citizens while operating in an effective manner.

• (1540)

[*Translation*]

This concludes my brief snapshot of the Agency and its work. Thank you for your attention.

Mr. Chairman, we would now be pleased to answer any questions committee members might have.

[*English*]

**The Chair:** Thank you very much, Mr. Dufault.

We'll start with an open round of questions.

Mr. McGuinty, seven minutes.

**Mr. David McGuinty (Ottawa South, Lib.):** Thank you very much, Monsieur Dufault. *Merci beaucoup*. I have a couple of questions to start, if I could.

To put this in context, you're going to be given some pretty major mandate-expanding responsibilities under this bill, from what I can gather. Maybe they're not as expanding as I assume them to be. But I just want to set that context before I ask you a couple of questions, because I have a remaining fear that you may or may not be able to handle the responsibilities that are being transferred to you. Maybe you can address that, any of you, in your remarks to me and my colleagues to help allay that fear.

I have a couple of specific questions.

First of all, how would the CTA determine airline airfare clarity regulations? How would you determine they were necessary or not necessary in Canadian society, given what the bill is compelling you to do?

Secondly, I want to go to the question of the Air Travel Complaints Commissioner. Mr. Hood, the former commissioner—the former NHL referee as well—eventually ascertained that the ATCC was more than simply a complaints process; it had become a place for advocacy. He has been very critical of the notion that we would remove the independence of the commissioner and have it inserted into a regulatory agency. It reminds me a little bit of law societies, which are at once supposed to be governing the profession while disciplining the profession and at the same time promoting the profession.

I'm just trying to get my head around an average member of the public with a problem. If it's inside the CTA, will the public know if there's a trend? Will the public know that there are fifteen complaints of the same kind going to the CTA, as they might have through the independent Air Travel Complaints Commissioner, for example?

Those are my two points. First, when do you think airline airfare clarity regulations will be necessary? Second is the question of the Air Travel Complaints Commissioner and its being embedded in the CTA.

**Mr. Gilles Dufault:** I'll deal with your second question first.

The Air Travel Complaints Commissioner was created to handle complaints for which no remedy whatsoever exists in the legislation. It was to be done on an informal basis through facilitation or mediation, and all the work was to be done by CTA employees under the guidance of the commissioner and so on. If, at the end of the process, an intervention by the commissioner was required, that was done. When we receive complaints there can be multiple subjects in them. If part of a complaint cannot be resolved informally by the air travel complaint people, it is referred to the agency, the agency handles the complaint on a formal basis through its regular processes, and we render a decision based on the evidence provided and submitted by both parties.

Two years ago, the Air Travel Complaints Commissioner position was not abolished, but when the incumbent's mandate finished, she was not replaced. At the same time, following the expenditure review, the government instructed the agency to carry on with the air complaints program while reducing the funding for the Air Travel Complaints Commissioner and also the funding for the program.

Since then we have been carrying on the same responsibility on the air complaints side. In 2005 we dealt with over 1,300 complaints.

The disappearance of the Air Travel Complaints Commissioner role hasn't created a significant problem. We simply lost the senior person at the agency. We continue to handle complaints. We continue to deal with that. We continue to resolve complaints, and we continue to handle complaints that deal with tariffs and other issues under existing CTA jurisdiction.

•(1545)

[*Translation*]

**Mr. David McGuinty:** Mr. Dufault, will your organization hold a press conference every year to outline developments in the sector? Dyane Adam did that when she was Official Language Commissioner, and so does Ms. G  linas who is the Commissioner for the Environment and Sustainable Development, as well as Mr. Hood, the Air Travel Complaints Commissioner.

**Mr. Gilles Dufault:** When Mr. Hood was the Air Travel Complaints Commissioner, he held an annual press conference when he submitted his report. In passing, I was there with him because I had a special mandate. At that time, I worked with him as vice-chair. The report was simply published, and things went from there. What has changed in the legislation is that there will no longer be a commissioner or a press conference. But the report will be part of the Agency's annual report, the same recommendations will be made, and we will be able to deal with the same problems in the same ways.

**The Chair:** Mr. Laframboise, you have the floor.

**Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** The Canadian Transportation Agency used to have seven members and now there are five.

How many cases do you deal with?

•(1550)

**Mr. Gilles Dufault:** As I said earlier, we deal with some 3,800 cases a year.

**Mr. Mario Laframboise:** But they are not all dealt with by the five commissioners.

**Mr. Gilles Dufault:** The five commissioners must sign any decision made by the Agency. Whether it is a written decision or the outcome of representations or hearings, the commissioners or members sign every decision made by the Agency.

The Agency is able to fulfil its mandate with five full-time experienced members. They come from all regions of Canada and are based at the National Capital Commission.

**Mr. Mario Laframboise:** They have to have a residence—

**Mr. Gilles Dufault:** The Agency needs to be able to hear people and make decisions in both official languages.

**Mr. Mario Laframboise:** Is that not the case already?

**Mr. Gilles Dufault:** Yes, but we will need to take that into account in appointing the five members.

**Mr. Mario Laframboise:** Right.

**Mr. Gilles Dufault:** Right now, for example, there is a bilingual member from Alberta, another one from Manitoba and myself.

If the number of members is reduced to five, we need to take that aspect into account in order to be able to hold hearings in regions where cases are dealt with in French.

**Mr. Mario Laframboise:** What you are really telling us is that up to now bilingualism has not been an obligation.

**Mr. Gilles Dufault:** The minister decided to appoint a certain number of members in order to comply with the Official Languages Act.

**Mr. Mario Laframboise:** Bill C-11 will create more work for you. Do you think that it will create problems?

**Mr. Gilles Dufault:** Our assessment is that we can do the work with five members. Each member's workload will be increased, but I do not believe that it will delay the handling of cases. It will not be easy; it will be a challenge. We will need to adapt, but the minister can also appoint three temporary members.

**Mr. Mario Laframboise:** Those members would handle some of the workload.

**Mr. Gilles Dufault:** They could help if the workload increased and it became impossible to manage or if special expertise were required, for example, in dealing with a very technical case where none of the members—

Right now, the work is being done by five members. One position is vacant and one member is on long-term sick leave. So we are operational with five members.

**Mr. Mario Laframboise:** My next question is for Mr. Isenberg.

Clause 29 of the Bill makes a change in the rail sector by amending subsection 95.1 of the Act with respect to noise regulations. Up to now, when there have been complaints, you could not take any action. The new regulations will enable you to do so.

Can you give me an example of the type of action that you will be able to take?

I know that in some cases, you attend meetings, but you have said openly that you were not able to impose any noise reduction requirement on operators.

What new way will you be able to use to deal with these problems?

**Mr. Seymour Isenberg (Director General, Rail and Marine Branch, Canadian Transportation Agency):** The new legislation gives us the power to order a rail company to change its operations from time to time, if possible. We did not have that power under the former legislation, but now we can do that.

If I may, I will continue my answer in English.

