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CANADA

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

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**EVIDENCE**

**Monday, September 11, 2017**

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**Chair**

**The Honourable Judy A. Sgro**



## Standing Committee on Transport, Infrastructure and Communities

Monday, September 11, 2017

• (1205)

[English]

**The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)):** I call to order meeting number 67 of the Standing Committee on Transport, Infrastructure and Communities, 42nd Parliament, first session, pursuant to the order of reference on Monday, June 19, 2017, Bill C-49, an act to amend the Canada Transportation Act and other acts respecting transportation and to make related and consequential amendments to other acts. We will start this process now.

Welcome to all our members. Thank you very much for coming back a week earlier than everyone else on the Hill. It shows everyone's commitment to seeing that we continue and get our work done.

To the staff who are here as well, welcome. I hope you all had a good summer.

I will now ask the departmental officials if they would introduce themselves and proceed.

**Ms. Helena Borges (Associate Deputy Minister, Department of Transport):** Thank you, Madam Chair. It's a pleasure to be here today.

I am Helena Borges, the associate deputy minister of transport. I have been before this committee before, so maybe you'll remember me.

I have with me several colleagues from the department, as well as the Competition Bureau. Alain Langlois is our chief counsel on this file. Brigitte Diogo is our director general of rail safety. I have Marcia Jones, who is our director of rail policy; Sara Wiebe, who is our director general of air policy; and Mark Schaan from ISSED.

First, I would echo the chair's thanking you for coming back early and taking the time to study this bill before Parliament resumes. I must say that if you haven't been in Ottawa all summer, this is officially the first week of summer, at least weather-wise, because it has been raining here non-stop. This is actually summer as we'll have it.

Bill C-49, the transportation modernization act, contains proposed legislative changes that would allow the government to move forward in delivering on initial measures as part of transportation 2030, the government's strategic plan for the future of transportation in Canada, which the minister announced last fall. The plan was announced following an extensive consultation process with industry

stakeholders, indigenous groups, provincial and territorial governments, and Canadians, which built on the findings and recommendations from the Canada Transportation Act review report. You will hear from Mr. Emerson, who was the chair of that panel, later today. This process allowed us to hear a broad range of views on the future of transportation over the next 20 to 30 years, and how we can ensure that the national transportation system continues to support Canada's international competitiveness, trade, and prosperity.

[Translation]

Bill C-49 promotes transparency, system efficiency and fairness. The bill proposes legislative amendments that would better meet the needs and service expectations of Canadian travellers and shippers, while creating a safer and more innovative transportation network that would better position Canada to capitalize on global opportunities and thrive in a high-performing economy.

Let me highlight the key features of the bill.

[English]

I will begin with the air initiatives. Bill C-49 proposes the creation of new regulations to enhance Canada's air passenger rights, ensuring that they are clear, consistent, and fair for both travellers and carriers. The Canadian Transportation Agency would be mandated to develop, in consultation with Transport Canada, these new regulations and would consult Canadians and stakeholders should royal assent be given to this bill.

The overriding objective of this new approach is to ensure that Canadians and anyone travelling to, from, and within Canada understand their rights as air travellers without negatively impacting access to air services and the cost of air travel for Canadians.

Bill C-49 specifies that these regulations would include provisions regarding the following most frequently experienced irritants, some of which you may have heard about: providing passengers with plain language information about carriers' obligations and how to seek compensation or file complaints; setting standards for the treatment of passengers in the case of overbooking, delays, and cancellations, including appropriate compensation for these; standardizing compensation levels for lost or damaged baggage; establishing standards for the treatment of passengers in the case of tarmac delays over a certain period of time; seating children close to a parent or guardian at no extra charge; and requiring carriers to develop standards for transporting musical instruments.

Finally, this bill also proposes that regulations be made for data to be collected in order to be able to monitor the air traveller experience, including air carrier compliance with the proposed passenger rights approach.

● (1210)

[*Translation*]

The legislation also proposes to liberalize international ownership restrictions from 25% to 49%. To protect the competitiveness of our air sector and support connectivity, this provision is accompanied by associated safeguards.

These safeguards include restrictions that a single international investor would not be able to hold more than 25% of the voting interests of a Canadian air carrier and that no combination of foreign air carriers could own more than 25% of a Canadian carrier.

This policy change would not apply to Canadian specialty air services such as heli-logging, aerial photography or firefighting, which would retain international ownership levels at 25%.

Liberalizing international ownership restrictions means Canadian air carriers—and this includes passenger and cargo transportation service providers—would have access to more investment capital that they can use for innovation and, potentially, further expansion.

