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EXECUTIVE SUMMARY

Background and Objectives

Ipsos Reid was commissioned by the Canadian Transportation Agency to conduct client satisfaction research directly related to the Government of Canada's management framework on results for Canadians. Research findings are intended to support the government's initiative on client-centred service delivery, and also lead to better quality information for parliamentarians about the Agency's programs and results.

Further to these broader goals, the research is also designed to support the Agency's 2008 Management Accountability Framework assessment undertaken by Treasury Board, where the Agency was encouraged to measure client satisfaction and to set service standards and measure its performance relative to them. The establishment of baseline data on client satisfaction is also an important element of the Treasury Board Secretariat's Service Improvement Initiative.

Internally, client satisfaction has been identified by the Agency as a key element of its Strategic Plan for 2008–11. As such, client satisfaction research is to be used to input into a continuous improvement process for enhancing dealings with the Agency's clients and stakeholders. It will allow the Agency to measure progress on its key strategic priority of enhancing internal and external relations through clear and timely communications. It will also provide insight that will assist the Agency in achieving its other strategic priorities: effective dispute resolution and economic regulation; a more accessible transportation network without undue obstacles to the mobility of persons; and organizational support and responsiveness through superior business management practices.

Target audiences and the research methodologies being utilized to capture data for each audience are summarized below:

- An online survey with passengers with travel-related complaints (including persons with disabilities) – target of n=200 completed quantitative interviews;
- An online survey with those who have been involved in mediations – target of n=40 completed quantitative interviews;
- An online survey of clients relating to adjudicated disputes and determinations involving more than one party – target of n=30 completed quantitative interviews;
- An online survey of clients relating to authorities granted by the Agency involving only one party (except those involving travelers, including persons with disabilities) – target of n=140 completed quantitative interviews;

- An online survey of clients relating to inquiries and requests for information – target of n=250 completed quantitative interviews;
- In-depth qualitative telephone interviews with major service providers – 25 completed quantitative interviews;
- In-depth qualitative telephone interviews with senior officials – 25 completed quantitative interviews.

This report includes both the qualitative research and quantitative research conducted by Ipsos Reid on behalf of CTA for fiscal year 2009-2010.

METHODOLOGY

Qualitative research

Two senior level audiences were researched using a qualitative in-depth interview approach: major service providers and senior officials. A total of n=31 in-depth qualitative interviews were conducted by telephone between March 2nd and April 9th, 2010.

The Agency provided Ipsos with sample contact details (name, organization, job role, telephone numbers). Ipsos then arranged and conducted in-depth interviews with major service providers and senior officials. No incentives were paid to this group. Appointments for interviews were scheduled and carried out by executive interviewers who have comprehensive experience in conducting elite and/or sensitive interviews.

All clients contacted for the research were sent an advance letter on behalf of the Canadian Transportation Agency, informing them that they could be contacted to take part in an interview. Prior to being interviewed, respondents were assured that responses would be reported in aggregate, and that their individual comments would not be identifiable.

A total of n=18 in-depth interviews with major carriers, and n=13 with senior officials were conducted between March 2nd and April 9th, 2010. Each interview lasted between 30 minutes and one hour. All 34 stakeholder contacts on the sample provided by the Agency were contacted for the purposes of this research. Of those, only four did not take part in an interview. In some cases identified subjects no longer worked in the position identified in the sample; in these cases, their successors were asked to participate, where appropriate.

Quantitative research

During fiscal year 2009/2010, the CTA developed surveys to collect feedback from clients on six processes using a paper-based survey. During that same year, the CTA fielded two of the six surveys (mediation and facilitation) using a paper-based methodology. On behalf of the CTA, Ipsos Reid combined all 6

paper questionnaires into one bilingual online survey instrument. For the remainder of the year, Ipsos fielded the mediation and facilitation surveys online and combined the paper and online data sets to produce the analysis contained in this report.

On April 22, 2010, the CTA emailed invitations to the sample as described in the table below using unique links provided by Ipsos Reid. The survey will remain open indefinitely. The first wave of the 2010/2011 fiscal year study among all six audiences will launch in late June 2010.

The table below provides a breakdown of the 2009-2010 fiscal year sample universe, the online outgo, the number of partial and full completes and the full sample size that was analyzed to produce this report.

| Survey Type | Survey Universe | Total Online Out-go | Total Completes (Paper/Online) | Total Partial Completes (Online) | Total Sample Analyzed (Paper/Online) |
|--------------|-----------------|---------------------|--------------------------------|----------------------------------|--------------------------------------|
| Mediation | 38 | 13 | 9 | 0 | 9 |
| Facilitation | 264 | 116 | 56 | 7 | 63 |

The quantitative sample consists of a total of n=63 facilitation surveys and n=9 meditation surveys. Due to the small number of completes for the meditation survey (n=9), the analysis of the results is qualitative in nature.

KEY FINDINGS

Qualitative research

Overall, key stakeholders are positive about CTA staff and processes; the Agency is described as an institution that demonstrates an “open willingness to address issues and find resolution.” Along with the many positive comments and praise for specific processes and Agency departments that this research uncovered, there were also a range of specific suggestions for improvement. These were offered by respondents in the spirit of cooperation and, in the majority of cases, were tempered by an overriding sense of goodwill toward the Agency.

“Really it is just about procedure and process, predictability and fairness, and they make any regulated group happy.”

“They are very cooperative on meeting, and they are honest and open and you get real answers to real questions. When you ask a question you hear the truth. You might not like what you hear but it is the truth. Clearly they care.”

“[We] appreciate the treatment and response we get from [the Agency] as a regulator and it reflects on the people there. The Agency has built on their knowledge, and they are truly an asset for regulating this industry in Canada.”

Multi-Sector Issues and Themes

Dialogue and Communication

Industry and association executives alike are generally satisfied with the level of dialogue they have with Agency executives and staff; there were, however, some respondents who felt that opportunities for dialogue, both formal and informal, could be increased. An encouraging finding is that those stakeholders who had a positive viewpoint on Agency dialogue and access are drawn from across all the groups included in this research. This demonstrates that there are no significant service gaps among specific groups in this regard, or any evidence to suggest that some stakeholder types are currently being better served than others.

Agency Staff

Respondents are generally extremely positive in their assessment of the Agency personnel that they interact with on a day-to-day transactional basis. Agency staff are perceived to be approachable, courteous, helpful, and flexible. Among those stakeholders whose information requests or interactions are more policy based, such as association executives, the information gathering and exchange that they regularly share with their Agency contacts was almost always characterized as being fruitful and positive. Staff turnover, and the potential for a loss of institutional memory, was however a concern for some respondents.

Dispute Resolution

Overall, respondents are enthusiastically embracing alternate dispute resolution processes. Facilitation is well-regarded by transportation operators and other stakeholders, and the Agency is seen as doing an effective job of facilitating this dispute resolution process. Furthermore, stakeholders encouraged the Agency to facilitate this type of dispute resolution more often. Mediation earns even higher praise from respondents, and the Agency was commended for the amount of resources they have allocated to this process; this is seen to be successful in part because of the Agency's commitment to it.

Although it is viewed as time-consuming and expensive, the FOA process is generally considered to be fair, and to produce results. The inevitability of an arbitration ruling is seen to force movement on both sides of an issue. Among the transportation providers, most of whom have legal staff in-house, a formal decision made by a panel of Agency Members is a process that - though perceived to be long, rigorous and expensive - is relatively well-received. As this is quasi-judicial in nature, it is understood that the process has to satisfy the law.

Impartiality

The Agency is a quasi-judicial body tasked with, among its other roles, rendering decisions on disputes between the transportation carriers and their users. It will perhaps come as no surprise that a number of respondents question the Agency's impartiality. There were stakeholders from both sides of various issues – shippers and carriers, consumers and airlines – who felt the Agency was slanted toward their opponents. Some respondents even admitted their own bias in considering the Agency's impartiality. However, when considering the totality of the responses on the question of Agency impartiality it is likely that the Agency is, at present, maintaining a relatively good balance in the eyes of its stakeholders overall.

Accessibility and Accommodation

Accessibility and accommodation issues are a hot button for the airline industry at present, though the rail and marine passenger industries are also affected by CTA decisions on this front. The January 2008 Agency One-Person-One-Fare Policy, followed by the February 25th, 2010 ruling on allergies have raised concerns among some that the Agency is acting more as a consumer advocate than an impartial quasi-judicial body on the accessibility file, and is not considering the true financial hardship these decisions have on the industry when they are compounded over time. On the other side of the coin, advocates for people with disabilities applaud those decisions, and question carriers' reluctance to embrace accommodation, which they view as a human right.

Railway Industry

Because Canada's railway industry has only a few carriers, normal market forces that govern supply and demand in most industries do not apply, making the

CTA's role all the more critical. Shippers and carriers alike understand the ramifications of this captive market, both groups acknowledge that intervention is necessary, and believe that the Agency regulates their industry relatively well. Key challenges identified by respondents include concern about the consistency of Agency rulings, which affects stability and therefore the ability to procure capital investment necessary for growth; the Cost of Capital methodology review; and the importance of the first decision on noise.

Airline Industry

There is not bigger issue for the airline industry at this time, specifically in reference to the role of the CTA, than rulings on accessibility and accommodation. Other key challenges – and opportunities - include recovery from the recession and a return to growth, and the new global competitive environment. Overall, airline industry executives have a positive view of the CTA, and believe they do an effective and efficient job of regulating their industry. As well, many CTA administrative divisions receive high marks for approachability and efficiency, including the teams that administrate permits, certificates, and licenses; the tariff administration group, the air travel complaint administration, and the international agreements team.

Marine Industry

Respondents involved in the marine industry seemed to have the least interaction with the Agency: one of the executives interviewed did infer his legal staff had somewhat more regular contact. However, the sample provided for this sector was very small, and may not necessarily be reflective of the industry as a whole. Those interviewed believe the Agency to be responsive when contacted. The key issue for ship owners in relation to the CTA is the erosion of the coasting trade; the industry is also concerned about fleet renewal, pilotage fees, and the impact of U.S. regulatory initiatives.

Quantitative research

Dialogue and Communication

The vast majority of facilitation matters involved airline transportation (96%). Complaints were most often related to flight disruptions (37%), baggage (24%), or ticketing issues (13%). Over two in five respondents (43%) learned about the complaints process through a web search. In the course of their interaction with the Agency, most respondents (71%) got information about the complaints process through email, about half over the phone and 44 percent - from the Agency's website.

When asked to rate a range of agency processes, respondents provide high scores across the board. Professionalism (81% agree that the process was conducted in a professional manner) and the clarity of the explanation of the process (75% agree that the Agency's process was clearly explained to them)

received the highest scores. However, when asked which two areas should be areas of focus for improvement, 37% say they would like to have more opportunity to respond to the other party's view and 29% say the final outcome could be more clearly explained.

Customer Service

Respondents provide very positive ratings of all service attributes from ease of access to courteousness of the Agency staff. While 68% were indeed satisfied (4 or 5 on a five-point scale) with the time it took to resolve their matter, this service aspect received the fewest positive ratings. Not surprisingly, the time it takes to resolve matters is identified by 35 percent of respondents as an area for improvement along with providing information that is clear and easy to understand (22%).

When asked to rate more specific aspects of service including the Agency's website, fairness, responsiveness, official languages and information about the process, respondents offered very positive ratings. Two in five (37%) could not identify any areas for improvement, though 21 percent identified either improving the ease with which information can be found on the website or providing information about what could or could not be done through the complaints process.

The Complaint/Facilitation Process

Over four in five (85%) respondents say their complaints were acknowledged in under 19 days; this length of time is seen as acceptable by 96% of respondents. Half (52%) say it took more than 60 days to resolve their complaint(s). Three quarters (73%) say complaints should be resolved in under 60 days.

A broad majority of respondents say that the facilitation process met their objectives (67%), with half saying it fully met their objectives (46%) and one in five (22%) saying that it did not at all meet their objectives.

Satisfaction with the Agency

Overall, nearly two in three respondents (63%) are satisfied with the quality of service provided by the Agency. When asked to provide the main reason for their level of satisfaction, most respondents offered explanation. A quarter (25%) cited a successful outcome as the main reason they are satisfied with the Agency. One in ten (10%) say they are not satisfied because their issue was not resolved. While 42 percent did not have any additional comments to offer, 35 percent offered positive comments and just 27 percent offered negative comments.

DETAILED FINDINGS: QUALITATIVE RESEARCH

Detailed findings of the qualitative research are presented in four sections. The first section explores themes that are universal to the railway, airline and marine industry and to the associations that represent industry and customers alike. These include specific processes and interactions which the Agency has with all its stakeholders, as well as observances about the Agency's role, structure, and relationships that resonate with a wide range of those stakeholders. Respondents were not specifically asked to comment on all of the categories identified here, therefore in some cases only a few respondents highlighted particular issues. As well, some issues that might seem to warrant inclusion are not included if they did not receive mention in the course of the research.

Along with the many positive comments and praise for specific processes and Agency departments that this research uncovered, there were a great number of specific suggestions for improvement to the Agency and its key processes. It is important to temper these comments by stating that in the majority of cases these suggested improvements were offered by stakeholders who value the Agency and its staff; they believe that, overall, the Agency is doing a good job, if not a very good job. Their comments are offered in the spirit of cooperation, and are meant to be recognized as constructive criticisms.

The executives interviewed for this research understand that the stakes are high. But the Agency, in all its complexity, is not expected to be perfect, nor is it ever expected to achieve perfection. Stakeholders want – and need, because the Agency profoundly affects the industries it serves – the Agency to continue to change and to improve to reflect their ever-evolving industries, now and in the future.

“Good, smart people who do their best to balance private and public interests.”

“Generally the relationship is fairly positive though we do have good days and bad days. It is a complex relationship but generally good, and when it isn't, there is an open willingness to address issues and find resolution.”

“[The CTA's] balance is generally right but the two challenges that could screw it up are transitional manpower and this idea we'll be dealing with more and more complex growth and we really do need to know what is going on or we're going to make regulatory mistakes.”

“I'd like to think the relationship we have with CTA is transparent, open and trusting.”

Multi-Sector Issues and Themes

Dialogue and Communication

Industry and association executives alike are generally satisfied with the level of dialogue with Agency executives and staff, though there are certainly respondents who felt that opportunities for dialogue, both formal and informal, could be increased. Significantly, those who had a positive viewpoint on the amount of dialogue and access they have with Agency personnel come from all respondent groups identified for this research: associations representing industry, shippers, and consumers as well as industry representatives from the air, rail and marine sectors.

“I know that the agency is always very open and willing to listen to the concerns that we raise and every time I have been involved, whether through a submission, or just picking up the phone they have been eager to listen, to help us understand the process, and been willing to come out and meet with us. We are not wanting for more interaction; the agency has always been there for us.”