•(1555)

[English]

As it reads, the legislation gives us the authority on last resort. In other words, it's intended so that the parties try to solve their problems themselves first. We would enter into a case only if the parties involved could not resolve the issue. Now the legislation gives us the authority, in consultation with the fact that railways do have to operate, to develop a process and a solution that we feel confident will be able to work towards solving the problem.

Noise is a complex issue. It deals with perceptions, individual issues, history, and so on. I'm confident that with this legislation we will go a long way in helping people resolve this issue.

[Translation]

**Mr. Mario Laframboise:** Do you think that you will be able to impose a solution when you feel it is necessary?

[English]

**Mr. Seymour Isenberg:** Yes, we do have the right to order the railways to change their operation. However, in light of the existing laws, they have a right to operate and a level of service obligation, meaning that railways operate for the benefit of their clients.

[Translation]

When I talk about clients, I mean shippers.

[English]

In that case, we have to take into consideration that railways are operations that run continuously and need that kind of thing. At the same time, we have the experts to allow us to mitigate those procedures as much as possible. I'm confident we will be able to do quite a bit in that area.

**The Chair:** Mr. Julian.

[Translation]

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Thank you very much, Mr. Chairman.

Thank you very much, Mr. Dufault and Mr. Isenberg and Ms. MacDonald, for being with us here today.

Following up on the questions asked by Mr. Laframboise and Mr. McGuinty, I want to come back to how the Canadian Transportation Agency operates. How many employees do you have? You have talked about the number of members, but I would really like to know at what point the cases are dealt with by employees and members respectively.

**Mr. Gilles Dufault:** The members are involved in all cases at some stage since every case has to be signed off by an Agency member.

The employees are there to handle the cases. They do the research and the analysis, and they recommend approaches and various alternatives to the members.

There are a wide range of cases. Some are routine matters, such as the issuing of a licence, for example. Over the past year, we issued 1,800 air service licences. Those kinds of cases are all handled by specialized staff. When all the research has been done and the

applicant meets all the requirements for a licence, the members issue the licence.

On the other hand, when there is a problem, when a company does not meet all the requirements, the members have to decide what to do and what additional information is needed. The staff work very hard to prepare cases, so that members can concentrate on the major issues and not on the details.

**Mr. Peter Julian:** How many employees do you have?

**Mr. Gilles Dufault:** We have 260 employees.

**Mr. Peter Julian:** I have not understood that. That is important. There are 260 employees.

**Mr. Gilles Dufault:** We have 260 employees.

•(1600)

**Mr. Peter Julian:** So those employees do the preparatory work for the various licence applications?

**Mr. Gilles Dufault:** They do the preparatory work and write the draft decisions. After the case has been analyzed, there are discussions between the Agency members and the staff. Then the members make a decision and instruct the staff to write and submit the draft decision to the Agency members. It is a little like a member of Parliament asking an assistant to write a speech: there is a discussion and the speech is approved.

**Mr. Peter Julian:** All right.

What was the total number of cases that you saw through the process last year, for example? I am talking about complaints, licences, etc.

**Mr. Gilles Dufault:** The total number was 3,800.

**Mr. Peter Julian:** How were they divided up?

**Mr. Gilles Dufault:** Many of them, nearly half, were licence applications by airlines.

**Mr. Peter Julian:** So they averaged about 10 a day.

**Mr. Gilles Dufault:** Yes, if you like.

**Mr. Peter Julian:** You said that you did not believe that eliminating two member positions would create problems. You are operating right now with five members. With the number of cases that you have, it seems to me that it would interfere with your ability to get the work done.

**Mr. Gilles Dufault:** It might seem to you that way. I am speaking from experience, however. I am simply saying that we are currently operating with five members and there are no delays. If there are delays, it has nothing to do with the members. We can do the work with five members.

**Mr. Peter Julian:** Generally speaking, what are your timeframes for dealing with air travel complaints at each level?

**Mr. Gilles Dufault:** Air travel complaints that used to be handled by the commissioner are dealt with informally. It is really the parties that influence how long it takes.

We have performance standards for dealing with complaints. For example, when someone phones the call centre, the call is returned right away. If the call comes in after working hours, the person is called back the next day. If the complaint comes through the Internet, an acknowledgment is sent back electronically. If we receive a written complaint, we send an acknowledgment within a few days. That way, the complainant knows that the complaint has been received and that the Agency is dealing with it. These complaints are handled informally and they used to be dealt with by the complaints commissioner.

In the case of formal complaints, the Agency has standard procedures. The act stipulates that a decision must be handed down within 120 days. We write immediately to the complainant and the party concerned to inform them of the timeframes and give instructions on how to provide the necessary information.

Then there is an exchange of correspondence until the arguments are heard. Once that stage is completed, after around 60 days, the case is analyzed and the substance of the complaint is discussed. Finally, the Agency makes its decision, which has to be written, translated and produced. That is the way we work.

**Mr. Peter Julian:** What is the average time required for mediation cases and cases in which a decision must be handed down?

**Mr. Gilles Dufault:** Mediation is a process that can be very short or very long. It depends on the parties. The maximum is 120 days for decisions made through the Agency's formal processes.

**Mr. Peter Julian:** I'm talking about the average. Do you have statistics that indicate the average length of time for cases?

**Mr. Gilles Dufault:** We do not have any statistics as such. In licence cases, in cases involving marine transportation under the Coasting Trade Act, it takes us between 7 and 10 days to make a decision. We can be very quick. But with more complicated cases, we need to get information and analyze it, which can take more time.

• (1605)

[English]

**The Chair:** Mr. Fast.

**Mr. Ed Fast (Abbotsford, CPC):** Thank you, Mr. Chair.

I want to thank all three of you for appearing before us today.

I'd also like to focus on the dispute resolution process, but in a different part of the bill, and that's clause 44, which creates a number of new sections addressing the whole issue of setting rates for publicly funded commuter rail services that want to use the assets of some of the main-line carriers. It would be sections 152.1 and 152.2, which would be added to the act.

My questions arise from an experience in a community across the river from us, the city of Mission, which is at one end of the West Coast Express line that runs into Vancouver. It goes through a number of communities and picks up passengers along the way. When negotiations were under way to establish a rate to be paid to the main-line carrier, there was some public discontent that the rate the public was paying was so high.

I notice from the bill that there's still an initial negotiation process, but if the two parties, the publicly funded carrier and the main-line operator, can't come to an agreement, the matter is now referred to

you for settlement. At that time it's no longer an arbitration; it's simply a decision you would make based on a number of factors.

If I were a main-line carrier I would be somewhat concerned about this intrusion into the normal free market process when negotiating these rates. Have you consulted with the industry, and what has been the reaction?

**Mr. Gilles Dufault:** As you know, the bill is being drafted by Transport Canada. The question should be addressed to them. We've been consulted on the feasibility of the bill but not on its operation.