This would bring more competition into the Canadian air sector, provide more choice for Canadians, and generate benefits for airports and suppliers, including new jobs.

More competition in the market could in turn reduce the cost of air transportation and open other markets to consumers and shippers in Canada. This could include the creation of new ultra-low cost carriers serving new areas of the Canadian market.

[*English*]

The bill also proposes a new, transparent, and predictable process for the authorization of joint ventures between air carriers, taking into account competition and wider public interest considerations and establishing clear timelines for the rendering of a decision.

Joint ventures are a common practice in the global air transport sector. They enable two or more carriers to coordinate functions on specific routes, including scheduling, pricing, revenue management, marketing and sales.

Whereas currently proposed joint ventures in Canada are solely examined by the Competition Bureau under the Competition Act, and thus focus exclusively on anti-competitive impacts on specific markets for air travel, the proposed new legislation would allow for the consideration of wider public interest benefits.

In addition, the new process would include clear timelines for the review process, both for the review of potential competition considerations by the bureau and the assessment of public interest benefits to be undertaken by Transport Canada. It is anticipated that this more holistic and timely review would allow Canadian carriers to engage in this industry trend, which confers benefits not only to the partnering air carriers, but also to consumers who will gain from enhanced flight connectivity and Canadian tourism, which we expect to grow based on expanded network options.

[*Translation*]

Canada's aviation sector has shown interest in investing in and accessing passenger screening services, beyond those already provided by the Canadian Air Transport Security Authority, in order to facilitate travel and gain economic advantages.

The proposed amendments allow for this opportunity on a cost-recovery basis.

[*English*]

Let me now move to the rail initiatives.

A reliable freight rail network is critical to Canada's success as a trading nation. Many of our commodities, from minerals to forest products to grain, depend on rail to move to markets both here and abroad. Canada enjoys efficient rail service with the world's lowest rates.

To sustain this, Bill C-49 aims to address pressures in the system so that it can continue to meet the needs of users and the economy over the long term. To this end, the bill promotes transparency, efficiency and strong private sector investment in the rail system, as well as accessible shipper remedies. The key measures include new data reporting requirements for railways on rates, service, and performance that would greatly increase system transparency; a definition of adequate and suitable rail service affirming that railways should provide shippers with the highest level of service they reasonably can in the circumstances; the ability for shippers to seek reciprocal financial penalties for breaches of their service agreements with railways; updated remedies for rate and service complaints, to make them easier for shippers to access; and more timely, long-haul interswitching, a new measure for giving captive shippers across all sectors and regions the option of accessing a competing railway.

● (1215)

These measures would address the needs of shippers for greater competition in the freight rail system while also safeguarding the ability of railways to make crucial investments in the railway network, which benefits all shippers and the broader economy.

The proposed amendments to the Railway Safety Act to mandate installation of voice and video recorders in railway locomotives are designed to further enhance rail safety while safeguarding the privacy of employees. They respond to recommendations from this committee, the CTA review panel, and the Transportation Safety Board, whom you will hear from immediately afterwards.

These recorders would further strengthen rail safety by providing objective data about crew actions leading up to, and during, a rail accident. This technology would also provide companies with an additional safety tool for analyzing trends identified through their safety management systems with the objective of preventing accidents before they happen.

Through its oversight role, Transport Canada would ensure that companies comply with the limits on use and privacy requirements specified in the proposed legislation.

[*Translation*]

I will now turn to marine initiatives.

Finally, Bill C-49 proposes to amend the Coasting Trade Act to allow all vessel owners to reposition their owned or leased empty containers between locations in Canada using vessels of any registry. This measure would support industry's request for greater logistical flexibility and address the shortage of empty containers for export purposes.

Bill C-49 also proposes to amend the Canada Marine Act to allow Canada Port Authorities access to loans and loan guarantees from the Canada Infrastructure Bank, which is starting to happen.

[*English*]

In conclusion, this bill combines proposed legislative initiatives into a single bill that are essential to advancing priority measures related to improving the efficiency and safety of the Canadian transportation system.

In addition to having undertaken a comprehensive consultation process, these proposed amendments are based on solid evidence. For instance, with respect to freight rail measures, we sought technical expertise of stakeholders from the rail sector, the Canadian Transportation Agency, key federal departments, and other authorities as part of consultations for the bill. We analyzed freight rates, investments across jurisdictions, as well as commodity movements across Canada using internal data, and grain monitoring program, and railway waybill data, as well as other data.

The measures contained in this bill are a reflection of the priorities we heard from stakeholders and Canadians during the consultation process. It brings forward proposed legislative changes that promote a safer, more efficient transportation system that would enable growth while strengthening the rights of Canadian travellers to better meet their needs and expectations.