“The chaps that I deal with, we have come up with our own informal ways of dialoguing by having meetings at the beginning of the year on every assessment. Whenever we have gone to Ottawa with presentations on our new programs the staff has been great in terms of making time for us. We are amazed because they are really busy.”

“We have not been doing it for more than a year and we go into the Agency, and have a meeting, and tell them what we see coming and they can’t understand if things aren’t public, so it’s on us to have this dialogue. And it’s a good practice, and... they [Agency] have been open and receptive and well attended. Some are initiated by the Agency. Last one it was them and sometimes it was us.”

Ongoing dialogue, both formal and informal, is seen to facilitate several key functions. It offers stakeholders and the Agency an opportunity to resolve minor concerns or allay misunderstandings before they can cause larger issues. As well, ongoing dialogue gives stakeholders the opportunity to inform Agency personnel about key industry trends that can affect Agency policy and agenda. When stakeholders are informed of Agency priorities or areas of focus in its upcoming agenda, it affords them planning time and to allocate appropriate resources to those areas. It also gives the Agency the opportunity to explain its own constraints surrounding key issues to stakeholders, which can resolve potential conflicts before they have the chance to develop.

Many stakeholders noted that a mix of informal dialogue and formal dialogue best facilitated open and ongoing communication. Informal dialogue can be achieved by ensuring stakeholders have access to appropriate personnel to discuss ad hoc issues, and formal dialogue could consist of pre-determined – perhaps annual – meetings which would uncover both the Agency’s and stakeholders’ focuses for the year ahead.

“At the same time there are minor issues or misunderstandings that we bring before these meetings, and that is how we resolve the working relationship and we have used them to address things with the [executives] or the staff. We know where to raise points and we always get someone to hear us and sit down if need me.”

“We thought about being more formal about these periodic meetings, to have a semi-annual chit chat. We have a large meeting here [annually] and the CTA is very much a player in terms of setting the agenda and talking about broader industry issues, so that informs them by osmosis and allows them to get up to date. And it’s very helpful.”

“As far as my membership goes what I can tell you is they make a point of coming here and meeting with the appropriate people and I know my members appreciate it.”

“On the issues I deal with we sit down and we talk more and more about these things. And it should be done more often so the [company] can understand. There are things we don’t see, their constraints, and those types of communications are very useful.”

Many stakeholders called for the Agency to be more proactive in initiating opportunities for dialogue. Though the majority of respondents did feel that the Agency was responsive, both at the staff and executive levels, when requests for meetings or interactions were initiated by stakeholders, there did seem to be some feeling that the Agency could be more proactive on this front. Respondents were well aware that Agency personnel have time and resource constraints, and their expectations are based on an understanding of those limitations. However, increased opportunities for dialogue were an oft-mentioned vehicle for improving Agency functions. Several respondents also noted that having Agency personnel come to their offices, as opposed to their personnel always travelling to Ottawa, could – and did, in some cases where Agency field trips had been conducted – increase the Agency’s understanding of their own operational realities.

“You’d like to think the CTA would be proactive but they are not great at that and their workload doesn’t allow for that kind of outreach. We have asked for regularly scheduled meetings with the executive...to talk to them about what the impacts of their decisions would be. They seem open to that and I have met with [name] on a number of occasions when I had an acute issue and he has said come on down. It would be great for them to be more proactive and come out and see us. CATSA has done it and it’s been beneficial.”

“We are often the ones initiating these kinds of meetings and they don’t do it a lot and maybe they intend to...but we could have better dialogue and better identification of issues.”

“What could be better? Better consultation and more transparency and regular dialogue and ongoing dialogue...when there is a particular issue more proactive and ongoing dialogue would be better so we’d have a heads up when issues were forthcoming.”

“A yearly event with stakeholders and the practitioners – those are the guys, the lawyers that work on this stuff, and that call me and ask what the decisions were based on – a yearly event to air your laundry and deal with built up frustration.”

“It would be useful for them I think to hold some sessions for stakeholders to discuss how they perceive themselves in making their decisions and what factors they have to take into consideration. Some communication with the shipper stakeholder community to illustrate how they work and what they do - that might be useful. The...senior staff and Board could go out and with a presentation and seminars across the country invite the shipper community to sit down and discuss those issues that are a source of conflict between the railway and them, and talk about how the agency operates as a referee and what their constraints are.”

Website

Information presented on the Agency website was generally found to be helpful, up-to-date, and easy to navigate. Respondents were generally very satisfied with the website, and many used it regularly both to keep their own organization informed of Agency decisions and industry news, and also to inform their customers or international partners about rules and regulations governing Canadian transportation.

"I like what you have done on the website, the new tools. This morning for [name, breaking story], you updated the brochure, the licensing search engine you've had for two years and I think these are very good. And we use it to explain the rules in Canada and the Fly Smart shows how we deal with these things. And keep investing in that, and explain the role, and the bulletins."

"I sign on to the website service they have for decisions and I get them and watch them; it's very good."

"We flip the link to the website [to the other carrier], and tell them to talk to "X" at the Agency, but it gives them background and it is a way of explaining. And internally when sending a notice to passengers this is always some language we can use and how we can also explain it. If you have a TA in Ontario or Quebec a regulator has more weight and Fly Smart explains some of the principals. And we...are spending less time trying to....explain it in a clear way for consumers so it's a plus."

Several respondents remarked that the Agency had been asked to revamp the website to better serve a particular communication need and the Agency had complied: this responsiveness was certainly appreciated. One respondent did suggest that on some key announcements, such as the filing of applications, this could also be communicated to interested stakeholders via an e-mail notification system. Another suggestion for improvement came from a consumer advocate group, who suggested that a plain language explanation of key agency decisions could be posted so that consumers could better understand the actual ramifications of decisions affecting them.

"We thought the website could have used some work and they did that so ...I would give them good marks on that."

"One of the problems we have had, and it's only been rectified in the past 8 months, is that there are some provisions in the legislation in which the Agency is supposed to make public - that an application has been filed - but there wasn't a mechanism whereby we were able to determine that without calling and we had to call and they would tell us but it has been rectified now. You get onto the website and they are there and we would have liked something more proactive from them. There isn't a huge list of people that care about this stuff and you could probably put 30 people on it [an e-mail list]."

"At times it is hard for people to understand decisions, and you read it and understanding it is challenging. A plain language version of some of its key decisions, that would be helpful...On key decisions if the agency were to put out an explanatory note on what decisions mean it would be helpful to people in the community. It's fine [as it is] for organizations but not for individuals."

Agency Staff

Respondents are generally extremely positive in their assessment of the Agency personnel that they interact with on a day-to-day transactional basis. Agency staff are seen to be courteous and helpful, and also flexible in, for example, granting extensions to Agency clients on certain types of information requests. Several instances were mentioned of Agency personnel personally reaching out to respondents who were new to a job that involved a lot of Agency interaction, to ensure they understood proper procedure. This not only facilitates a smooth transition when new employees are taking on such roles, but it also sets the framework for a successful, positive working relationship where misunderstandings can be corrected quickly and efficiently simply by picking up the phone. For those stakeholders whose information requests or interactions are more policy-based, such as association executives, the information gathering and exchange that they regularly share with their Agency contacts were almost always characterized as being very fruitful and positive.

"I think very good. My own experience is that they are always very pleasant and courteous and helpful and they grant extensions when we need one. We had one year where employees from CTA came to the office and they were better able to explain how they handled the way claims worked. And that was especially beneficial for new employees and even those who are not aware of their role. Very beneficial and it doesn't have to be often even once a year. They took the time to come over and I thought that helped a lot."

"My first interaction with CTA was great. They understood I was brand new to the role and the CTA person had worked with baggage with us in the past and she wanted to ensure I understood the process. And we had a one hour meeting and she took it upon herself to do that. It was over the phone and she initiated that first meeting. That kind of service was appreciated."

"I know a few key people in the Agency I get information from and honestly I have always found staff to be very courteous and polite and to be as helpful as they can...."

One recurring theme, and area of concern for many respondents, is the perceived loss of institutional memory because of a recent spate of Agency staff turnover. Though respondents readily admitted that these challenges were being faced in their own organizations, the number of respondents from different sectors and with differing viewpoints overall who mentioned this as a concern, pinpoints it as an issue the Agency should endeavour to address with its stakeholders in a proactive way.

Agency decisions profoundly affect the Canadian economy, and many of the players who watch the decisions closely have a long institutional memory of their own, with enough background and understanding of the issues to predict what the Agency is going to rule on certain matters. This, of course, facilitates stability because stakeholders understand implicitly the ramifications of their actions and design their business plans to comply with their predictions of Agency decisions. When decisions surprise them, or fall outside the scope they have determined is reasonable for their business planning purposes, it can profoundly affect their business. Predictability is important, and whether staff turnover is negatively

affecting predictability or not, steps should be taken to ensure that Agency stakeholders are confident that new staff have the knowledge and skills to effectively fulfill their Agency roles, as well as the understanding of the enormity of the consequences that some Agency decisions can have for Canada's transportation industry.

"This agency is new and it has lost a lot of its institutional memory because of turnover. And they want to matter and improve things and do better and while we respect that, they probably fell a little bit short. The fact there is a consistency and flow to previous methods and decisions and many of our business decisions are in part guided by the history of decisions made. While they are not bound by precedent, it is a good lead indicator, and this group has made more than one decision that has thrown that into question. And that hasn't been to the detriment of shippers, but that increases the potential for uncertainty of the outcome and then shippers are more reluctant to use their services."

"Mostly they are professional but because of their staff turnover a significant number of new people without experience in the transportation world have come in. Getting them up to speed has been a challenge and we have helped by giving briefings and background on rail. But that is an ongoing issue and it is on both sides. Some of our more experienced people are retiring, too."

"There are a whole bunch of resources out there of people who have been doing this for a long time and there is a learning curve for Agency staff. We want to help them make the right decisions and have all the background information so when they make a decision it is with the full understanding of what they are writing and the consequences of what they are writing."

"There has been a huge turnover in staff and they will literally admit they are new on the job but they are making decisions that make a huge impact on shippers across the country and they are making the decision without a full understanding of the issues."

"We think it is partly because they have new staff there including legal counsel and they didn't understand the decisions they made would have wide ramification even with the narrow focus of the decision."

Respondents suggest that the Agency undertake a more rigorous training initiative to ensure new Agency staff and members are seen to have a clearer understanding of both the industry they are regulating, and the ramifications their work can have on the transportation industry, and the Canadian economy as whole. Several suggested that site visits, whereby new staff and members can interact with industry, shippers, and other stakeholders in their own environment, instead of in Agency offices or Ottawa board rooms, could more quickly inform new Agency personnel about their organizations.

"Some concerns...a lot of turnover at the Agency in terms of members and staff. You have people with little experience having to deal with multi-million dollar complaints and they ask for pleading and they might ask questions and they then make decisions. I am not saying they are not intelligent, but if I feel they are sitting in their tower getting all this in writing and there has to be more hands on and more field knowledge. They used to have that and when there is a turnover you lose corporate memory. Going to the site and looking at the places, that would help to make better informed decisions."

"One other comment I will make is that there has been a big change in the legal staff at the agency and some of the knowledge and corporate knowledge within the legal department had disappeared and that's been a concern. Certainly if there are new young lawyers coming in they need training."

There is an acknowledgement that some of the turnover problems being experienced at the Agency are, in part, driven by industry ‘cherry-picking’ their best people for their own staffs. Respondents did call for the Agency to ensure it has succession planning on its radar, perhaps to ensure a large scale change in personnel does not happen again.

“Other than...making sure they are sufficiently resourced in terms of staffing and having overlap in terms of succession planning. Because if you have people and knowledge going out the door, like in net salvage, there is pretty specific expertise and [company] and [company] have been cherry picking their staff. We have failed in our own succession planning and we are all kind of poaching from each other.”

“The broad question with regards to transitional issues in terms of labour or manpower - and we can’t take our eye off that ball – is staff turnover in the industry and for them, too. And we have to keep that front and centre and it is a process that has to be managed on an ongoing basis.”

One other point on staff that received mention several times was the ‘separation’ of “staff” and the “Agency”. It is considered unusual by some for staff to participate in the drafting of decisions, especially when the same staff members interact with complainants or carriers when they are preparing their case. The Agency is seen on other occasions to ‘hide behind’ that separation, rendering decisions on processes when staff assured stakeholders they would not.

“There is no transparency. There is no guarantee what the exchanges are between the staff and the decision makers. From my understanding staff participates in the drafting of the decision and that is rather unusual. They need to work a bit more on their due process. There should be a split between the members and the staff – maybe similar to the way the Human Rights Tribunal and Commission are split.”

“The Agency is the Agency – members or staff or who? And the Agency plays on that. At the 11th hour [the staff] find an issue and there is not time to deal with it and how can you identify new things at that point? It should be stable. Then staff writes back and says we’ll deal with it next year. The decision then comes out and there is a decision on it. [We say] ‘staff said we wouldn’t do it’, but they say ‘we aren’t staff, we are the Agency’. And now I have to ask who is speaking? That’s a lack of transparency and fairness.”

Dispute Resolution

Overall, respondents are enthusiastically embracing alternate dispute resolution processes. Not only do they save time and money, they are also seen to facilitate better outcomes for both the complainant and the transportation operator. Face-to-face discussions, which allow for a back and forth verbal exchange, are seen to facilitate a better understanding of the issue at stake for those on both sides.

Facilitation

The first step in dispute resolution, facilitation, offers an “informal exchange between you and the transportation operator” and for which the “Agency’s role in this informal discussion is to offer its expertise and help define the issues

involved.”¹ Facilitation is very well-regarded by transportation operators and other stakeholders, and is felt to often result in quick and easy resolutions that are virtually cost-free for all the parties involved. The Agency is seen as doing an effective job of facilitating this dispute resolution process, but is also encouraged to increase its assistance and facilitate this type of dispute resolution more often.

“Well, I think certainly the informal discussions that individual companies have when we put them in touch with people [at the Agency], they have been quite satisfied with the informal discussions with staff and may decide not to go to a complaint or to seek mediation after their discussions, so those work well.”

“There was a complaint and I asked to go to mediation and other side said no. I said ‘let’s meet, you and I’, and they said ‘no, I only want to go through litigation’. Then I said ‘let’s meet’ and that led to a second meeting and then...we felt a fourth final meeting would resolve it and they did come and we resolved the matter at the fourth meeting. Why? Because we met to try to understand each other...and if we could do that on our own we could do it that much better with the assistance of the Agency.”