**Mr. Ed Fast:** Are you aware of any concerns that have been raised regarding this process? Are you aware of any of the considerations that will be undertaken to determine the rates that would be charged?

For example, if you go back to clause 44 and the new section 152.2, it sets out that the agency must take into consideration a number of factors: variable costs incurred by the railway company, cost of capital based on the rates set by the agency, those sorts of considerations. Has there been any discussion within the industry as to exactly what the impact of that new process will be on the main-line carriers?

**Mr. Gilles Dufault:** I'm not aware of any discussion. I don't know if Seymour is.

**Mr. Seymour Isenberg:** Commuter rail lines have been an issue for cities that are running out of room for automobiles—that would be Vancouver, Toronto, and Montreal. This is an attempt to provide a backstop. So if the parties can't negotiate themselves, they can apply to the agency to set a fair rate, given the cost of providing that service and any impact it has on the freight line. This is a North American problem, by the way. Freight lines sometimes don't mix too well with passenger lines, as you can guess.

We'll try to determine a fair cost for what the commuter line is asking the railway to do and give the commuter corporation the opportunity to access those rail lines for a compensated fee. Each case would be treated in a separate way. Analysts would go out and say, "What does this mean?" It's designed to give the railways their normal rate of return on access to their asset but not an unreasonable rate of return. That would certainly be the intent of the members who make that judgment, and our costing analysts, who are familiar with railway costing, will provide some of that data.

We work on a natural justice process, so both sides will be given an opportunity to put their points across, and from that we would hope to reach a decision. That's the intent of the bill.

• (1610)

**Mr. Ed Fast:** Can that decision be appealed?

**Mr. Seymour Isenberg:** All of our decisions can be appealed in two ways. One, if we erred in law, it's through the Federal Court, and the second way is through the Governor in Council. I guess you'd call it a political route or a policy route that can be accessed, and they can go to the Governor in Council and ask for a decision to be overturned.

Obviously, we're not an entity unto ourselves as the last resort. I think Parliament is meant to be supreme.

**Mr. Ed Fast:** If I could ask you a question that I've asked earlier, has there been a push-back from industry, or is industry generally supportive of this particular method of determining those rates?

**Mr. Seymour Isenberg:** As Mr. Dufault said, we're not really involved in negotiations, and they wouldn't be coming at us. If they were, they'd likely be interacting with Transport Canada.

Our real role is to implement the law and not to actually do the policy side of it. I really can't comment on whether there's been much in that area. All I can tell you is we're prepared to carry out the mandate, should the mandate come to us.

**Mr. Ed Fast:** Do you expect that publicly funded commuter rail services will now find it easier to establish new routes to service more communities with this kind of a clause in place?

**Mr. Seymour Isenberg:** One cannot predict the future. Obviously, one would have to ask the intent of the people developing the legislation. But it certainly provides another avenue of negotiation, if you like, to know there's backstop legislation if you can't negotiate directly with the carrier.

Overall, the intent of the act is to allow parties to reach decisions themselves, and we would interfere as little as possible unless necessary.

**The Chair:** We have Mr. Bell, and I understand Mr. McGuinty has a brief question.

**Mr. David McGuinty:** Yes, I have a quick preamble question.

I wanted to get it on the record, Mr. Dufault, if I could.

My colleague, Wayne Easter, has been doing a lot of work on Canadian farmers and the issue of hopper cars. I have a single question that I'm hoping you'll answer with a yes or no.

Was the CTA involved in developing the methodology that resulted in the minister's \$2 per tonne statement in May? If that was the case, can you provide an analysis of that statement? Can you give us the background analysis? Is that possible?

**Mr. Gilles Dufault:** I know that \$2 is an approximate number. It will be reviewed at the annual review of the revenue cap that recently started, with a decision to be rendered at the end of the year, I think.

**Mr. David McGuinty:** I don't want to take Mr. Bell's time, Monsieur Dufault. Very quickly, did the CTA devise the methodology to arrive at the \$2 per tonne?

**Mr. Gilles Dufault:** The methodology is imposed by the legislation, so we then devised the methodology.

**Mr. David McGuinty:** Do you have any analysis to substantiate the \$2 per tonne claim?

**Mr. Seymour Isenberg:** If I can perhaps be helpful here, the estimate of \$2 a tonne was preliminary, based on maintenance costs submitted by the railways that were based on their 2003 costs. They were not as such audited. They were an estimate.

When we get the legislation, we will do the detailed cost and we'll audit the railway's material. There may be some adjustment to the \$2 a tonne. How much will it be? I'm not sure. We can't really tell you, and if you press us, my guess would only be a guess.

•(1615)

**Mr. David McGuinty:** Do you have any analysis for the committee on the \$2 per tonne? Have you conducted any analysis inside CTA that can be tabled with the committee?

**Mr. Seymour Isenberg:** Well, we provided our data to the Department of Transport, to the Minister of Transport.

**Mr. David McGuinty:** Was the analysis done by the transport department?

**Mr. Seymour Isenberg:** No, the Department of Transport was our client and we provided material to them. A lot of the material is based on confidential railway costs, and I believe they have something in their possession that they may be able to table.

**Mr. David McGuinty:** I'm sorry. Does the CTA have any analysis on the \$2 per tonne figure that can be released to the committee?

**Mr. Gilles Dufault:** No, not to the committee. We act as a consultant to Transport Canada.

**Mr. David McGuinty:** I see. You have an analysis, but it can't be released to the committee.

**Mr. Gilles Dufault:** It can be released to the committee by Transport Canada, but not by CTA.

**Mr. David McGuinty:** Great. You have an analysis, but you can't release it.

Thank you. That's appreciated.

**The Chair:** Mr. Bell.

**Mr. Don Bell (North Vancouver, Lib.):** Thank you.

I have two questions. One relates to railway noise complaints. In my community of North Vancouver we have a problem with CN taking over BC Rail's operations, and what we have is a change in the level of noise as a result of the change in the operators. We have shunting and whistle blowing at night on crossings that never happened before. The argument is that because it's federal they have to blow it, but this is at two o'clock or three o'clock in the morning that the communities are being bothered by both excessive shunting and whistle blowing. There are municipal bylaws that have dealt with it, and previously the rules with BC Rail were that if the municipality passed a bylaw waiving the requirement for whistling at the crossing, then they wouldn't whistle and it wouldn't bother them. That's for West Vancouver and for North Vancouver.

I know one of the questions is on how you measure it. Normally you measure noise complaints at a property line and you get decibel readings. The problem is with whistle blowing and shunting, it's intermittent noise, which can be unreasonable. When I was mayor of North Vancouver, I used to get phone calls at two o'clock in the morning asking whether I could hear it. I live several miles away, and yes, I could hear it. I just make that point. I guess the issue would be this. How long, when you talk about trying to resolve things, do you wait before an issue gets taken up? How long do the people have to suffer, in other words?