I would add that this bill responds to many of the recommendations this committee put forward in a study last year of the Fair Rail for Grain Farmers Act.

I would like to thank the committee once again for having me here today. My colleagues and I are available to answer any questions at

this meeting and throughout the entire study of the bill. We would be happy to provide any information that you don't have.

On that point, I will mention that we have made available to the committee a series of issue papers and fact sheets that may help you in understanding some of the provisions and the history behind some of the issues that we're dealing with here, the frequently asked questions on some of the items, because we know that there may be confusion amongst stakeholders about what these mean and how they would apply, as well, of course, the clause-by-clause. If there's anything more we can provide, we'd be happy to do so.

● (1220)

Thank you, Madam Chair.

**The Chair:** Thank you very much, Ms. Borges. We appreciate very much all of the information you have provided to us today.

We will start with our questioning.

Ms. Block, for seven minutes, please.

**Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC):** Thank you very much, Madam Chair, and I would echo the comments welcoming all of you here today. I appreciate the opportunity to ask you questions about Bill C-49.

You welcomed us here and thanked us for taking the time to be here, but it was because of a motion by this committee that we're actually here a week early, and so I want to thank you for being here and taking the time.

I also want to extend a welcome to my colleagues. I hope everyone had a good summer and I am looking forward to working with all of you, going into this session. Of course, there could be some changes. I also want to welcome my two colleagues on this side of the table who aren't normally members of this committee but who have graciously accepted the duty and the opportunity to be here as we work through Bill C-49.

I do appreciate the work that has gone into a bill like Bill C-49, and I think even your own opening remarks demonstrate how broadly this bill casts its net. In fact, we would have suggested that it were an omnibus bill, covering three modes of transportation and addressing a number of issues. One would probably also readily admit that the bill may not be perfect, and so I think what we're here to do is to have the opportunity to ask questions, and hear from witnesses to find out for ourselves what measures you got right, and whether there are amendments or recommendations that our stakeholders might offer.

Given those initial observations, I guess what I would like to ask is when and why was the decision made to create this very large bill that addresses so many different modes of transportation?

**Ms. Helena Borges:** The proposed legislative amendments have been put together in one bill since they collectively support the commitments made in the government's strategic plan for transportation 2030. All of these elements are included in the five themes that the minister announced last November when he put forward the plan to modernize Canada's transportation system. The majority of the proposed legislative amendments also include input from the CTA review panel report that was made public on February 25, 2016. Their genesis is in those recommendations.

Further, almost 90% of the amendments will be to one act, which in and of itself is an omnibus act. The Canada Transportation Act is the main piece of legislation for the economic regulation of the air sector and rail sector, and with the powers of the agency in dealing with disputes, and all of those kinds of things. So the majority of them are amendments. A small portion of them are consequential amendments from the amendments made to the Canada Transportation Act, such as the change in the foreign ownership for airlines, which results in consequential amendments to the Air Canada Public Participation Act or the CN privatization act and others.

So to us it makes sense to package all of these together, based on the rooting in those three pieces. As well, I must say that this committee has given us a wealth of information in some of the reports that you've done over the past year on rail safety, on the rail freight legislation, and we thought that putting them together would provide a holistic and wholesome approach to the amendments we are proposing in this bill.

• (1225)

**Mrs. Kelly Block:** Thank you.

I'll follow up with another question that drills a bit further down into one of the reasons I asked that question. Given that a review of the Railway Safety Act has just been initiated, I believe, why would we include the provisions for the LVVR measures in Bill C-49 rather than looking to include them in the Railway Safety Act?

**Ms. Helena Borges:** Thank you very much for that question.

As you may be aware, the recommendations on LVVR have been around for some time. We've been looking at this issue since the early 2000s. More recently, the Transportation Safety Board has put it on their watch-list, and we take the safety board's watch-list very seriously.

In fact, one of the recommendations from this committee, when they reviewed our rail safety measures, was to implement LVVRs as soon as possible. Also, I'll say that a supplementary one was to get on with responding to the safety board's recommendations more quickly than we have in the past.

There are a lot of other reasons why we are moving forward on that, given the benefit that LVVR could have on improving railway safety, and we think now is the right time to move ahead with it, because it will require regulations as well. We could wait for the Railway Safety Act, but that would delay it by at least another year, if not longer. Based on the Transportation Safety Board's recommendations, we agree that we need to move ahead with this quickly.

**The Chair:** Thank you very much, Ms. Block.

Mr. Sikand.