Mediation

Canadian transportation providers are almost unequivocal in their praise for mediation. It is seen as being cost-effective, transparent, and efficient. The Agency receives praise for the amount of resources they have allocated to this process: it is seen to be successful in part because of the Agency’s commitment to it. It is recognized not only as a process that can work for simple disputes, but also one that can be used to effectively mediate complex issues. The allowance for face-to-face interaction and discussion can result in a faster negotiation process between complainant and providers; the inaccuracies and misrepresentations that can arise through paper-only exchanges can be readily amended in a face-to-face interaction where questions can be asked – and answered – on the spot. As noted by one respondent, *“people start talking, and it changes the tone of things.”* Agency staff were praised both for their facilitation role, and for the expertise they brought “to the table” in mediation processes.

“We ended up at meeting and it was face-to-face and the complainant realized there was a human side to [company name]...we left as friends and it was amazing. The Agency process helped us, bringing us face-to-face and trying to build relationships and find common ground.”

“I really appreciate the mediation and dispute resolution. And I think it saves us both work in the sense that we can save an adjudication for the Agency and it is a better use of resources and it has been successful. And I really appreciate the resources they have put into it; it hasn’t been an afterthought and they really have given us their top people.”

“... they felt the mediation process was transparent, practical, efficient and cost effective.”

“Their mediation services have been excellent. The issues that are in dispute between the railway and members of the community are often difficult to resolve so the mediation services allows parties to get together in a fashion that isn’t litigation, and has no

¹ Canadian Transportation Agency website, www.cta.gc.ca

timelines, to see if they can craft a solution. So tough issues that don't have easy solutions, it gives a last opportunity for people to vent issues and come to some solution short of a solution being imposed."

Concerns about mediation were centered on three specific issues. There was concern about the imposition of compulsory mediation, which presently contradicts Agency policy:

"If you want to try to resolve your dispute through mediation, let the Agency know. It will contact the other party to see if it is willing to participate."

However, several respondents – both shippers and carriers – did note that they did not endorse compulsory mediation. Some respondents also felt that individuals, especially in the cases of consumer complaints or accessibility or accommodation complaints from people living with disabilities, could be intimidated by the process, and could, as well, be intimidated into choosing mediation as a dispute resolution process. Thirdly, though the general satisfaction with the process overall indicates most mediators are performing well, there were some concerns raised about the quality and impartiality of the appointed mediators.

"It seems to me mediation works best where parties agree voluntarily to mediate so that would be best, and forced mediations would be second best, and if one party wants to go right to arbitration that should not be discouraged. I think it should be up to the people who are in conflict."

"Mediation is something that the agency cannot require, [they] cannot impose it."

"Mediation is great as long as it is not forced because it will be used as a stall tactic by the carriers. The railways would like to argue that before final offer arbitration we should have a way to mediate and we say we've been negotiating for five months and the leverage we have is Final Offer Arbitration and the only reason you want to mediate is to get more information."

"Often our mediation cases are accessibility cases, by complainants [that] are disabled, and we automatically have to do the hearing where they are located. It is a pain for me to travel for example to Sydney in the winter. We have to travel there, in and out in the same day. It's quite an ordeal – quite an imposition on us." Major Carrier (Air)

"The use of mediation, while that may resolve an individual complaint, part of the difficulty is often people are not aware of what the result is and it is not necessarily equitable because the individual files a complaint against a large corporation. And the individual felt she had to resolve it in that format and she felt intimidated."

"Some have more talent to mediate than others...I am generally very satisfied."

"I am not impressed by the quality of their mediators in assisting the parties in coming to a settlement. The mediators don't take a hands-on approach. They simply report back what they said or organize the meeting. We most often settle directly. They don't actually mediate. They were trying to push us to deal with a mediator who [notes conflict of interest]. We had to insist that we would not deal with him."

Final Offer Arbitration (FOA)

Though the FOA process is considered by many to be a rail-specific dispute resolution service, it can in certain circumstances be utilized to resolve issues pertaining to the movement of goods by water or by air as well, and thus is

included in this section of the report. Only shippers who use rail, and the rail sector industry and associations commented upon the procedure during the course of the research. Though considered to be time-consuming and expensive, the FOA process is generally considered to be fair, and to produce results; the inevitability of an arbitration ruling is seen to force movement on both sides of the issue. There were concerns raised about the Agency's role in the process; though it was seen as reasonable for the Agency to provide assistance to complainants, they should not be seen to be providing evidence. As with the mediation process, there were also some concerns raised about the quality of the arbitrator pool.

"Final offer arbitration, as far as I know, the shippers are generally satisfied with FOA. The biggest complaint is that it is expensive to mount a final a FOA, but I think it tends to work and shippers are generally satisfied with the result. Often it just brings the railway to the bargaining table and that gets an agreement, and that is good between the buyer and the seller."

"The FOA forces you to get closer together on the offers because he has to pick one or the other so it forces movement."

"This is a process before the arbitrator, and that's someone outside as mentioned, and some parties who go to an arbitration are always try to bring the Agency in. And the Agency should be trying to get out of that process and they should only appoint the arbitrators and manage the exchange of information and they should never get inserted in the process unless both parties ask for it. The other side always asks them to do a costing and they shouldn't because then they are providing evidence. And they can provide assistance but not evidence."

"The role of the Agency in Final Offer Arbitration is very limited....[one thing is] to have a roster of arbitrators to conduct the arbitration and the parties have to choose from that roster. They have done a very bad job of that. They asked who would want to be on the roster and they took them all without vetting. You can't just be an arbitrator, you have to have knowledge. There is a lawyer who represents shippers in FOA's on the roster. It's the epitome of conflict. [The Agency should be] much more involved in getting competent and experienced people on the roster."

One respondent also surmised that another level of arbitration could be added, a fast tracked arbitration process for day-to-day problems:

"Well, level of service complaints are good for systemic and egregious issues. But there is another level that could be added. A fast-tracked arbitration process that would take place quickly for day to day problems. There are lots of examples around that would take 14 days or one month and then an arbitrator rules. That would be helpful."

Formal Agency Decisions

For the transportation provider, most of whom have legal staff in house, a formal decision made by a panel of Agency Members is a process that - though long, rigorous and expensive - is relatively well-received. Because it is quasi-judicial in nature, it is understood that the process has to satisfy the law: *"Its decision is binding, and can carry the force of a judgment from the Federal Court of Canada*

or a superior court of any province.”² Therefore, transportation carriers are comfortable with the timelines allotted and feel there is little that could be done to streamline it. There was some concern that there could be more consistency in the rules of procedure ruling formal Agency decisions, and a call to better define issues to be ruled on at the beginning of a suit. Better defining issues could also mitigate the amount of data that must be shared and examined in the course of the suit, another benefit to narrowing the issues.

“We are going to a formal oral hearing and that is where you want all of this evidence presented and in terms of the resolution of the complaint they are quasi judicial I don’t know how much you cut out. You could shorten the timeline but because it is quasi judicial you have to have it satisfy the law.”

“Generally in complaints [it’s] 120 days resolution, and they seek extensions which we are happy to provide which is ok. You can get a fast decision or a good decision so it makes sense to extend.”

“I tend to think that procedurally they are not as rigorous as they might be, and they have rules of procedure published, but a complaint never seems to follow those paths so from a predictability viewpoint there seems to be rule changes that make it difficult. We would be better served if the rules of procedure – it doesn’t matter what the timelines are just as long as they have everyone the same – if the rules of procedure were consistent.”

“Defining issues at beginning of suit – when a shipper puts in complaint they are not often legally represented so the complaint can be a bit rambling. They are unhappy and they have committed to paper why, and then the railway looks at it and says well really, there are only a few issues amongst all these complaints. And the agency could step in and say I hear both sides and these are the specific issues we are going to determine...halfway through you can’t change what is in dispute and it does happen with the CTA procedures.”

“That worked fairly efficiently, we have a lawyer on staff but I would think that it might have been expensive for the complainant. We went together with the [sister association] and it was fairly expensive for them because they had out-of-house legal and we have in-house, but I think they [the CTA] are fairly efficient and it wasn’t too expensive to deal with.”

For some shippers, the formal Agency decisions can be seen to offer rail carriers an opportunity to stall proceedings and make the procedure as difficult as is possible for their opponents. For not-for-profit organizations with limited resources, the length of time a proceeding takes can neutralize their ability to mount a complaint simply because they run out of resources.

“The process is too long and too expensive. And I know that’s a frustration for the agency and it’s frustration for them and for us but it is a tactic of the railway to make it as inconvenient as possible. I don’t know that the CTA is looking for solutions and I am not sure they are in a position because of procedural and protocol matters beyond their control. If you could tweak the Act that would work but I don’t think a quasi judicial tribunal could lobby for increased power.”

“The railways are great at dotting all “I’s” and crossing all “T’s” and every right they have is known to them and it defeats the purpose of the formal Agency decisions.”

² Canadian Transportation Agency website, www.cta.gc.ca

“The process was probably a lot slower than we had hoped. [...] Understandably the process gets much longer when the carriers take a combative role and they fought this and we had many hearings and they sought to appeal the final decision [...]. The process was against a well-resourced opponent who took every opportunity to stall. This is a challenge for the Agency. As a not-for-profit organization is not well resourced, and we could have failed [in the complaint] spending money on legal costs we didn't have.”

Impartiality

CTA is a quasi-judicial body tasked with, among its other roles, rendering decisions on disputes between the transportation carriers and their users. It will perhaps come as no surprise that a number of respondents question the CTA's impartiality; indeed, it may be an impossibility for the CTA to ever achieve a reputation for complete impartiality. It cannot however operate effectively, with full cooperation from its stakeholders, if it is not seen to be striving to achieve impartiality.

“[CTA's] only value is [its] perceived fairness.

“[As] a good economic regulator they should be unbiased and should be seen to be unbiased. And even if it is just a perception of bias it should be dealing with the perception. If they could analyse and quantify [that perception of bias] it - and maybe it's wrong - but whether it is an actual problem or just a perception of a problem it should be dealt with.”

“Anytime there is a decision against us, you wonder. But what is fair? In those two decisions they weren't unfair and I think they looked at all the evidence.”

Interestingly, there were stakeholders from both sides of various issues – shippers and carriers, consumers and airlines – who felt the Agency was slanted toward their opponents. Some respondents even admitted their own bias in considering the Agency's impartiality. When considering the totality of the responses on the question of Agency impartiality it is likely that the Agency is, at present, maintaining a relatively good balance in the eyes of its stakeholders. However, it must be ever-vigilant on this front. Without the perception of impartiality, the Agency cannot fulfill its mandate. Key to the Agency's perceived impartiality is its performance. Stakeholders feel that it must be seen to act as a court, to rule on evidence, to carry out due diligence, and to allow all parties to air their views in order to ensure that its stakeholders have confidence in the process.

“The general feeling is that the Agency views themselves as the public defender instead of as an impartial body. “

“Not sure that I necessarily agree with this but a lot of people in shipper community tend to feel the agency's bias is toward the railway from some segments of the shipper community.”

“I would like to see them strike a better balance between consumers and carriers. They are a judicial body and they need to be looking at things fairly, it's critical they are fair and most [carriers] don't feel that way. If it is fair, why are the decisions always for the consumer? [But] I am biased.”

“I recall my colleagues would think some recent decisions are not fair and some recent decisions are fair: it is in the eye of the beholder. Was the process professional and done properly and with due diligence and a thorough airing of the views? And did all parties

have the opportunity to say and do what they wanted? Then the decision is the decision. If you have confidence in the process, that is fair. There will always be a winner and a loser”

Transparency

For many respondents, a key pillar in achieving the confidence of stakeholders in the impartiality of the Agency would be to increase transparency: if there is clearly no evidence of bias, then bias won't be considered. One suggestion made by several respondents would be to write more fulsome decisions that better explained how the decision was made. As noted by one respondent, the winner doesn't care how the decision was made, so, "...the Agency should always write decisions with the loser in mind."

“On a communications front we want better decision markers: more transparency, more upfront, and more detail. It doesn't mean you have to release details...you can talk about it in the aggregate but explain why you made the decision.”

“The transparency... if we had a little more clarity we would feel they were being more fair and some of the challenges we have had with decisions we would tend to be less pessimistic that they are being anal or holding their cards or being pro-consumer. And then you jump to conclusions that aren't accurate and they could be more forthcoming... and there are some individuals in the CTA who are better than others. I believe there should be a certain baseline of transparency.”

A lack of transparency was also noted in circumstances where Agency staff request information or data without explaining what it will be used for. Stakeholders believe that they are not, in these cases, being given the opportunity to ensure all the data that might be relevant to whatever the Agency is working on is being presented.

“Sometimes, the staff says we want this data, and we say why, and they won't say. But if you don't provide it will be held against [you in the decision]. And we all know you can produce information to support any position. If they tell you we need it for 'this' we could also say you should have had this other information as well. That should be much more open, and it used to be that way, and I don't know what causes this. A member or the chairman should be concerned because it undermines the credibility of the institution.”

Accessibility and Accommodation

Accessibility and accommodation issues are a hot button for the airline industry at present, though the rail and marine passenger industries are also affected by CTA decisions on this front. The January 2008 Agency One-Person-One-Fare Policy, upheld by the Supreme Court of Canada, determined that Air Canada, Air Canada Jazz, and WestJet were not to charge more than one fare for persons with disabilities who are accompanied by an attendant for their personal care or safety in flight, as required by the carriers' domestic tariffs; or who require additional seating for themselves, including those determined to be functionally disabled by obesity. This decision represented the culmination of a long dispute fought bitterly by the airline industry. The February 25, 2010 ruling that three individuals are persons with disabilities in the context of air travel due to their allergy to cats also raised alarms in the industry. Many have expressed concern

that the Agency is acting more as a consumer advocate than an impartial quasi-judicial body on the accessibility file, and is not considering the true financial hardship these decisions have on the industry when they are compounded over time.

“Members have felt...there is a trend toward consumer advocacy and CTA needs to be true to its principals. There can be that tendency to not be impartial. I think it is about understanding how airlines operate and the costs involved and it needs to be much more conscious of that, more research and analysis before any decisions are made particularly issues that are touchy.”

“The definition of undue hardship is a difficult test to demonstrate that we can’t accommodate beyond that point and the results of the decisions are that we have to accommodate and there is a bias toward the guest. You couldn’t define it but...listen, it is hard to say you can’t afford to provide a buffer zone for nut allergies but the concern is that over time all of these factors are going to make it difficult for us to operate. CTA has to acknowledge the long term impact of these decisions in total, not just on a case-by-case basis.”

On the other side of the coin, advocates for people with disabilities decry airline and rail carriers’ reluctance to embrace accommodation. In their view it is discriminatory, and is also short-sighted in that accommodation will be needed for more and more of the Canadian travelling public because of the aging population. They also point to a reluctance to accommodate in simple ways, such as providing captioning on entertainment systems, without undue pressure being applied.