Before you try to answer it, I want to tackle the second issue that Mr. Fast talked about as well. I was on the TransLink board when we were dealing with the issues of the commuter access for West Coast Express to CP. Our concern was that the anecdotal information we have—because everything is supposed to be confidential—was that the gross margin that CP was getting was over 1,000%. What incremental costs are added when a commuter railway is added to a line, and what is a reasonable rate of return? Is it 1,000%? I think it's down to 700% now.

West Coast Express put \$65 million to CP for the set-up of centralized train controllers, double tracking—necessary things—but once you've paid for all that...it then seems that they were being gouged, if you want to call it, compared to other commuter rates that were being charged. We asked for that and were told that we can't know what those are. I'm hoping this legislation is going to in fact provide that information.

Finally, is this bill going to provide some guarantees to have access to the tracks? I noticed in one section here it says that if a railway gets sold and someone else takes it, they have to protect the continuity of passenger rail services. Is that these rapid urban lines? Would they be protected? Is there a guarantee for access to the tracks? Otherwise it sounds as if in this legislation railways can just say no to having access, and we need it. That's part of the problem of communities.

**The Chair:** This is where I have to intervene and say please answer it as quickly as you possibly can.

**Mr. Don Bell:** A thirty-second question.

**The Chair:** I regret having to restrict you, but we do have other members.

**Mr. Seymour Isenberg:** There were a whole multitude of questions in there, including what's an adequate rate of return. Without prejudicing how the members would deal with the case, we would look at any access movement in terms of what the average revenue gained on a particular line for a number of miles are and would try to apply something like that, so it would be fair and equitable. What are they earning on average? If we're adding this extra amount, less the penalty it might cost them to have, not less but in addition, there might be an operating penalty to having extra traffic that you don't want on a particular line. But it certainly would be done professionally, so that there would be fair treatment to both sides.

On your question related to rail whistling, I just want to point out, Mr. Bell, that that is a rail safety issue, and it's not us. We don't control the whistle blowing. It's a safety issue. It's not a noise issue from that point of view. You'd have to deal with the safety board on that. In response to a normal noise complaint, we will hear the case if it comes to us. We will hear both parties and we will decide what's reasonable and try to provide some solution to it if we can.

• (1620)

**The Chair:** Could I suggest that perhaps we forward a copy of the questions of Mr. Bell? I think if they warrant a further, more detailed answer, you could provide it to the committee in writing.

**Mr. Seymour Isenberg:** I'd be happy to do that.

**The Chair:** Mr. Carrier.

[*Translation*]

**Mr. Robert Carrier (Alfred-Pellan, BQ):** Thank you, Mr. Chairman.

Good afternoon, Mr. Dufault.

People out there have high expectations about having the noise problems resolved. In Quebec, there are a lot of complaints from people who feel powerless in dealing with the government, which is unable to control that aspect. So they are putting a lot of hope into this legislation.

But what we read here is that a railway company "must not cause unreasonable noise", which is already ambiguous. Everyone is asking what is meant by unreasonable noise. For an operator standing by the track, it might be significant noise, but for people living and sleeping nearby, it may be a huge problem.

A little further, the bill states:

95.2(1) The Agency may issue and publish, in any manner that it considers appropriate, guidelines with respect to

That means that you will be able to do something, but you will not be forced to do so.

I would like to know how you are going to enforce that provision. Are you preparing to issue guidelines? If you undertake to set standards once the act has been passed, will they be uniform for the whole country or will they be specific to each municipality? That could take time, since there are a number of provinces and municipalities. What is your opinion on that?

**Mr. Gilles Dufault:** The agency will produce guidelines. The bill indicates that the agency must prepare guidelines in consultation with the various stakeholders. We have already started to prepare the framework for the guidelines, and once the bill is passed, we should be able to begin consultations with the railway companies and the municipalities. Obviously, it would be impossible to consult every individual affected by noise problems, but we will do the necessary consultations.

The bill also stipulates that all collaborative measures must be exhausted and that all mediation and facilitation efforts must have failed. In those cases, when there are complaints, the agency will be able to consider them, listen to the complainants, hear the parties and receive their submissions. Then the agency will make a decision based on the guidelines and criteria included in the legislation. The agency will be able to order corrective action. The agency will have the authority to intervene, which is not the case right now.

**Mr. Robert Carrier:** You mentioned earlier that the agency was required to issue guidelines. That is different from what it says in the bill, which is that it "may issue—."

**Mr. Gilles Dufault:** The agency will establish guidelines—

**Mr. Robert Carrier:** Perhaps we could amend the bill to bring it in line with what you are planning to do.

**Mr. Gilles Dufault:** If you like, but it will not change very much.

**Mr. Robert Carrier:** It would be more reassuring to have the word "shall."

**Mr. Gilles Dufault:** We are already working on the parameters for the guidelines.

**Mr. Robert Carrier:** It is a good tool for you and it makes sense.

Clause 42 of the Bill stipulates:

146.2(1) A railway company shall prepare and keep up-to-date a list of sidings and spears that it plans to dismantle and that are located in metropolitan areas—

All of that concerns commuter rail authorities, which are being considered for the first time in terms of the transfer of these railway lines.

According to this wording, it is entirely up to the railway company to come up with this list. If it turns out that a railway line is no longer being used, but the company has not put it on the list, even though it is required to do so—it is a right that the company has under the legislation—will it be possible for the agency to take action, if a commuter rail authority makes representations, so that the unused line can be put on the list?

There is a problem right now with respect to the transfer of these lines, which are hung onto by the companies, but the new legislation says that it is the company that comes up with its own list.

Do you understand what I mean?

• (1625)

**Mr. Gilles Dufault:** To my mind, the CTA has no authority to force railway companies to register a stretch of railway line, a spear, or anything else for that matter, on a list. We are talking about their belongings, their assets. It is therefore up to them to decide whether they still need a particular asset or whether they want to give it—

**Mr. Robert Carrier:** The CTA's role is to act as a mediator in any dispute that arises. This could be useful if there were conflicting views as to the usefulness of a railway line that was not used, but was not registered on the list.

Could the CTA act as a mediator in such circumstances?

**Mr. Gilles Dufault:** As far as I am aware, the bill contains no such provision, and we cannot instigate any such action of our own accord.

[English]

**The Chair:** Before I go to Mr. Blaney, could I just ask, for the sake of the chair—when both people are conversing, it's hard for me, and I think a little bit difficult for our translators—if we could wait until the question has been asked and the answer has been given?

Mr. Blaney.

[Translation]

**Mr. Steven Blaney (Lévis—Bellechasse, CPC):** Thank you, Mr. Chairman, I will bear that in mind. Thank you.

I would like to welcome the Canadian Transportation Agency representatives to our committee.

I have two questions for you. The first is for Ms. MacDonald, and relates to the air transportation sector, a subject that we have not really addressed today. My question is a general one, and somewhat

open ended. Would you like to suggest any amendments or improvements to the current wording of the bill?

I know that you want to ensure a greater transparency in airline ticket pricing. There is also the matter of integrating the complaints program to your service. How do you foresee the bill affecting your activities as they relate to the air transportation sector? Are there elements that you consider to be of particular importance that could be improved?

Secondly, I would like to come back to the matter of noise pollution, which is one of the key components of this bill. In answer to an earlier question, you indicated that you were in the process of preparing guidelines. Many groups have expressed concerns to us on this matter and I am sure that future witnesses will raise the same points. I imagine that they will propose amendments to give the bill more teeth.

Are you planning to include decibel standards in your guidelines? Do you have something from existing European or US models? Are there any precedents for the type of guidelines that you wish to develop? We are, after all, talking about a North American railway service.

Those are my two questions: one on air transportation and one on noise pollution generated by the railway sector.

**Mr. Gilles Dufault:** Mr. Blaney, I never said that the CTA was in the process of preparing guidelines. We are developing parameters that we will then use, in consultation with stakeholders, to draw up guidelines.

We have not yet reached that stage. We cannot consult with railway companies, the Federation of Canadian Municipalities, or municipal or provincial associations until the bill is passed.

Once the bill is passed, we will launch the consultation process. We will discuss with the various stakeholders to determine what is feasible and what is not. This will give us the opportunity to get feedback from all interested parties.

But, thus far—

• (1630)

**Mr. Steven Blaney:** My question had more to do with available information. Are there already examples of guidelines that cover all matters relating to noise and, indirectly, to the health of residents living near railway lines?

**Mr. Gilles Dufault:** I am not aware of any such guidelines. I do not think that any have been developed. If they have, we are not aware of them.

**Mr. Steven Blaney:** Do you plan on including decibel standards in your assessment parameters?

**Mr. Gilles Dufault:** The parameters are currently at draft stage. We are working on them at the moment.

**Mr. Steven Blaney:** You would make excellent politicians.

Very well, that is fine. Thank you.

**Mr. Joan MacDonald (Director General, Air and Accessible Transportation Branch, Canadian Transportation Agency):** With your permission, I will answer in English.

[English]

With regard to the airline price advertising, it will be up to the minister to decide whether or not regulations are required and whether at that time he will direct the agency to make those regulations. If we get such a direction, we will go through the regular regulatory process, which is to consult with those affected and determine the best way to make those regulations work.

[Translation]

**Mr. Steven Blaney:** You say that you are the body mandated with administering the act.

Could you explain to us the nature of your relationship with Transport Canada and tell us how you think it will be affected by the new bill?

**Mr. Gilles Dufault:** Firstly, it is very important to stress that we are independent from Transport Canada. Our relationship with the Minister is an administrative one, as it is through him that we are accountable to Parliament. We are, however, completely independent.

When Transport Canada drafts a bill, the professional expertise of some of our personnel is sought in order to determine whether the department's recommendations are practical, workable and enforceable.

The CTA also holds meetings with the committee that reviewed the act. Six years ago, the CTA made recommendations about the revision of the act. Every year, in its annual report, the CTA is required to report on how the act is working. That's the extent of the relationship between the two organizations.

[English]

**The Chair:** Thank you.

The chair recognizes Mr. Godfrey, who has turned over his questions to Mr. McGuinty.

**Mr. David McGuinty:** Thank you, Mr. Godfrey. Thank you, Mr. Chairman.

I will go back to a comment made by Ms. MacDonald a moment ago, that it would not be the CTA that determines when airfare clarity regulations are necessary.

**Mrs. Joan MacDonald:** No, it's the minister. When the minister decides that they are, he will then direct the agency to make those regulations.

**Mr. David McGuinty:** Would a minister normally give you some context about what "necessary" means or...? Would the minister in his or her instructions make it plain to the CTA that there's evidence to substantiate the need for enhanced clarity regulations? Or does the minister simply throw the ball into your court?

**Mrs. Joan MacDonald:** I would assume that the minister, in reaching that conclusion, would determine that there is a need for those regulations and would give us that context to work with. But, as I said earlier, we would go through the normal regulatory process, which is to consult extensively, go through part one and part two.

**Mr. David McGuinty:** Returning for a second to the question of the air travel complaints office and the commissioner, I understand

that the last specific report for air traffic complaints, airline complaints, was issued May 31, 2005. Is that correct?

**Mr. Gilles Dufault:** Maybe.

**Mr. David McGuinty:** Previously it was reported every six months by the commissioner.

**Mr. Gilles Dufault:** Yes.

**Mr. David McGuinty:** This bill is going to take your regular annual reporting cycle from one year to three years.

**Mr. Gilles Dufault:** No.

**Mr. David McGuinty:** Have I misunderstood this?

**Mrs. Joan MacDonald:** That's for Transport's report on the functioning of the transport system. The agency will still be required to file an annual report.

• (1635)

**Mr. David McGuinty:** An RPP?

**Mr. Gilles Dufault:** That's right.

**Mrs. Joan MacDonald:** No. There is a separate annual report.

**Mr. Gilles Dufault:** An RPP and the annual report.

**Mr. David McGuinty:** Two documents that are tabled in Parliament.

**Mrs. Joan MacDonald:** Yes, that's correct.

**Mr. David McGuinty:** In your annual report, then, would there be an annual statement or an annual listing, or a separate report on the air traffic complaints?

**Mr. Gilles Dufault:** There would be a portion that deals with air travel complaints.

**Mr. David McGuinty:** Okay.

**Mr. Gilles Dufault:** There is one like it in the last annual report, and you have the same kind of information.

**Mr. David McGuinty:** Help me to understand. I haven't seen the last report. Is it an evaluative report? Is it a descriptive report? Is it an interpretive report? Or is it a statistical report? For example, as Mr. Hood suggested, if he came across 15, 18, or 25 similar complaints, he might have judged that to be a pattern of behaviour by a particular airline carrier.

Does your report go that distance in interpreting the statistics, helping my mother, who flies a lot, to understand that there are problems or not problems with a particular airline carrier in terms of a specific pattern of conduct? Or is your report restricted to statements such as, "Here are the incidents, here are the number of cases heard, and here are the number of cases resolved?"

**Mr. Gilles Dufault:** There are some statistics, but there is also some interpretation. When we deal with something that touches on tariffs, and when we issue a decision, the airlines read those decisions and know that next time they would be better to follow the guidelines that have been developed, established through a decision.

**Mr. David McGuinty:** I'll try it this way, Mr. Chairman.

Mr. Dufault and the team, Mr. Isenberg and Ms. MacDonald, if you wanted to enhance transparency for the average citizen stepping off a bus in this city, who flies twice a year, how would you enhance transparency around air traffic complaints if you were to write the reporting requirements today? How would you make it more understandable for the average citizen? How would you communicate it better? How would you enhance transparency for the average consumer in Canada around these challenges?

**Mr. Gilles Dufault:** We simply publish the number of complaints, the area.... We identify the issues and we identify the airline that complaints have been received about. Basically, we cannot go and write a book on every issue, so we are as transparent as we can be in the present circumstances.