“Just a comment that the cost of ensuring access if spread out over the fares that are charged is not a substantive increase in any fare...we always get the argument this is too expensive. But the decisions have said these do not create undue hardship and this is reasonable and an accommodation that must be provided. [It’s the] cost of doing business. The public includes people with disabilities and the public that will need access is growing with an aging population...a demand for accessible transportation will continue to grow.”

“Now they have captioned it [entertainment systems, for deaf passengers] but it took a number of years and they said they couldn’t do open captioning because two languages were going to take up too much space....but they have now managed to do it.”

In terms of the way forward, though voluntary access codes are in place, advocates for people with disabilities are unhappy with the level of voluntary compliance from carriers, and want to see regulations adopted, mirroring the regulated access standards in place in the United States, Great Britain and Australia. Regulations on accessibility and accommodation issues are also endorsed by some respondents on either side of the debate: for some carriers, regulations are seen as being the best solution, one that would negate the need for case-by-case resolutions that affect only the carriers implicated, thereby creating an even-playing field for everyone in the marketplace. Rail carriers are watching developments on this issue very closely, as passenger service continues to grow. These carriers want to have input, but they also want guidance and leadership from the CTA.

“Our priority is the establishment of accessibility regulations that would govern all modes of federal transportation. The agency needs to move forward with regulations so people with disabilities know what to expect, and carriers know what to provide. We spent many years developing voluntary codes of practice for all ...those voluntary codes don't appear to be working. And just as they have done in the United States and Great Britain and Australia, we need access standards that are regulated that will ensure accessibility. The individual complaint by complaint [system] is time consuming and results in individual remedies and does not address the systemic issues. We are being surpassed by other countries.”

“I also have issues with the Act that provides for regulatory powers. They aren't exercising these powers but responding to complaints and dealing with things on a one-off basis and making decisions that have an impact only on the carrier against which the complaint was made. There is no consistency in their decision-making processes. Now the Canadian Human Rights Tribunal is asserting jurisdiction over this. The CTA has not adopted a regulation since 1996. Adopt regulations that would allow....a level playing field for everybody.”

“Disability and accessibility. With the rapid growth of passenger rail in major urban centers and in inter-city rail, it is very important in terms of making sure we have the right approach.”

“The US has the DOT and Europe has economic authority enforcing but because the CTA is quasi-judicial there isn't just a list of regulations, it is always a negotiation. Whereas with the Department of Transport, for instance, they tell us what we must comply to. For a number of issues like the wheelchair or the allergy file, if they could bring it to us for input the Major Carrier is desperate for guidance. And it would be great if there was a standard or objective assessment and it is hard to get that from CTA. Sometimes we'd like a little more leadership. Yes, consultation, but at some point you have rules you have to follow. The problem with the complaint based thing is you never know how it is going to play out. And maybe that expensive assessment should be born by the government, the assessment needed for setting standards for carriers to follow, as it is in regards to security.”

Accessibility Advisory Committee

The work done by the CTA's Accessibility Advisory Committee, and the opportunity for dialogue and input it provides industry and the disability community, is appreciated by its members. Members do note that it has not been held annually as planned, and meetings should adhere to its planned annual schedule. Members also noted that along with the annual meetings, conference calls on specific topics as they arise might benefit members and the CTA.

“The accessibility group (their sub-committee) has been particularly effective at dialoguing with the industry. As far I know there are a lot of consultative meetings that have been organized and we are invited and represented by sub-committee members who report back, and on the one person, one fare and the allergy issues there have been regular meetings and there has been a certain level of satisfaction with the dialogue.”

“The Accessibility Advisory committee...probably the one thing that comes to mind is that it is supposed to be meeting annually and we hadn't met for three years until last March, and is the only vehicle for us to have input on transportation issues....this advisory committee is an important link with the disability community.”

“The Committee 's mandate is to meet once a year and even if some meetings were on specific topics and we met by conference call more often that might be positive and helpful.”

Railway Industry

The railway industry in Canada is unique in that the number of carriers is very small, with many rail lines being operated by only one carrier. This negates the normal market forces that govern supply and demand in any given industry, and makes CTA's role all the more critical. Shippers and carriers alike understand the ramifications of this captive market, and though carriers would like to see market forces more at play in determining pricing, they do acknowledge some intervention is necessary. Shippers would like to see even more oversight, which they believe would result in fewer disputes overall. Although both shippers and rail carriers do have some concerns with particular Agency processes and policies, for the most part both groups view the Agency as being a positive force that regulates their industry relatively well. Industry insiders want the Agency to be forward looking as growth is predicted for the rail industry over the foreseeable future; the CTA must ensure its economic oversight is on pace with industry realities.

"They...know they are the only the guy in town and they charge rates and provide service according to having that monopoly. So the decisions the agency makes can have a huge impact on our industry."

"In general it has been very positive over the past few years because they now have a legislative framework that is helpful, and we as an industry want this relationship to work. The industry freely admits there are shippers that are captured and others because of their size may fall between the cracks so this is positive. As long as it's predicated on good policy let's have good and efficient ways to intervene if it's necessary and that's their role and they do a reasonably good job."

"I think they are too remote from market and commercial decision making. A regulator should look at markets and the markets are what they are. Some are competitive, others less so, and they are a bit interventionist. They shouldn't be a substitute for a market forces they should only be there when market forces don't work."

"Well, obviously what they do is make rulings, on rail disputes and they [the disputes] are far too frequent. We do see a role for them in terms of ongoing vigilance – in terms of them we are looking for them to pay a greater oversight role where railway disputes come up."

"As rail grows, and no doubt it will on the passenger and freight stage, all these issues such as proximity and logistics are going to become more complex. And while the policy framework is generally right there are challenges that will be put on the table and apart from transactional stuff we have to stay close to trends and I predict a bigger problem. The policy framework has to evolve and the Agency has to be thinking ahead. Given CTA's role in being the economic regulator [the Agency] is an important part of that."

Research findings specific to the rail industry are presented here by category. As to what key challenges industry executives felt were most relevant to their industry at present, opinions differed. Common themes, though, included concern about the consistency of Agency rulings, which affect stability and therefore the ability to procure capital investment necessary for growth, the Cost of Capital methodology review, and the importance of the first decision on noise.

"For me the noise issues are the most important, and these first decisions coming out are going to be really important in managing expectations: they'll either narrow the

complaints or open up the floodgates and they need to make sure they are balanced and they have to look to make sure they know what impact they will have....it could affect shippers and affect the whole economy.”

“Well, we are coming out of recession and I think in the next 12 months we will be focussed on return to growth.”

“More germane to the agency is the whole regulatory environment and the stability thereof and it had been reasonably positive. Maintaining that stability is very important because investors into the industry need to see that regulatory stability and we need large capital investment to meet demand in the growth scenario so their role is particularly important in a growth scenario.”

Cost of Capital Methodology Review

The Cost of Capital Methodology Review is making rail carriers happy, and shippers nervous. From the rail carrier perspective, the “*murky*” methodology utilized in the past made predictions difficult; carriers need to be able to predict the Cost of Capital somewhat accurately in order to produce viable business plans. Rail carriers acknowledge that the cost of capital should not unreasonably burden shippers, but do want to ensure a fair return to carriers. For most respondents representing rail companies, the cost to the shipper should be irrelevant to the methodology, and not manipulated to reflect a pre-determined shipper cost ceiling.

“They are looking at the whole methodology this year and when they sent their first document they said we need to ensure its right because rail companies are entitled to adequate return, but also not so high as to increase the cost to shippers. The cost to shipper has nothing to do with the cost to capital...”

“With the cost of capital, for instance, right now the Agency can determine it using three different methods, and what it does is it hears all of the evidence and goes into a virtual black box and decides...and next year that could be different and as a railway we don't know what that – which method of calculation - is going to be. It isn't set up in the statute that you regulate rates but it is thought of in that fashion. Where we would come from, we want the cost of capital to be whatever it actually is – calculated but not manipulated. We want the Agency to have a transparent way of calculating it; not deciding which of the three methods they'll apply at the time.”

Shippers are concerned that their costs will increase, and do not believe that a Cost of Capital methodology review is warranted. Many also believe the review was initiated based on pressure from rail carriers, and that they should have been informed about the review prior to the release of the draft terms of reference came out so that they could provide feedback.

“They actually at first mentioned it was at the behest of the railways but they don't say that as loudly anymore. They know there should have been more consultation [prior to the review of the cost of capital] prior to the process and they agree. The only reason we are fighting it is to ensure they do more consultation the next time.”

“Capital cost is certainly a concern, that opening up capital cost accounting provisions will be a problem for shippers and a lot feel it is not appropriate that it be opened up at this time. But it remains to be seen how that plays out and what issues are raised.”

“One of the problems was we had, we had no idea that the agency was contemplating doing a review until the draft terms of reference came out ...you are obviously trying to influence them but we understand the job they have to do but we want to impart our

knowledge about how things work and what the railways do and how they behave so they have a full understanding of the dynamic between a shipper and a handler before they make their decision. But I think they have to be able to ask the right questions and the difficulty was that we didn't even know they were dealing with the issue before the decision was made."

Grain Revenue Cap

The Grain Revenue Cap is a source of irritation to rail carriers who, perhaps unsurprisingly, think it is artificially low. Carriers point to a pattern of Agency decisions against them on revenue cap issues as being proof of an Agency "bias" on this front. The one time changes to the Volume Related Composite Price Index in February 2008, reflecting the actual costs incurred by rail carriers for the maintenance of grain hopper cars and reducing the historical maintenance costs that were "embedded" in the revenue caps, resulted in significant fines for carriers for exceeding their revenue caps. This was perceived as further proof for carriers of the Agency's 'shipper advocacy'. Some carriers feel this is short-sighted: if grain transportation is not as profitable as other revenue generators, will carriers continue to reinvest in it? And for one shipper association not involved in the grain industry, precedents set for grain do affect their industry as well: this respondent suggests the Agency should consider every industry when it makes decisions about grain transportation.

"I've done a review of revcap decisions and if someone was to look at them you'd wonder if the railways can be wrong on it all the time... That is the one area where there is a bias. I don't think they understand the impact... grain is the least profitable of all the products the RR is moving and in a store you don't invest in the product making you the least money. It is short sighted because you don't reinvest in your worst product so they are putting that at risk. They are well meaning but I don't think they see the big picture."

"I think they have tended more as of late, though they have always had a shipper bias, and it seems more pronounced lately than in the past three or four years. I get signals they see their role is to be an advocate for the shipper or to protect the shipper. The last really clear signal would have been when they adjusted the VRCPI to reflect maintenance costs and in the descriptions in the correspondence [stated] that they had a mandate to control rates."

"They probably think they do a good job and our industry doesn't have a problem with the decisions on behalf of our companies, but a grain related decision has been handed down that is going to affect everybody. They say it is only grain related and our lawyers will tell them the railways will say that the same decision should be taken for other industries. They create unintended hurdles for us."

Proximity Issues

Rail carriers are concerned – some identify noise and proximity issues as being their key challenge at this time – about the noise and proximity complaints that have emanated from the June 2007 amendments to the Canadian Transportation Act. These authorize the Agency to resolve complaints about noise and vibration caused by the construction and operation of railways. (One airline executive also expressed concern about the upcoming noise decision.) The number of mediations has become a burden for the rail industry, and they are concerned that should the upcoming noise decision not be in their favour, it will open the

floodgates for complaints against them, even from complainants who bought or built property beside existing lines or yards. The December 7, 2009 GO decision is seen as being precedent setting, and rail carriers are concerned that other decisions on hours of operation could damage their operational capacity, affecting not only themselves, but shippers, and the economy as a whole.

“And we’ve had many mediations, and so actually I do see the proximity issues as the greatest challenge going forward because it is becoming, with the new legislative changes in 2007, it is just snowballing...we have managed to settle most of those and we are awaiting the first decision of the Agency. It’s been a year and we had gone to mediation and the complainant took it to the next step and we are very concerned because we don’t know which way it will go.”

“If you are building, we are going to look into proximity of residential areas – and it should be the same if you come into a railway area. They have to manage expectations. There has to be a balance.”

“GO is doing some construction work to build a new line and doing pile driving and the community complained and the decision was very specific about what hours they could work...if ever that came in as railway regulations, we have to be 24/7...we have to serve customers who need cars at 8:00 when their factories open. There are implications for railways and for shippers.”

“Key message from my perspective I guess it would be with respect to these first decisions coming out on noise that they will be very important decisions and they’ll be important in managing expectations.”

Crossing Issues

On crossing issues, several respondents pointed to a disconnect between the Agency and Transport Canada in that the Agency is, by their estimation, granting too many new crossings while Transport Canada policy guidelines call for crossing reductions for safety purposes. Some respondents also felt that the Agency was too readily allowing new utility crossings of rail lines to be built with no monetary benefit to the railway, believing this policy related back to railway Crown Corporation status, and did not reflect today’s economic reality. As for road construction over railways, several respondents pointed to the success of alternate dispute resolutions in settling cost apportionment issues; one respondent did note ever-spiralling costs for crossing construction were a concern.

“I am on the Railway Safety Act Review Steering Committee and during review there were a few dozen recommendations made, and one of those was that there should be more crossing closures and consolidations of crossings for safety purposes – so crossing reductions – but two arms of the government are working at cross purposes...CTA’s job is to authorize crossings and I don’t know of any that have been denied.”

“[On utility crossings, the Agency states]... the two parties can make an agreement or go to the Agency. Our problem is the Agency has consistently said unless they are causing damage they get the crossing free – construction costs only – the utilities don’t pay to occupy the space and the feeling is that they are out of touch with the commercial reality. If we cross somebody’s property we pay for it...”

“[I deal with] new crossings and I deal with all crossing upgrades, and installations of warning devices and grade separation and mostly it goes well. And it’s mostly cost

apportionment issues between road constructions and railways and more and more we are leaning to alternate dispute resolutions and I do find that works well.”

“But do look at the economic reality... if a road authority is building over us and it is a 60 million dollars crossing and we have to pay half, we don't get that magnitude of benefit. The dollar amounts are going up and up.”

Line Construction

The unit dealing with line construction at the Agency, which has been under significant pressure as line construction projects have increased recently, seems to have crafted a near-perfect working model according to rail industry executives. The most obvious reason for their success is their proactive approach to communication with industry partners. They have establishing an ongoing dialogue with industry, including informal annual planning meetings, that allow both the rail carriers and the Agency line construction team to share information, and then react to and plan for each others' priorities. This unit may be a model for best practices for other Agency teams.

“I can't say enough about our working relationship. We went in February this year [to CTA in Ottawa] and they suggested we get together at the beginning of every year to give them a sense of what the workload is going to be, so we have a good informal relationship, and we work with them as we develop the project, and get them out for site visits. I can't say enough about the professionalism and their ability to work with us.

“Line constructions we have been doing quite a few lately and that is working well and the Agency ...[tries] to meet our timeline and we seem to have a good working relationship. And we sit down and have meetings with the staff and they tell us what they need to make it work better.”

“When we build a line we need authority from the Agency the whole line construction process works well and that team is attuned to the needs.”

Level of Service Complaints

Shippers believe that rail service to them falls far below what is reasonable; rail companies believe that shippers are not realistic about the financial and logistical realities of operating a rail carrier, and point to the fact that if one shipper is late loading or unloading it directly affects the next shipper through no fault of the carrier. Several respondents mentioned that decisions meant to affect the grain industry will affect service standards for other industries as they will be held up as precedents. As for the remedial action that could be afforded shippers, one respondent noted that the resources utilized to win such a case would be far higher than the loss of revenue due to lack of service. Another believes that giving punitive powers to the CTA, the ability to award compensation, would strengthen the process.

“Grain car service – the agency said, look, shippers, if you get 80% of what you ordered on a 6 week basis 90% of the time – math is you get the cars you ordered 72% of the time - that is fine. That is a fundamental problem for our industry and you can't hold inventory, you want to ship it... The agency says that is only applicable to the grain industry, but the railways will argue that if it applies to grain it applies to [our industry] and it's an argument we have to fight and it costs time and it costs money.”

“When the agency sets levels of service for a particular business that is pretty damn presumptuous and if that’s a minimum that’s the best they’ll see and that sets the bar even lower for service.”

“Changes to Bill C11... gave the agency the ability to investigate in terms of ancillary charges filed by railway and a role in terms of service complaints, or Level of Service Complaints ...but those are little used provisions mainly because they are very costly and time consuming and you look at the financial consequences of lack of service at one elevator and then look at the hundreds of thousands of dollars and two years it would take to have the CTA rule on these and it doesn’t make sense.”

“Give CTA the ability to award damages in terms of a service complaint. Right now you throw six hundred thousand dollars and two years and they say at the end “you’re right”. Then you have to go to civil court and spend another two years to get damages.”

Other

Several items received scant mention from respondents, but are included here with a brief synopsis of remarks. There were not enough specific comments on these issues to provide in-depth analysis:

- **Net Salvage Value Determination**
The agency was praised for the expertise and professionalism of Agency staff involved in this process. They were seen to be both efficient and fair in their assessments.
- **Interswitching Rate**
One shipper association executive felt the interswitching rate provisions worked well. From a rail carrier another perspective: he felt a recent decision on interswitching reflected a lack of knowledge on the part of the Agency, and believed more research should have been done, specifically a site visit as well as a face-to-face meeting on the matter.
- **Ancillary Charge Complaints**
One shipper association made positive comments about the recent legislation to allow the Agency to rule on ancillary or tariff charge complaints against rail carriers, though they felt that the provisions are too new and untested to determine whether they will be a positive change. He also questioned the Agency’s refusal to rule on the first ancillary charge complaint, and believes that though there is a provision for complainants to go to Cabinet to force the Agency to rule, this is an undue burden for shippers: the Agency should rule at the outset. One other respondent did note that this is one area where e-mail notification of new complaints would be welcomed by interested stakeholders.

Airline Industry

There is no bigger issue for the airline industry at this time, specifically in reference to the role of the CTA, than rulings on accessibility and accommodation (see earlier in this report). Other key challenges – and opportunities - include recovery from the recession and a return to growth, and the new global competitive environment. The airline industry is much more

volatile than the railway industry, and airline company executives are much more attuned to the fact that company failure is a real possibility: this is why the “undue hardship” clause of the One-Person-One-Fare ruling is so difficult for them to accept. For the airline industry, a ‘death by a thousand cuts’ is not only possible, it is felt to be their operational reality. Overall, though, airline industry executives have a positive view of the CTA, and believe they do an effective and efficient job of regulating their industry, with one marked exception: the accessibility and accommodation file. Research findings specific to the airline industry are presented here by category.

“As an economic regulator it is hard to understand their basis for decisions. Their economist has taken a rather unusual position or analysis with regard to accessibility. They try to balance the commercial interest of the carrier but they have been rather flexible as to the weight of the consideration.”

“We have a very good relationship with the people with whom we deal. They have fantastic people there. It is a structure/due process issue that is of concern.”

“I think the one [most important] challenge is the ongoing changes in the airline industry: new mergers, joint ventures...and we are facing a constantly changing environment and the Agency needs to understand those changes and understand what it means for carriers.”

Permits, Operating Certificates and Licenses

Overall, the teams that administrate permits, certificates, and licenses for airline companies through the CTA receive high marks from industry. There seems to be a positive relationship between the Agency and airline personnel who manage these functions, which facilitates both positive interaction and the ability to address concerns or problems immediately with CTA staff. One airline executive did find that in their experience when there were delays it was difficult to determine what was causing the delay, and what could be done to facilitate expediting the license more quickly: in cases such as those more open communication from CTA would likely satisfy the airline staff no matter what the outcome. One association executive also noted that the rules defining Canadian ownership could be onerous, if not unreasonable, specifically because of the lack of leasable equipment this side of the border.

“On permits: we send them requests by email, fax and phone [and] in that aspect we are very satisfied. [It’s a] wonderful relationship. Extremely helpful.”

“All of the permits, certificates, etc. is run so smoothly – a true partner.”

“It [licensing] works very well and we have had the same people on the CTA side for many years, stability is good and turnaround time and availability. [I have] nothing to say, it is perfect and we feel we get very good services for license applications or for questions.”

“There have been timely issuance of licenses but there are delays sometimes and we don’t know why and they can’t tell us what is happening, and why it is not, and why it is moving so slowly. It would be lovely if they could only give me a timeline or let me know if there is anything I could do to facilitate the process but they won’t even tell us that.”

“For a public company this is not a big deal but a private company you can lease the aircraft from foreign sources and there are few in Canada to lease from and the CTA can

make a number of judgment calls as to whether a company is owned by Canadians and is not unduly influenced by foreigners.”

Tariffs

The team administering the CTA tariff administration group receives high marks from industry executives and airline staff who deal with them on a day-to-day basis. Though recent staff turnover seems to have caused some issues in terms of a loss of institutional knowledge and established personal relationships, the new team is still seen to be helpful, positive, and proactive in trying to solve problems. As long as the new group continues to be both approachable and willing to assist, the inconsistencies in service caused by the changes should be short-lived. One carrier did note that consideration could be given to streamlining tariff change processes, which are rooted in an internet-less past where consumer knowledge was lacking.

“They have had a lot of change in their structure and lots of personnel changes and roles and responsibility changes and there is a bit of “who’s doing this today?” and I hope it will settle down. There is a caveat to my response in that until a year ago I had a core group I met with and I knew them well and had a personal relationship with them so that greatly enhanced the dialogue... they are still friendly and forthcoming but it is a little more difficult with the turnover. Their willingness to be of assistance is there. They actually come back with suggestions and they have a great approach.”

“Now they have split that organization there is a disconnect...and the group handling the tariff complaints seem to be less familiar with tariff structures.”

“The downside to tariff group is that they are mired in antiquated regulations that drive their process through a murky mass of review and the timelines are not good. There are months of back and forth on wording and if you introduce a restriction to your tariff they say we need 45 days to process it, like if we need to up our change fee or something simple like that it takes 45 days...and that came from historical abuse of the system with charters in the past but the reality has changed. You have a far more educated public who have access to everyone’s tariffs online and I think this process could perhaps be streamlined to reflect the market reality.”

Air Travel Complaints

The staff handling air travel complaint administration at the Agency seem to have a cooperative relationship with airline personnel; interaction is characterized as being positive and easy and seems to facilitate an excellent resolution process for air travel complaints. One minor issue is the inconsistency in the format used to inform airlines about complaints, which can lead to confusion. The mediation process is highly praised by airline staff as being an efficient and effective way to resolve those complaints which are more complex in nature.

“Level 1 Complaints: Communication is positive and really easy and we deal with a lot of representatives (at CTA) who email directly or fax to my group my direction to my staff; if you have any question as to format for the response or who gets the original – CTA or the guest - or whatever the question, just pick up the phone. They are the lovely people and they are helpful and so are we.”

“You know you would think that there would be consistency to the way they send complaints to us. There are so many different agents and sometimes request for documents or a CTA complaint comes to us in different formats and I’d love to see

consistency because we do have to call and clarify sometimes. It could be a fax or an e-mail and it would be better to have consistency.”

“But the mediation process came in here three years ago and we have exploited it to the utmost because it resolves disputes in a non-threatening way...and in the dozen or so I've been involved in they have all been successful except for one.”

International Agreements

As with many Agency divisions that deal with airlines on functional administrative matters, airline personnel and executives are generally very pleased with the level of service provided by the international agreements team. They are responsive, and seem to work to meet airlines tight timelines within the constraints of their regulatory necessities. Airlines do note that international agreements are positioned to grow exponentially as the airline industry readjusts to the new global economy. This will not only affect the international agreements division, but almost every function of the CTA as it relates to air travel. As one industry executive noted, *“if Air Johannesburg loses your bag (on a code share flight), who is responsible?”*

“And I deal with the code share air international agreements division...we have more volume with them and we filed code share applications recently and we were pleased with the way they handled a lot of these with the constraints they have. And we push them and they achieve good results within time frames we need.”

“What would I capture as leading challenges that have CTA's involvement? I think the increased complexity of our business might make them more involved – we are expanding into three code share agreements in the air world. You can see added complexity because if Air Johannesburg loses your bag who is responsible.”

“The agency needs to have an appreciation for the new airport environment. They are now operated with a business approach on operations and marketing – very tightly woven into their communities. CTA needs to recognize that the airport community is out there – international shows and other forums marketing Canada to the world. If carriers from those countries (where rights are not reciprocal) apply for permission to fly into Canada...you know, maybe there should be some more flex – maybe they need to say yes more often. Are they protecting carrier's interest or consumers' interests?”

Marine Industry

Respondents involved in the marine industry seemed to have the least interaction with the Agency: one of the executives interviewed did infer his legal staff had somewhat more regular contact. The sample provided for this sector was very small, and caution should be used when interpreting these findings; this said, the interviews do provide valuable insight into the views of the marine industry.

Although perceptions of the Agency are generally positive, and it is thought to be responsive – offering guidance and assistance when contacted – a more proactive approach to communication with marine industry executives could assist in improving key areas of concern for Canada's marine industry. One respondent did note that the industry was recently consulted on amendments to

the proposed changes in the guidelines governing the process for application and consideration of temporary coasting trade licenses.

The key issue for the ship owners interviewed is the erosion of the coasting trade, which marine officials believe is exacerbated by the Agency's liberal granting of temporary licenses to foreign carriers – who do not have to abide by Canada's often more stringent (and expensive) safety and labour laws. The marine industry is also concerned about fleet renewal, pilotage fees, and the impact of US regulatory initiatives.

“We don't have a lot of direct interaction with the agency. We see their rulings and we don't interact on review processes either. We have a history of not being successful on challenging rate increases but I think that's the lack of discipline on crown costs.”

“I think we could both do better in terms of dialogue. ... we should both make an effort to better inform each other about the issues we are facing. The agency should be reaching out. Working relationships are currently non-existent. So it is simply a matter of establishing contact and getting together to discuss perspectives.”

“[The Agency] has always been amenable to taking calls and they do offer good guidance and assistance. We deal with them on rare occasions and on an as needed basis – once a year if we're lucky and to be honest we think it is a great organization but if we interact, there is not much other than the coasting trade.”

Temporary License Applications and the Coasting Trade

Some executives in the marine industry believe that the CTA too readily grants temporary licenses to foreign ships year after year, diminishing the ability of the Canadian shipping industry to fill those gaps in the coasting trade because there is a readily available cheaper alternative for shippers. Foreign ships do not have to pay Canadian wages or offer Canadian benefits. They do not have to abide by Canadian labour laws, or abide by Canada's rigorous safety standards. Therefore, they can charge less to shippers, making them an attractive alternative: an alternative they cannot afford not to utilize if their competitors are doing the same. Respondents contend that the Agency should recognize those routes that are actually continuing requirements when temporary licenses are granted for the same route and business year after year, and should also consider how they can encourage service by Canadian vessels. Of course, there is a contingent of industry stakeholders who would support deregulation: opinions on this key topic were solicited by the CTA from industry stakeholders in late 2009/early 2010.

“I guess the role of the CTA is to protect the Coasting Trade for Canadian trade. The problem is the repetitive granting of licenses to foreign ships. When a market can't be served then in order to not disrupt commerce Foreign Ships come in and fill the gap but when you use it [temporary licensing] on a repetitive bases year after year and give license to foreign ships than you take away the incentive for investors to address that service with Canadian ships. I think what the CTA is supposed to do is serve as a check and balance on this front.”

“The CTA should have a better understanding of the marine industry and the potential for the Canadian industry to respond to new emerging opportunities and this is part of the chicken and egg thing... Canadians ship owners are not going to seize on an opportunity if the CTA continuously allows foreign competitors to come in and capitalise on that

opportunity. Foreign ships will always have lower costs because they use foreign, cheaper crew and they don't have to meet the rigorous safety standards imposed in Canada. They will always be cheaper."

Rate Increase Appeals

On rate increase appeals, there was one acknowledgement that the CTA has the appropriate expertise to administrate these appeals, and is fair in its assessment of those appeals. One respondent did note that the Agency did not require appropriate discipline from federal agencies in keeping their costs down, as compared to the private sector's necessary paring of costs in an open market situation. Another respondent noted that he would like to CTA to be a viable recourse in rate disputes for any monopoly - even private sector – providing marine sector services.

"The CTA is also the mechanism of recourse if a federal agency is going to increase rates for services. We can appeal to the CTA to address rate increases that are not justified but what is not working is that the CTA is not requiring appropriate discipline from these agencies to reduce their cost. The agency presents information that costs are going up so they need to increase the prices but the CTA should have a role in saying you can't just increase costs. They have to have a role in ensuring that these agencies do due diligence in decreasing their costs before they increase."

"That process has worked for [...] we have always seen them as being fair...they know their business and they do a good job at being arms length and have a lot of knowledge and expertise. We had another dispute... we talked to the CTA two years ago we had an instance and were thinking of taking it [that dispute] to them and we had it resolved through talking to them; it wasn't formal but they resolved it."

"Not only with pilotage possibilities...there are some services offered to members though they are private industry only game in town like tug services and they increase their tariff so you are beholden to them...CTA could play a role there. Not only for pilotage and other government provided services but also private services that are monopolies...expand services they regulate so you have recourse when you have an issue."

DETAILED FINDINGS: QUANTITATIVE RESEARCH

Detailed findings of the quantitative research are presented in two sections. The first section discusses the results from the facilitation survey; the second one details the findings from the mediation survey.