**Mr. David McGuinty:** Okay. Once again, and I know you're as transparent as you possibly can be given the four corners of your statute and your mandate—that I understand—but how would you enhance transparency for the average consumer? From a consumer protection perspective on this issue, how would you do it?

**Mr. Gilles Dufault:** Our mandate is to facilitate resolution of complaints for which there's no other remedy. So it's a—

**Mr. David McGuinty:** But your mandate is going to be enhanced now to fully take on the responsibility of the commissioner. Correct?

**Mr. Gilles Dufault:** Yes.

**Mr. David McGuinty:** That's why I'm asking the question, if you follow my logic.

**Mrs. Joan MacDonald:** If I may, the agency has just tabled its 2005 report, and there is a fair section in there about air travel complaints. As Mr. Dufault has said, it does provide information about the volume of complaints, but it also talks about the types of complaints received, and I think your average Canadian would readily understand what we're talking about.

So I don't see a huge difference between what was in the commissioner's report and what is in the annual report.

**Mr. David McGuinty:** Then I guess I'm having a hard time understanding Mr. Hood's comments when he left the job.

**The Chair:** Mr. Storseth.

**Mr. Brian Storseth (Westlock—St. Paul, CPC):** Thank you very much, Mr. Chair, and thank you for helping Mr. McGuinty's mother understand the situation. My mother has some concerns with the mediation process, so that's what I'm going to be directing my questions to.

This legislation gives the agency statutory authority to engage in mediation. It's my understanding that since 2000 the agency has already been doing this as a pilot program. Is this legislative change just simply an entrenchment of what the agency has already been doing, or is this taking another step forward?

• (1640)

**Mr. Gilles Dufault:** It's an entrenchment of what the agency has been doing, but it also gives a lot more authority to the agency to deal with these kinds of issues. Previously, we basically had a pilot project and we offered mediation. Now it has become part of the act and we will be able to be more assertive.

**Mr. Brian Storseth:** What has your experience been with the agency and mediation? And are there any conflicts between the judicial and mediation roles?

**Mr. Gilles Dufault:** We have established a wall between the two roles. If a case goes into mediation, anybody involved in the mediation of this case cannot be involved in the adjudication of the same case if mediation fails.

**Mr. Brian Storseth:** So you don't see any potential for—

**Mr. Gilles Dufault:** I don't see any problem with it being used so that we have clear roles, and it has been developed and discussed with all the parties involved. That was also a concern for all the parties.

**Mr. Brian Storseth:** Thank you, Mr. Chair.

**The Chair:** All right. I guess we have to go back to Mr. Jean. We do have a round.

Mr. Jean.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Thank you, Mr. Chair.

I'm curious about whether or not your mandate, given the new provisions, will allow you to regulate.... You mentioned in one of the first rounds of questions how you regulate as far as noise, etc., is concerned. Are you able to regulate hours of operation? You mentioned how you regulate for a yard, but are you also able to regulate for train traffic to alleviate congestion in some of the cities? Is that part of the new mandate, or has anything been looked at as far as that is concerned? You mentioned the hours of operation—you'd be able to restrict them?

**Mr. Gilles Dufault:** I don't think we mentioned hours of operation.

**Mr. Brian Jean:** Was it the operations themselves?

**Mr. Gilles Dufault:** No, we're going to be able to make a determination on noise when it's unreasonable, but....

**Mr. Brian Jean:** And what will be the decision—not the actual effect, but does the board have a mandate to be able to regulate hours of operation through any type of municipality, or such a mandate as that?

**Mr. Gilles Dufault:** No.

**Mr. Brian Jean:** All right. People talked about this, but is there some sort of subjective measurement that you'll be utilizing for noise assessment to see whether it's unreasonable? I know they've mentioned decibels, etc., but....

**Mr. Gilles Dufault:** No, I haven't mentioned decibels. Mr. Blaney mentioned decibels, and I repeat what I said to him in French: at this time we are developing the framework of the guidelines in order to be ready and to start consultation when the act is passed. Until such time, we are basically preparing ourselves.

**Mr. Brian Jean:** And the noise is going to be restricted to unreasonable noise—

**Mr. Gilles Dufault:** Unreasonable noise, but I can't comment more than that, because we are starting to work on it. Any other answer would be purely speculative.

**Mr. Brian Jean:** I understand. Thank you.

**The Chair:** Monsieur Laframboise.

[*Translation*]

**Mr. Mario Laframboise:** To go back to what Mr. Jean was saying, your process for developing guidelines certainly seems complicated. We already have international standards on noise pollution. It is a well-known phenomenon.

Do you plan on bringing in specialists to help you with this?

**Mr. Gilles Dufault:** I think the reason that it seems complicated is because we are starting to weed through everything. We will start by establishing the parameters, and then we will undertake consultations with all stakeholders.

The CTA has a great deal of expertise. Having worked on questions related to railway transportation for a long time, we are in known territory. Noise pollution has been part of the CTA's jurisdiction until 1996. The corporate memory has not been lost, we still have it.

We will use all possible means to develop a series of appropriate guidelines that meet the needs of all stakeholders.

• (1645)

**Mr. Mario Laframboise:** I hope for our sake that the corporate memory has not been lost, because we receive a lot of complaints on this matter.

I would like to go back to my colleague's earlier question. You said earlier that if a private company did not want to divest itself of a railway line, you would not intervene. We are talking about public property and public interest here. If, at a time when public transport networks are being developed, a company is not using a particular section of railroad, do you not think that it would be the moment for you to act as a mediator and ask the company why it wishes to maintain ownership of that section?

Many questions are being asked within the network. Towns and cities are all in the process of studying how they can develop public transport networks. They often turn their attention, in the first instance, to sections of railroad that are not being used. With 2007 almost upon us, do you not think it is time that the CTA had the authority to ask companies to explain why they want to hold on to these sections of railway line? Do you not think that the time is ripe to hold a transparent debate on this matter?

**Mr. Gilles Dufault:** Perhaps it is a debate that needs to be had, but, thus far, the bill does not mandate the CTA with this responsibility, and the CTA has no intention of asking for such a mandate.

[*English*]

**The Chair:** Mr. Julian.

**Mr. Peter Julian:** Thank you, Mr. Chair.

You said, Monsieur Dufault, that the office of the transportation agency actually had the responsibility for intervening in railway noise complaints—previously. I think you said that.

**Mr. Gilles Dufault:** I said the agency in its previous incarnation had some jurisdiction over noise complaints. I simply said there was expertise that existed at that time, and hopefully it's still within the agency. The people who were experts at that time may have retired

since—I don't know—but I simply say that it probably exists, and we'll surely try to see what we can do with this expertise.

**Mr. Peter Julian:** How many noise complaints would you have had annually in that previous incarnation?

**Mr. Gilles Dufault:** I don't know.

Do you know?