Facilitation Survey

Dialogue and Communication

The vast majority of matters involved airline transportation and most complaints related to flight disruption, baggage or ticketing issues

When asked what type of transportation service their matter involved, nearly all respondents involved in a facilitation process say the matter involved airline transportation (96%). Fewer than one in ten (7%) say the matter involved an airport, rail or ferry terminal.

When asked what their complaint was about, respondents most often say it was about flight disruptions (37%), baggage (24%), or ticketing issues (13%). Fewer indicated complaints dealing with reservations (11%), denied boarding (10%), refusal to transport (6%) or accessible transportation for persons with disabilities (3%).



The vast majority of matters involved airline transportation and most complaints related to flight disruption, baggage or ticketing issues

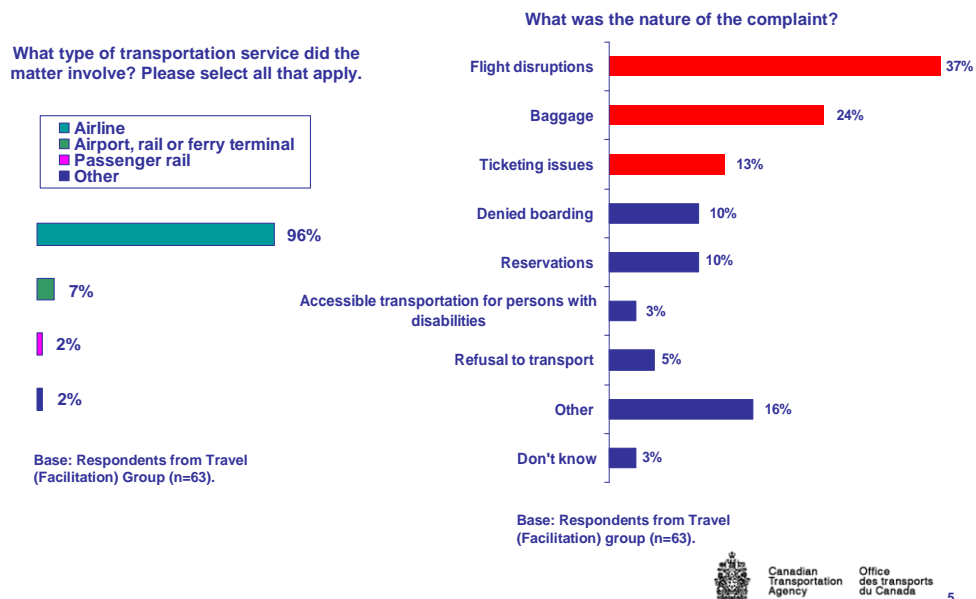


Figure 1: The vast majority of matters involved airline transportation and most complaints related to flight disruption, baggage or ticketing issues

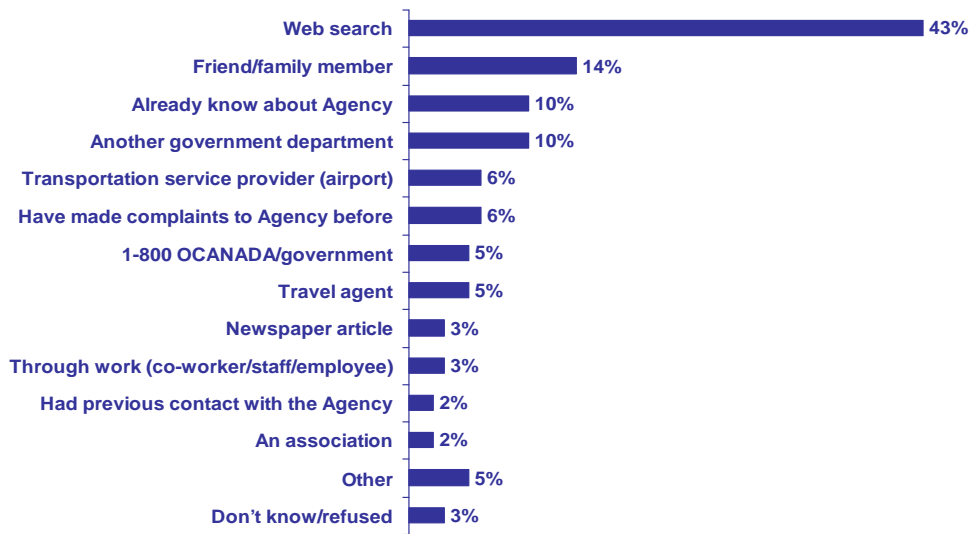
Two in five learned about the complaints process by searching the web

When asked how they became aware of the complaints process to the CTA, two in five (43%) indicated that they learned about it through a web search. Significantly lower proportions of respondents say they found out through a friend/family member (14%) or another government department (10%). One in ten (10%) say that they already knew about the Agency.



Two in five learned about the complaints process by searching the web

How did you become aware that you could complain to the Canadian Transportation Agency?



Base: Respondents from Travel (Facilitation) group (n=63).

Figure 2: Two in five learned about the complaints process by searching the web

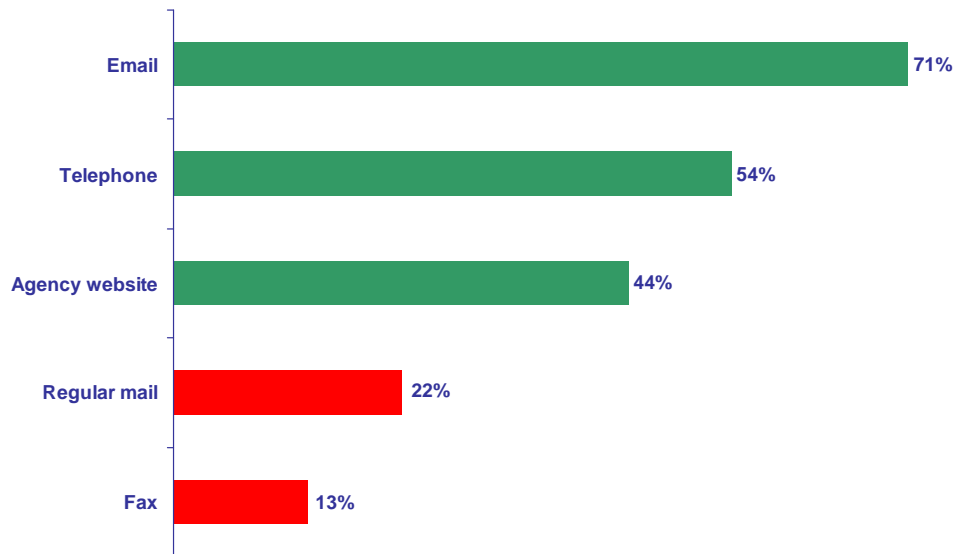
Most got information about the complaint process via email, telephone or website; few use regular mail or fax

When asked how they obtained information about the complaint process during the course of their interaction with the Agency, most respondents (71%) say they received information about the complaints process through email. Over half (54%) say they received information by telephone, while just over two in five (44%) say it was through the Agency’s website. Considerably lower proportions of respondents obtained this information via regular mail (22%) or by fax (13%).



Most got information about the complaint process via email, telephone or website; few use regular mail or fax

In the course of your interaction with the Agency, which of the following did you use to get information about the complaint process



Base: Respondents from Travel (Facilitation) group (n=63).

Figure 3: Most got information about the complaint process via email, telephone or website; few use regular mail or fax

High scores overall for agency processes: professionalism and clarity of explanation of process earn highest scores

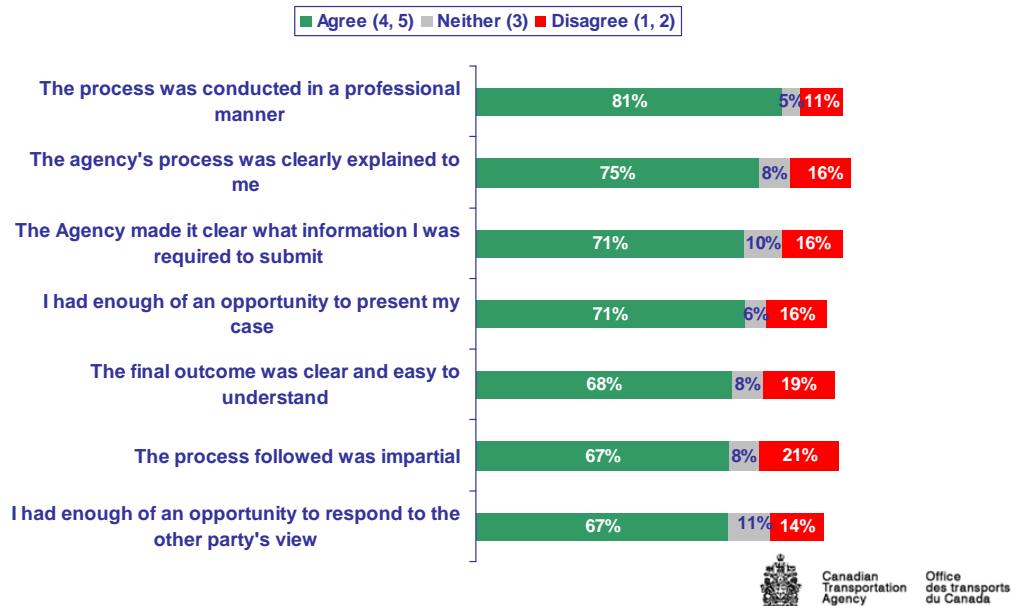
Respondents were asked whether they agree or disagree with a series of statements about the facilitation process. Among these statements, four in five (81%) agree (rating as a four or five on a scale of one to five) that the process was conducted in a professional manner, while three in four (75%) agree that the Agency’s process was clearly explained to them. Seven in ten respondents say they were clearly informed by the Agency about the information they were required to submit (71%) and that they had enough of an opportunity to present their case (71%). At least two in three also agreed that the final outcome was clear and easy to understand (68%), that the process was impartial (67%) and that they had enough of an opportunity to respond to the other party’s view (67%).

The highest levels of disagreement with these statements occurs with respect to the notion that the process was impartial (21% disagree) and that the final outcome was clear and easy to understand (19% disagree).



High scores overall for agency processes: professionalism and clarity of explanation of process earn highest scores

You were involved in the facilitation of a complaint, where an Agency staff member acted as an intermediary between you and the transportation provider. For the following statements about this process, please indicate how much you agree or disagree with each:



Base: Respondents from Travel (Facilitation) group (n=63).



Figure 4: High scores overall for agency processes: professionalism and clarity of explanation of process earn highest scores

Respondents most often suggest CTA should focus on improving in the areas of providing an opportunity to respond and clear information on final outcomes

Respondents were asked to indicate which two areas of service the Agency should focus on improving. Among the statements presented, respondents most often say the Agency should focus on providing an opportunity to respond to the other party’s view (37%) and providing a clear and easy-to-understand outcome (29%), followed by a clearer explanation of the process from the Agency (24%). One in four respondents (24%) could not identify any areas among those provided which the agency should focus on.



Respondents most often suggest CTA should focus on improving in the areas of providing an opportunity to respond and clear information on final outcomes

If the Agency could improve in two of the above areas, which should it focus on?



Base: Respondents from Travel (Facilitation) group (n=63).

Figure 5: Respondents most often suggest CTA should focus on improving in the areas of providing an opportunity to respond and clear information on final outcomes

Customer Service

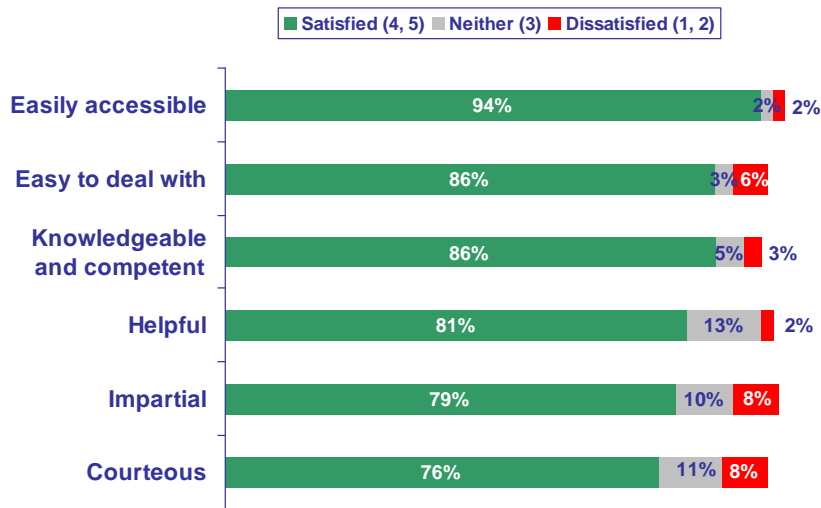
Respondents are very satisfied with the manner in which the Agency provides services

Respondents indicated high levels of satisfaction with several tested attributes of the Agency’s service. Nearly all (94%) are satisfied (rating as a four or five on a scale of one to five) with the ease of access. Over four in five express satisfaction with the ease of dealing with the Agency (86%) and with the knowledge and competence they encountered (86%). At least three in four also express satisfaction with respect to the Agency’s helpfulness (81%), impartiality (79%) and courtesy (75%).



Respondents are very satisfied with the manner in which the Agency provides services

Please indicate the response that best describes your level of satisfaction with the following aspects of service from the Agency;



Base: Respondents from Travel (Facilitation) group (n=63),

Figure 6: Respondents are very satisfied with the manner in which the Agency provides services

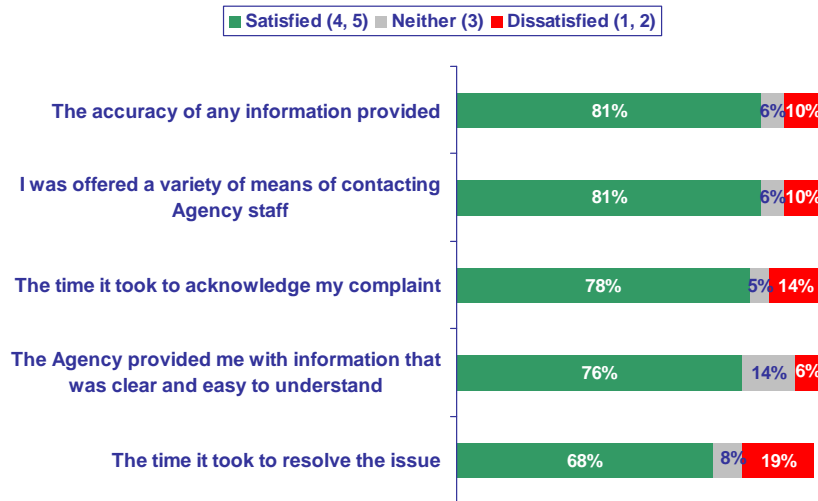
Respondents are satisfied with general attributes of service delivery; satisfaction with time to resolve relatively lower

Four in five respondents are satisfied with the accuracy of any information provided by the Agency (81%), the variety of means offered to contact Agency staff (81%) and the time it took to acknowledge their complaint (78%). Just over three quarters (76%) express satisfaction that they were provided with clear and easy to understand information, while just over two in three are satisfied with the time it took to resolve their matter (68%).