**Mr. Seymour Isenberg:** There were on the order of six to ten coming in—

**Mr. Peter Julian:** Was that annually?

**Mr. Seymour Isenberg:** It was something like that. I'm dealing with—

**Mr. Peter Julian:** I get that many in a week in my constituency office.

**Mr. Seymour Isenberg:** Yes, but there's obviously a big difference between a formal complaint and people calling up their local representative to do that. According to the Federal Court, we kind of extended our power beyond what the act said. So we lost the power to deal with noise complaints, until it's been reintroduced in the legislation.

**Mr. Peter Julian:** If we look at this, the additional responsibility, and all of the other additional responsibilities we've discussed for Bill C-11—you mentioned earlier that you deal with about 3,800 cases annually—what would be your forecast in terms of having these new powers? What would be the number of cases that you may handle?

**Mr. Gilles Dufault:** The difference would not be significant. If we talk about noise complaints, we don't know, but we assume that we can do it with the existing complement of resources.

**The Chair:** Mr. McGuinty.

**Mr. David McGuinty:** Thanks, Mr. Chairman.

To understand this again, is the Canadian Transportation Agency a separate employer? What's your status? Are you a crown corporation?

• (1650)

**Mr. Gilles Dufault:** No, we are an agency of the government.

**Mr. David McGuinty:** I understand. There are four or five different kinds of agencies of government.

**Mr. Gilles Dufault:** No.

**Mr. David McGuinty:** Are you a separate employer? Are your employees full-time?

**Mrs. Joan MacDonald:** No, we're not. We're treated as a federal department and that's it.

**Mr. David McGuinty:** Great.

You have five members now?

**Mr. Gilles Dufault:** No, we have seven members. The act presently calls for seven members. The legislation—

**Mr. David McGuinty:** The legislation would drop it to five.

**Mr. Gilles Dufault:** Right.

**Mr. David McGuinty:** But you have seven active members right now?

**Mr. Gilles Dufault:** We have five active members right now, because one member's position is vacant and the other member is on long-term disability.

**Mr. David McGuinty:** Can you give me an idea of what the salary range is for an appointee?

**Mr. Gilles Dufault:** The salary range is between \$140,000 and \$170,000.

**Mr. David McGuinty:** Okay.

How does the appointments process work? Is it incumbent upon the agency to deliver a short list of names to the minister for his consideration?

**Mr. Gilles Dufault:** The appointment is done by order in council, and it's the minister who decides. I don't know how the appointments work. To me, there are so many—

**Mr. David McGuinty:** Sorry, but if it's—

**Mr. Steven Blaney:** They should know.

**Some hon. members:** Oh, oh!

**Mr. David McGuinty:** I'm asking because you're the acting CEO, Mr. Dufault. Right?

**Mr. Gilles Dufault:** Yes.

**Mr. David McGuinty:** So are you canvassed by the minister for names?

**Mr. Gilles Dufault:** Not currently. We were asked when we appointed the air complaints commissioner. For the second one, we were asked to provide some suggestions. But that's the only time in my eight and a half years at the agency when we've been asked to make suggestions on appointing a member.

**Mr. David McGuinty:** No changes have been proposed by the government in the appointments process that have been pursued in the reasonable past, let's say, right?

**Mr. Gilles Dufault:** If there have been changes, I haven't heard about them. They haven't consulted me, and I doubt that they will consult me. For the selection of a new chairman, they asked the agency, or they asked the previous chairman before she departed to provide a job description, suggestions, and so on. They had a job description, qualifications, criteria, and so on.

**Mr. David McGuinty:** So from a transparency perspective, Monsieur Dufault, in terms of the appointments of members, there's been no change.

**Mr. Gilles Dufault:** No. They have posted the competition. It was in the *Canada Gazette*, and those interested can apply, and presumably have applied. But I'm not aware of the process itself. The application has to be sent to PCO, to the senior appointments secretariat. But the process was carried out as it would be for any other job that is posted in the paper. If you believe you meet the qualifications, apply at such and such a place by such and such a date.

**The Chair:** This is your last question, Monsieur Carrier.

[*Translation*]

**Mr. Robert Carrier:** You said earlier that any CTA decision is signed off by one or two members.

**Mr. Gilles Dufault:** Two members.

**Mr. Robert Carrier:** I would imagine that all decisions are signed by both the chairman and the person responsible of the file.

**Mr. Gilles Dufault:** No.

You are thinking of the chair of the review panel. The chairman of the CTA assigns members to panels. He is both a member and chief executive officer. If he chooses to sit on a panel, he will hear the case and confirm the decision issued by the other, or other two members of the panel.

Normally, two members are required for quorum; however, when a case is controversial, there are usually three members to ensure that there is always a majority decision.

•(1655)

**Mr. Robert Carrier:** I would like to know how the work is shared out. Are matters relating to railway transportation or noise pollution, for example, given to those who have expertise in these fields; or is it distributed on a regional basis?

**Mr. Gilles Dufault:** No, it is not done on a regional basis. Regardless of where members are from, they represent the CTA and work for all Canadians. It is the chairman's prerogative to assign members to panels. He bases his decision on certain criteria, which can vary from one case to another. The expertise required for handling a particular case is one of the factors considered. Obviously, not everybody has the same level of expertise. It is a matter of assigning the work in an appropriate manner so that it is dealt with in the best way possible, but also taking into consideration the workload of the various members.

**Mr. Robert Carrier:** Thank you.

[*English*]

**The Chair:** With that, I will thank our witnesses for coming today. It has been suggested by the committee that after we've heard the series of witnesses who will present to this committee, we may wish to ask you to come and just answer some further questions. I would ask that when or if we do that you'd be prepared to make yourself available.

**Mr. Gilles Dufault:** It would be a pleasure.

**The Chair:** Thank you very much.

**Mr. Gilles Dufault:** Thank you for your attention.

[*Translation*]

Thank you very much.

It has been a most enjoyable experience, and I would be happy to appear before the committee again.

[*English*]

**The Chair:** We have one motion to deal with. Mr. Laframboise has submitted it, and it certainly meets the standard test of time. I would ask Mr. Laframboise to present it.

[*Translation*]

**Mr. Mario Laframboise:** Thank you very much, Mr. Chairman.

The intent of the motion is to call Mr. Duchesneau, president and CEO of the Canadian Air Transport Security Authority, to the meeting of October 5, 2006. The reason that we want him to appear is so that he may explain the security failures noted at Pierre-Elliott Trudeau Montreal's international airport.

[English]

**The Chair:** Order, please.

Mr. Laframboise has the floor.

[Translation]

**Mr. Mario Laframboise:** Thank you.

Obviously, you are all aware that the objective is to discuss the security failures noted at Montreal airport, but I am sure that you also understand that this situation could arise in other Canadian airports. Mr. Duchesneau made some very important comments. Bear in mind that he did not focus exclusively on his service. He did, however, say that biometrics were going to be introduced to his service in an attempt to resolve security problems.