Respondents satisfied with general attributes of service delivery; satisfaction with time to resolve relatively lower

Please indicate the response that best describes your level of satisfaction with the following aspects of service from the Agency;



Base: Respondents from Travel (Facilitation) group (n=63),

Figure 7: Respondents are satisfied with general attributes of service delivery; satisfaction with time to resolve relatively lower

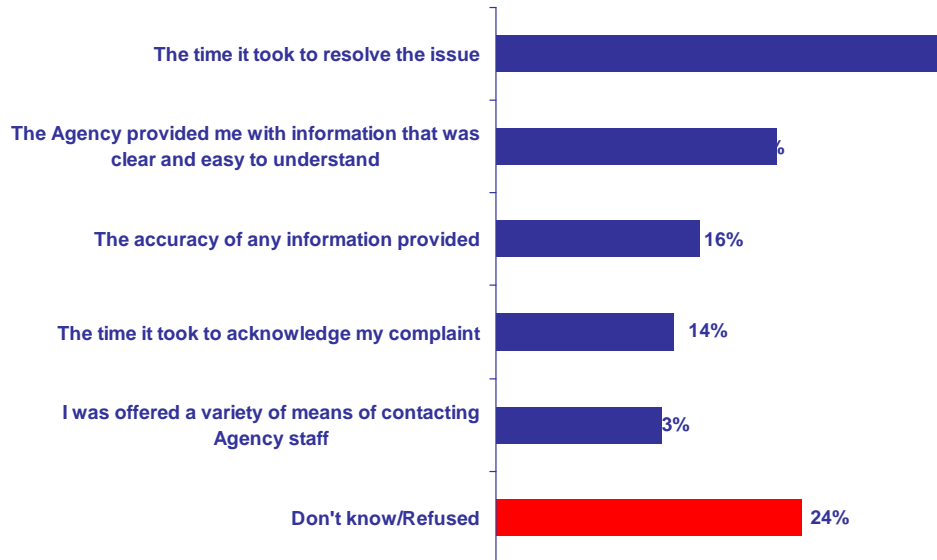
Among general attributes, timeliness of issue resolution is the primary area to focus upon

Among a list of areas of customer service the agency could improve on, respondents most often select the time it took to resolve the issue (35%) and the clarity and ease of understanding the information provided as the two areas the Agency should focus on most. The accuracy of any information provided, the time it took to acknowledge their complaint and variety of means offered to contact Agency staff follow distantly, they are chosen by 16%, 14% and 13%, respectively. It is necessary to point out that almost half of the respondents (44%) could not or refused to provide an answer.



Among general attributes, timeliness of issue resolution is the primary area to focus upon

If the Agency could improve in two of the above areas, which should it focus on?



Base: Respondents from Travel (Facilitation) group (n=63).

Figure 8: Among general attributes, timeliness of issue resolution is the primary area to focus upon

In response to experience of specific aspects of service, websites and forms are areas of lower satisfaction

In terms of their experience with specific aspects of service, three quarters of respondents are satisfied with the option to contact the Agency in the official language of their choice (73%). Seven in ten express satisfaction (rating as a four or five on a scale of one to five) with the Agency staff’s speed of response (70%). Over two in five say they are satisfied with respect to the fairness of treatment (65%), information about what the Agency could and could not do in dealing with a complaint (63%) and information on what needed to be done with respect to handling of their complaint by the Agency (62%). The ease of understanding the information on the Agency’s website (54%), ease of completing the Agency’s forms (51%), availability of needed information on the website (48%), and ease of locating the needed information on the Agency’s website (48%) are the areas of lowest satisfaction.

As for interactions in ways that accommodate disabilities, respondents who answered were twice as likely to express satisfaction (10%) as dissatisfaction (5%) in this area, while seven in ten (71%) said this did not apply.



In response to experience of specific aspects of service, websites and forms are areas of lower satisfaction

Where applicable, please indicate the response that best describes your overall experience with the following aspects of service from the Agency:

| | Satisfied (4, 5) | Neither (3) | Dissatisfied (1, 2) | N/A |
|--|------------------|-------------|---------------------|-----|
| The contact I had with the Agency was in the official language of my choice (English or French) | 73% | 2% | 2% | 11% |
| Staff responded quickly | 70% | 3% | 10% | 5% |
| I was treated fairly | 65% | 2% | 13% | 8% |
| the Agency let me know what they could and could not do in dealing with my complaint | 63% | 6% | 8% | 10% |
| I was informed of everything I had to do to with respect to the handling of my complaint by the Agency | 62% | 11% | 3% | 11% |
| The information on the Agency Web site was easy to understand | 54% | 11% | 5% | 16% |
| the Agency's forms were easy to complete | 51% | 13% | 3% | 21% |
| the Agency Web site had the information I needed | 48% | 13% | 8% | 17% |
| It was easy to find what I was looking for on the Agency Web site | 48% | 14% | 5% | 19% |
| the Agency interacted with me in a way that accommodated my disability | 10% | 3% | 5% | 70% |



Base: Respondents from Travel (Facilitation) group (n=63).

Figure 9: In response to experience of specific aspects of service, websites and forms are areas of lower satisfaction

Two fairly straightforward fixes top the list

When asked to identify which two areas of service the Agency should most focus on among a list of areas, respondents most often suggest the Agency should focus on making it easy to find information on the Web site (21%) and on letting them know what they Agency can and cannot do in dealing with their complaint (21%). Nearly two in five respondents (37%) did not know or did not say what areas the Agency could focus on.



Two fairly straightforward fixes top the list

If the Agency could improve in two of the above areas, which should it focus on?

| | |
|--|-----|
| It was easy to find what I was looking for on the Agency Web site | 21% |
| the Agency let me know what they could and could not do in dealing with my complaint | 21% |
| I was treated fairly | 14% |
| Staff responded quickly | 13% |
| the Agency Web site had the information I needed | 11% |
| I was informed of everything I had to do to with respect to the handling of my complaint by the Agency | 11% |
| The information on the Agency Web site was easy to understand | 10% |
| the Agency interacted with me in a way that accommodated my disability | 8% |
| the Agency's forms were easy to complete | 6% |
| Don't know/Refused | 37% |



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Base: Respondents from Travel (Facilitation) group (n=63).

Figure 10: Two fairly straightforward fixes top the list

The Complaint/Facilitation Process

85% say their complaints were acknowledged in under 19 days; this length of time is seen as acceptable by 96% of respondents

When asked how long it took for their complaint to be acknowledged by the Agency, the majority (61%) say their complaint was acknowledged within nine days, including one in five (21%) who say it took between one and four days and two in five (40%) who say it took between five and nine days. Just over one in four (27%) say it took 10 to 19 days for the Agency to acknowledge their complaint.

When asked what they consider an acceptable amount of time for the Agency to acknowledge their complaint, 56% say it should be within nine days, including 27% who say one to four days and 29% who say five to nine days. Respondents more often suggest that 10 to 19 days would be an acceptable amount of time.

Nearly three in ten respondents consider 1-4 days to be acceptable amount of time for the Agency to acknowledge a complaint. Similar proportion of respondents (29%) say that 5-9 days is acceptable time. Most respondents (41%) identify as acceptable time 10-19 days. Only two percent find it acceptable to wait for 20-24 days or for 30 and more days.



85% say their complaints were acknowledged in under 19 days; this length of time is seen as acceptable by 96% of respondents

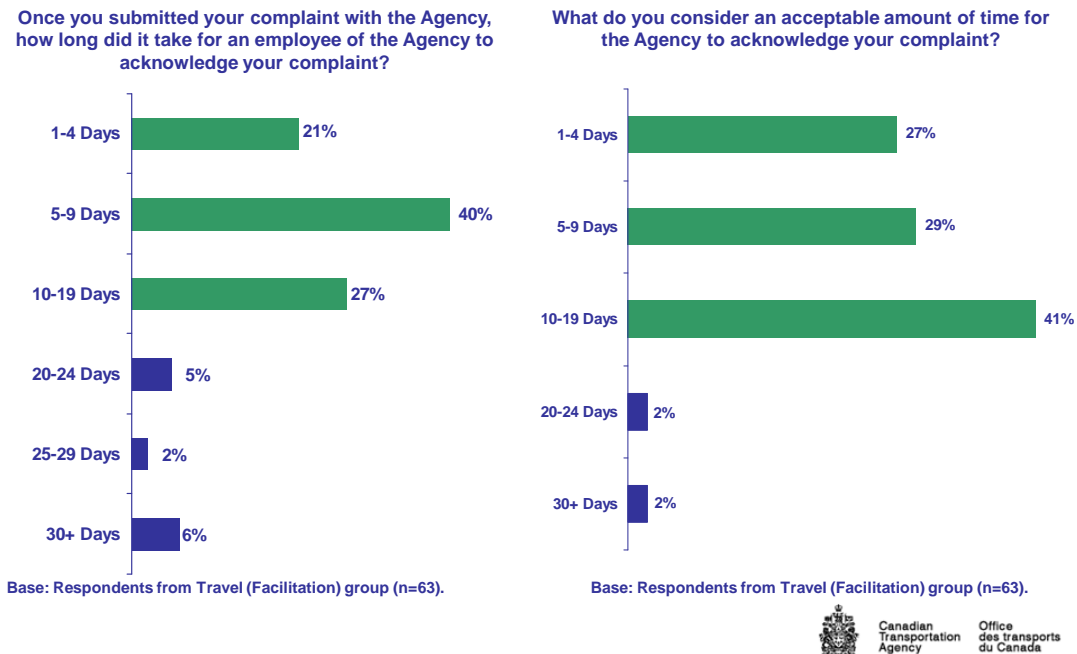


Figure 11: 85% say their complaints were acknowledged in under 19 days; this length of time is seen as acceptable by 96% of respondents

Half (52%) of respondents say it took more than 60 days to resolve their complaint; Three quarters (73%) say complaints should be resolved in under 60 days

Nearly equal proportions of respondents say it took 1-30 days (22%), 31-60 days (22%) and 61-90 days (21%) to resolve the issue they raised. About three in ten say it took 91 or more days (91-120 days-14% and 121 days or more-17%).

As for acceptable amount of time for resolving an issue from the time a complaint was submitted, three quarters (73%) say complaints *should* be resolved in under 60 days (1-30 days-38% and 31-60 days-35%). Fourteen percent think that 61-90 days is an acceptable amount of time and only two percent are willing to say 121 days or more.



Half (52%) say it took more than 60 days to resolve their complaint; Three quarters (73%) say complaints *should* be resolved in under 60 days

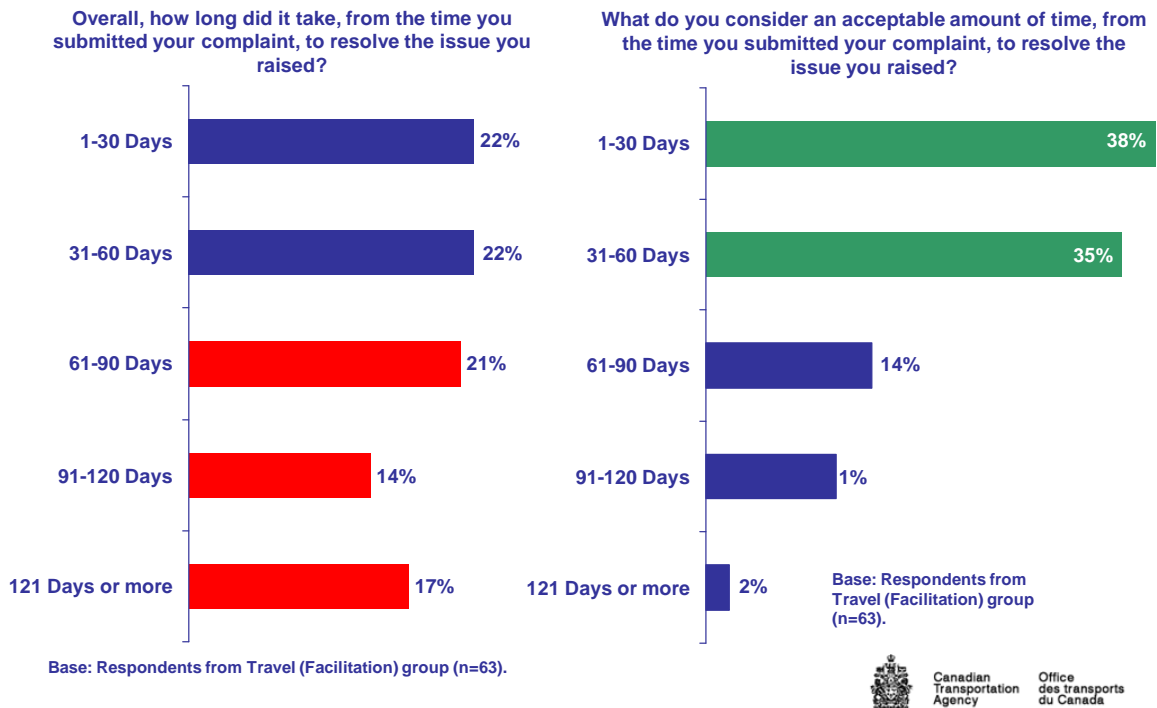


Figure 12: Half (52%) of respondents say it took more than 60 days to resolve their complaint; Three quarters (73%) say complaints should be resolved in under 60 days

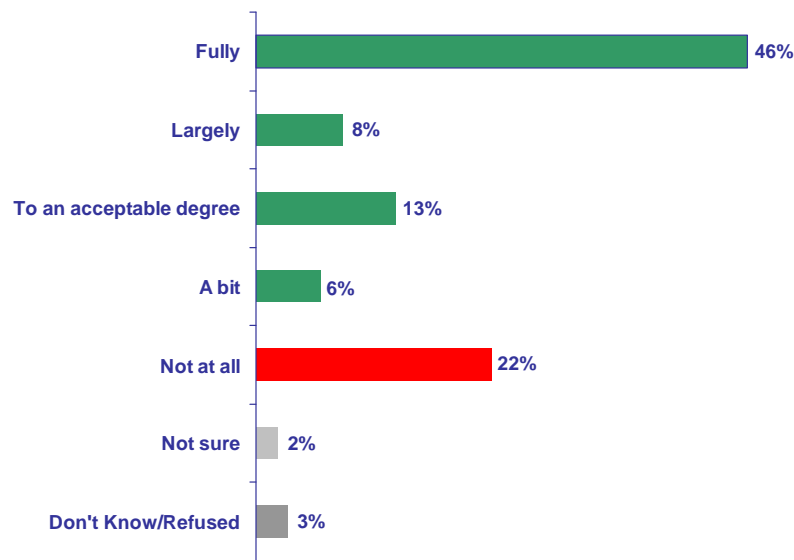
A broad majority say the facilitation process met their objectives, with half saying it fully met their objectives; one in four respondents say that it did not

Nearly half of respondents (46%) say the facilitation process fully met their objectives, while 8% say that their objectives were met to a large extent and 13% say their objectives were met to an acceptable degree. Twenty two percent indicate that the facilitation process did not meet their objectives at all, while 6% say their objectives were only met a bit.



A broad majority say facilitation process met their objectives, with half saying it fully met their objectives; one in four respondents say that it did not

To what extent did the facilitation process meet your objectives?



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Base: Respondents from Travel (Facilitation) group (n=63).

Figure 13: A broad majority say the facilitation process met their objectives, with half saying it fully met their objectives; one in four respondents say that it did not

Satisfaction with the Agency

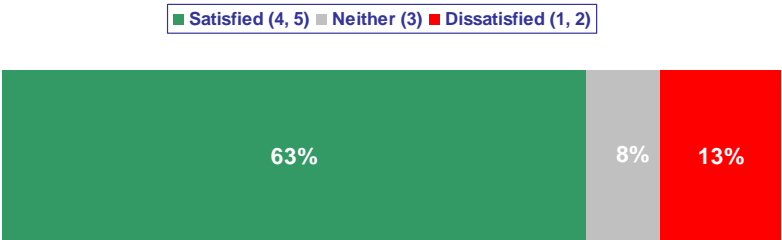
Overall, nearly two in three respondents are satisfied with the quality of service provided by the Agency

Nearly two in three (63%) are satisfied (rating as a four or five on a scale of one to five) with the overall quality of service provided by the Agency. Only one in ten (13%) are dissatisfied (rating as a one or two on the scale).



Overall, nearly two in three are satisfied with the quality of service provided by the Agency

Aside from the facilitation process itself, how satisfied were you with the overall quality of service provided by the Agency?



Base: Respondents from Travel (Facilitation) group (n=63),



Figure 14: Overall, nearly two in three respondents are satisfied with the quality of service provided by the Agency

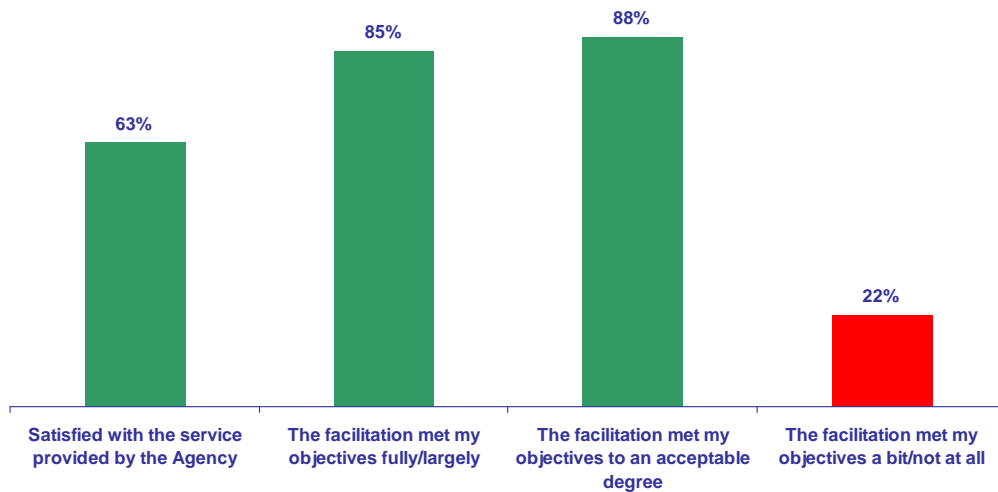
Overall satisfaction with the Agency is driven by the extent to which the facilitation process met the respondent’s objectives.

Additionally, the findings indicate that levels of satisfaction with the Agency are higher among those for whom the process fully met their objectives.



Overall satisfaction with the Agency is driven by extent to which the facilitation process met the respondent’s objectives

Do you have any additional comments about the Agency and/or its services?



Base: Respondents from Travel (Facilitation) group (n=63).

Figure 15: Overall satisfaction with the Agency is driven by the extent to which the facilitation process met the respondent’s objectives.

Most offered reasons for their satisfaction – only 10% offered reasons for their dissatisfaction. One in four are satisfied because of a successful outcome

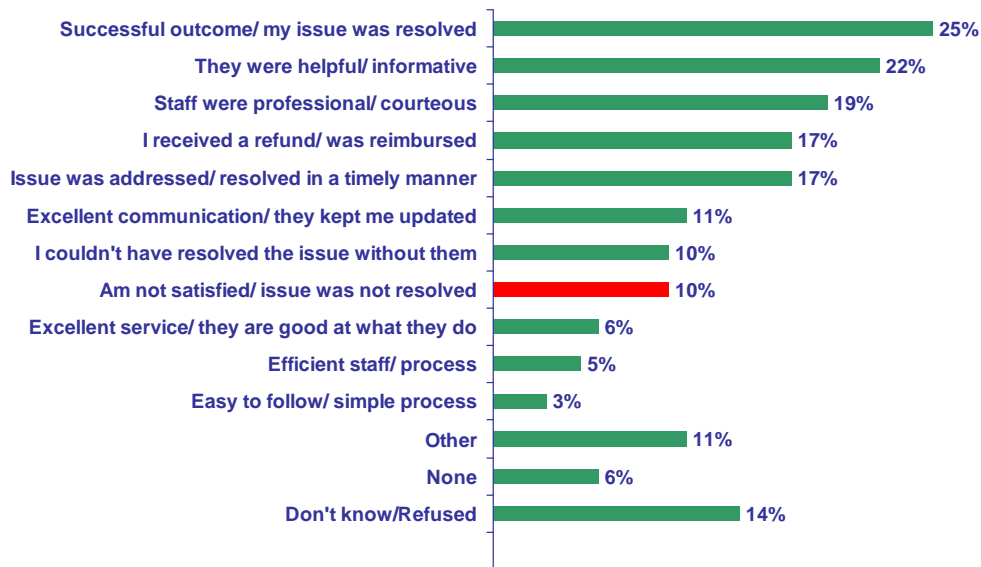
When asked on an open-ended basis to explain why they are satisfied or dissatisfied with the Agency, respondents most often cite a successful outcome of their issue (25%) as the main reason for their satisfaction with the Agency. About one in five say it is because the Agency was helpful/informative (22%) or because the staff was professional and courteous (19%). Receiving a refund or reimbursement and having their issue addressed in a timely fashion are also commonly mentioned reasons for satisfaction with the Agency (17% each). One in ten express satisfaction due to excellent communication/being kept updated (11%) and because they say they could not have resolved the issue without the Agency (10%).

Among the reasons for satisfaction or dissatisfaction, one in ten say they are not satisfied and that their issue was not resolved.



Most offered reasons for their satisfaction – only 10% offered reasons for their dissatisfaction. 1 in 4 are satisfied because of a successful outcome

Please provide the main reason for your overall level of satisfaction with the services provided by the Agency.



Base: Respondents from Travel (Facilitation) group (n=63).

Figure 16: Most offered reasons for their satisfaction – only 10% offered reasons for their dissatisfaction. One in four are satisfied because of a successful outcome

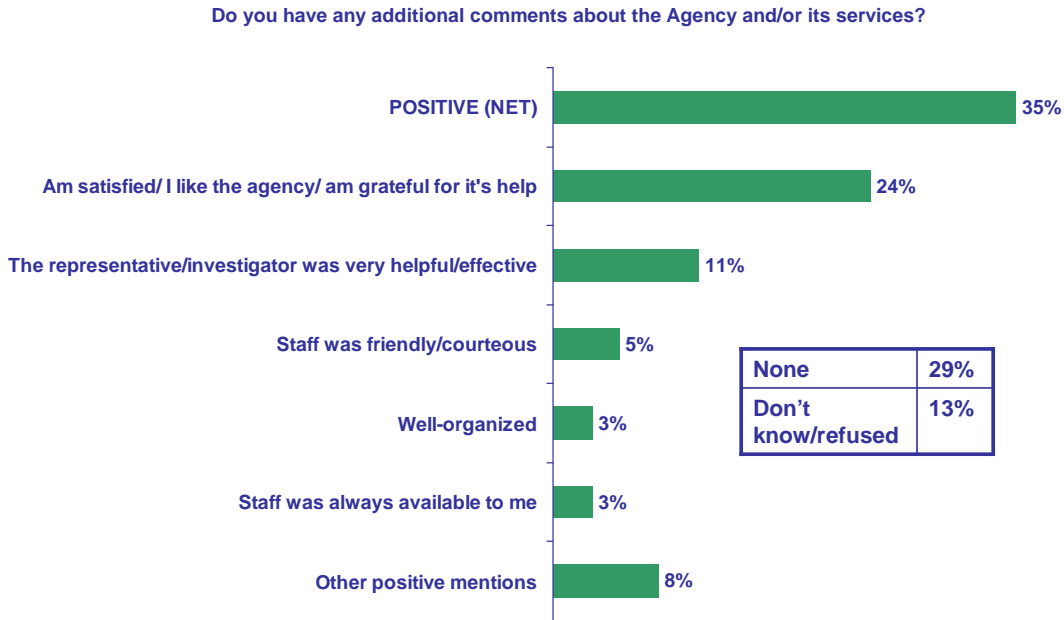
Additional comments about the Agency

When asked to provide additional comments about the Agency and its services, 42 percent do not offer any additional comments, while 35% offer positive comments and 27% offer negative comments.

Those who offer positive comments about the Agency most often indicate their general satisfaction or gratitude (24%). An additional one in ten say they found the Agency’s representative/investigator very helpful/effective (11%).



35% offered positive additional comments



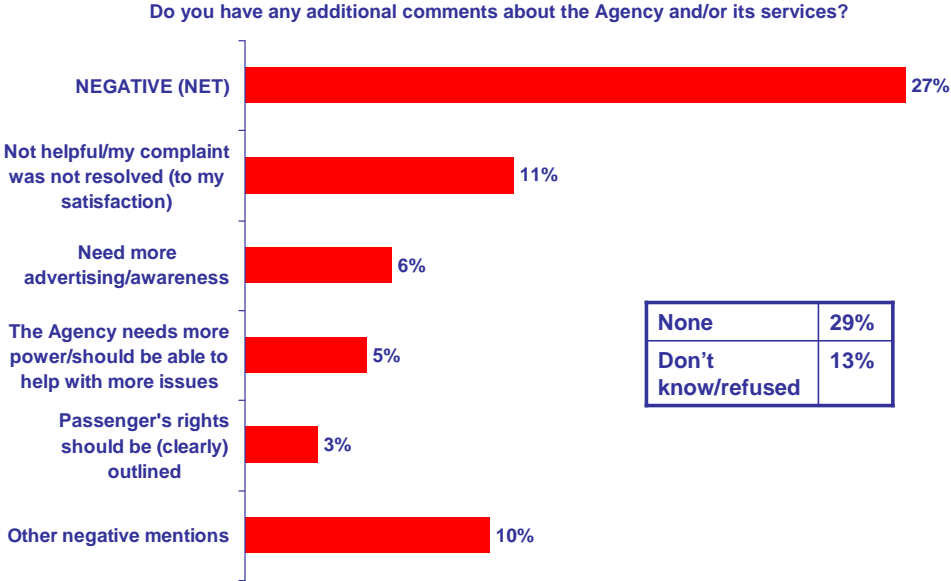
Base: Respondents from Travel (Facilitation) group (n=63).

Figure 17: 35% offered positive additional comments

Those who offered negative additional comments most often say that the Agency was not helpful or their complaint was not resolved to their satisfaction (11%).



27% offered negative additional comments about the Agency



Base: Respondents from Travel (Facilitation) group (n=63).

Figure 18: 27% offered negative additional comments about the Agency

Mediation Survey

As previously mentioned, due to the small number of completes for the mediation survey, the analysis of the results is qualitative in nature.

All respondents responding were satisfied with the overall quality of service provided by the Agency (rating '4' or '5' on a five-point scale). All respondents found that the mediation process either met their objectives to an acceptable degree or fully. Respondents would use mediation again if they found themselves in a similar situation; no respondents said they would not do so. Verbatim feedback on reasons for overall satisfaction with the Agency included:

"Hard work of staff"

"Being professional and independent"

"Helpfulness"

"Timely, reasonably efficient, courteous"

"Efficient, organized, excellent facilities"

"Fair and reasonable facilitators".

Pre-mediation

The Agency was highly rated on a wide range of pre-mediation aspects of service. Those aspects where clients were most likely to rate themselves as 'very satisfied' (rating of '5') with the service include:

- Time taken to acknowledge the complaint;
- Providing information that was clear and easy to understand;
- Being easy to deal with.

While no aspects received the lowest '1' or '2' ratings on a five-point scale, the aspects that received the greatest number of '3' or '4' ratings were:

- Courteous;
- Helpful;
- Knowledgeable and competent.

Introduction to mediation process

As with pre-mediation, the introduction to the mediation process was highly rated. Mediators were perceived to have ensured best practices were followed, and, on almost all aspects, respondents either strongly agreed ('5' on a 5-point scale) or agreed ('4' on the scale) that this had taken place. Those aspects where respondents were most likely to strongly agree ('5' rating) were:

- Providing the opportunity to ask questions;
- Setting the ground rules.

The only item where any rating fell below '3' on the five-point scale was for clearly explaining the role of the participants to co-operate; one respondent gave this a '2' rating.

During the mediation process

Similarly, respondents were asked about the extent to which they agreed or disagreed that mediators had followed a range of practices during the mediation process itself. Again, results were positive, with most respondents giving either a '5' (strongly agree) or '4' rating for all aspects. Aspects receiving the most positive ratings overall were:

- Being a good listener;
- Using language and terms that the client could understand.

The only item to receive a rating below '3' (from one respondent), was for 'at no time provided solutions, legal advice or making judgments.'

Mediator strengths and making the mediation process more effective

Verbatim feedback provided on the strengths of the mediators included:

"Ability to communicate with each party and facilitate the communication between the parties"

"Politeness, calmness, and his presence in the process."

"Courteous, respectful, accessible, prompt replies."

"Objective, fair, and reasonable."

"Managed the flow of proceedings very well, attempted to add structure to a challenging case."

The only two comments suggesting how the process could be more efficient related to the presence of other representatives:

"A medical desk representative from [airline] would have been present."

"Lawyers weren't present."