A Senate committee was mandated to study the situation. Furthermore, there were comments in today's *Journal de Montréal* to the effect that biometrics are not the best solution. Apparently, other measures are also required to ensure that security failures are avoided within the service. Mr. Duchesneau spoke about organized crime at Pierre-Elliott-Trudeau, Montreal's international airport. The same is probably true of other Canadian airports. He also addressed security issues, not only within the airport, but on the tarmac and all airport land.

There are four organizations responsible for security in Montreal, and I have been informed that there are around 20 at the Lester B. Pearson international airport. The time has perhaps come for us to put some questions to Mr. Duchesneau, who dared to speak about problems affecting not only Montreal's Pierre-Elliott Trudeau, but other airports as well.

It is time for us to call him before our committee. I was hoping that it could be arranged for the next meeting, but I am open to negotiation on that point.

[English]

**The Chair:** Thank you, Mr. Laframboise.

Are there any comments?

**Mr. Don Bell:** Do you need a seconder?

**The Chair:** No.

Mr. Jean.

**Mr. Brian Jean:** I want to make sure that everyone is aware that CATSA is not responsible for security at the airport; they are only responsible for screening passengers.

Of course, we can't compel the member himself to give evidence. It has to be on a cooperative basis.

• (1700)

**The Chair:** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** I understand that. However, biometrics have been suggested as a solution to the problems in his own service. Yet, we know that, while the Senate suggested biometrics as a solution, it did not necessarily consider it to be the best one. Regardless of all that, Mr. Duchesneau dared to speak out about the presence of organized crime and the way in which the other services at Montreal's Pierre-Elliott Trudeau airport conduct themselves. I am sure the situation is the same in all other airports, including those in your regions. Somebody dared to speak out: I think we should seize the opportunity to question him on his service.

[English]

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Absolutely. I don't disagree at all. I'm just making those two points. My understanding is that biometrics is going to be in at least the 29 major airports by some time in December.

**The Chair:** Mr. McGuinty.

[Translation]

**Mr. David McGuinty:** I would like to directly support the motion. Following a problem that occurred two years ago Mr. Duchesneau said, a year ago, that the problem with uniforms and badges would be settled once and for all. In light of his remarks last year, I would like to get his views in the current situation.

Mr. Jean said that CATSA was only responsible for screening, not security. I therefore would like to know who is responsible for security and whether we should look into questioning someone who is responsible for security in Canada.

[English]

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** My understanding is that the airport authority itself is responsible for the security of the airport, and each airport authority is ultimately responsible. The department would be able to provide more information.

**The Chair:** Mr. McGuinty.

**Mr. David McGuinty:** Would it make any sense to convene the president and CEO of the airport authority of Montreal at the same time as Monsieur Duchesneau? Or is the Minister of Transport responsible for security, with delegated authority to the airport authorities?

**The Chair:** Mr. Laframboise.

[Translation]

**Mr. Mario Laframboise:** I would agree with you to have the person who chairs the association representing Airport Authorities appear before us. I believe these people are represented by an association. The problem is not only unique to Montreal. I believe it affects other airports as well.

[English]

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** Was an amendment made in relation to the invitation being expressed?

**Some hon. members:** No.

**Mr. Brian Jean:** I would move a friendly amendment that it read, “call Mr. Jacques Duchesneau to invite him,” as well as invite the president of the airport authority in Montreal, if that be the wish and will of the committee. But change the wording from “call” to “invite to attend before the committee meeting”.

**The Chair:** I think also one of the difficulties—and, again, this is more from my past experience—is that if we date it October 5, we may be putting ourselves in a box. If he doesn't show up on October 5, we may have to go through another motion. I'm suggesting that we might want to invite him with some timelines, but also give him some time to get organized. It might be up to Mr. Laframboise, perhaps, to change that definite date.

**Mr. Mario Laframboise:** It's okay.

**The Chair:** Mr. Julian.

[*Translation*]

**Mr. Peter Julian:** I support the motion, but I would like to move an amendment calling the witness to meeting on October 5th or on another date. Mr. Laframboise has indicated that there is a sense of urgency to the situation. If Mr. Duchesneau is unavailable on Thursday, the invitation should not be limited to that day.

[*English*]

**The Chair:** Mr. Laframboise.

**Mr. Mario Laframboise:** I agree with that.

**The Chair:** Mr. McGuinty.

**Mr. David McGuinty:** The friendly amendment, Mr. Chairman, was that the president and CEO of the Montreal airport authority would be accompanying Mr. Duchesneau. Correct?

**The Chair:** Yes, if that is the will of the committee on the motion.

**Mr. David McGuinty:** Mr. Laframboise had mentioned the president of the Canadian Airports Council. They're two different organizations.

**The Chair:** Do you have a comment?

**Mr. Brian Jean:** My understanding is that it's the airport authority itself, and having the CEO and the president of that organization would make no sense. I think what's happening in Montreal would be indicative of what's taking place, as Monsieur Laframboise has said, in other airports. So it would be a good example of what's taking place, especially because of the light. But I would in fact include my friendly amendment to include what Mr. Julian actually suggested, which was “...October 5, 2006, or such other dates as are available”.

So I would have that friendly amendment in there, if that be the will of the committee, and ask Mr. Laframboise to accept my friendly amendment.

**The Chair:** Yes, and I think we will also keep in mind that if that date starts pushing further and further away from us, we can bring this back as another motion, one that is a little more close-ended, as far as options, hoping, again, that these two people will want to meet with us and present their case.

Do you have the changed motion?

• (1705)

**The Clerk of the Committee:** I have it.

**The Chair:** We have it. I will ask Mark to read it, please.

**The Clerk:** The motion reads:

That the Standing Committee on Transport, Infrastructure and Communities invite Mr. Jacques Duchesneau, president and CEO of the Canadian Air Transport Security Authority, and the president of the Montreal Airport authority, to the meeting of October 5, 2006, or to another meeting thereafter, so that they may explain the security failures noted at the Montreal Airport.

**The Chair:** Good?

**Some hon. members:** Good.

(Motion agreed to)

**The Chair:** May I just ask one question of the committee? I was instructed to draft a letter to the minister. I have done that, although he has answered that question publicly in the House.

Is it still the will of the committee to forward that letter, or is the answer good enough? We do have it in writing, based on the Hansard.

**Some hon. members:** Yes.

[*Translation*]

**Mr. Mario Laframboise:** Yes.

[*English*]

**The Chair:** Mr. Blaney?

**Mr. Steven Blaney:** Send the letter.

**The Chair:** Send the letter? All right. Thank you very much.

Any other comments? Okay.

[*Translation*]

**Mr. Mario Laframboise:** Very well.

[*English*]

**The Chair:** The meeting is adjourned.









**Published under the authority of the Speaker of the House of Commons**

**Publié en conformité de l'autorité du Président de la Chambre des communes**

**Also available on the Parliament of Canada Web Site at the following address:  
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :  
<http://www.parl.gc.ca>**

---

**The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.**

**Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.**