**Mr. Gagan Sikand (Mississauga—Streetsville, Lib.):** Good morning. I'd also like to welcome you back.

In your opinion, do you think there's a gap between Bills C-49 and C-30?

**Ms. Helena Borges:** I have looked at all of the recommendations that were in your study of Bill C-30. I believe you had 17 recommendations. We've gone through all of those, and I would say that we have addressed them all, as well as actually implementing some of the recommendations you had in there and allowing some to sunset. Those that sunset are two that were in Bill C-30. We have a rationale for letting those sunset: it is basically because the situation has changed considerably since 2013-14.

I don't believe there is a gap. I think we have addressed all of the recommendations well. In fact, I would say that we have gone beyond in addressing other recommendations that the CTA review panel put forward and for which stakeholders have been asking for a few years.

**Mr. Gagan Sikand:** In your opening remarks you mentioned consultations that were undertaken in regard to rail. I wonder if you have undertaken general consultations in regard to the entirety of the proposed amendments.

**Ms. Helena Borges:** I can tell you that we have done exhaustive consultation. We normally do not consult on amendments that are in a bill, as that is a parliamentary privilege, but we do consult on the issues and the policy direction that we are looking at taking.

That consultation has happened over the last 18 months, with the minister launching it right after he tabled the CTA review panel report last February. He launched a series of 10 round tables across the country that were focused on the themes of the transportation plan he announced last fall. In addition to that, he had two Facebook Live sessions with Canadians. We also had opportunities for stakeholders to put comments online and received about 230 submissions. We had over 70 written submissions sent in as part of our consultation, and another 70 went directly to the minister. Those submissions have informed our advice and our amendments. We also involved our provincial and territorial colleagues in that process.

Since then, we have continued to work exhaustively with the railways and the rail sector—shippers that use the railways, and other players in the rail sector—to make sure we understand their concerns and that in putting forward this package we are addressing the issues they had.

• (1230)

**Mr. Gagan Sikand:** How do Canadians benefit from these changes?

**Ms. Helena Borges:** I would say that is probably one of the most important elements of this bill. We and the minister have been hearing for years about air travel and how people are frustrated with their air travel experiences. The passenger rights that are included in the bill are in fact revolutionary from a Canadian perspective.

We've really looked across the globe at what other countries have in place and have taken the best of what we've seen, making sure we are addressing the irritants I listed in my speech, because that is what matters to Canadians. This is an issue that has been quite active in the media even as late as last week here in Ottawa with the Air Transat situation.

I think that is really important for Canadians, but I'd say that the measures in the rest of the bill, particularly the rail freight and marine measures, are also important.

**Mr. Gagan Sikand:** Let me interject here quickly. I'm running a little short on time.

Something in regard to passenger rights that caught my eye was that penalties aren't actually built into the legislation. What are the merits of this?

**Ms. Helena Borges:** You'll notice that the amendments to the act give the Canadian Transportation Agency the authority to make regulations. The details of the compensation regimes—the way those irritants will be addressed—will be in regulations.

We will work with the agency. We want to make sure that Canadians have an opportunity to voice their views on what the compensation should be, to make sure that it addresses their concerns.

**Mr. Gagan Sikand:** Okay. Thank you.

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

Monsieur Aubin.

[*Translation*]

**Mr. Robert Aubin (Trois-Rivières, NDP):** Thank you, Madam Chair. It is a pleasure to see you at the helm of our committee again.

Welcome to everyone with whom I had the pleasure of working last year and whose faces are familiar to me. Welcome also to those of you who are joining us, and I hope you will be here permanently. If not, I heartily commend you. That is all for my greetings, since I probably have more questions to ask than the time available will allow.

I would like to draw particular attention to a sentence in your opening remarks. You said that Bill C-49 seeks transparency, fairness and efficiency. I must admit that I stumbled over the word "efficiency". Let me cite a few examples from various modes of transportation that do not illustrate efficiency.

The first example is probably voice and video recorders. The report about these recorders, conducted by a working group of the Transportation Safety Board, or TSB, found that the use of these recorders would have been helpful in arriving at definitive conclusions in their investigations in less than 1% of cases. Less than 1% of cases. If we are talking about recorders, that is unfortunately because there has been an accident. In the interest of efficiency, I would think that train conductor fatigue should be addressed before the recorders. In our air safety study last year, we found that pilot fatigue was an important factor to be considered.

Why is Bill C-49 so specific about requirements for recorders while saying so little about conductor fatigue?

**Ms. Helena Borges:** Thank you for your question. I will let my colleague Brigitte answer, as she is responsible for these matters. She can tell you about ongoing measures related to conductor fatigue.

**Ms. Brigitte Diogo (Director General, Rail Safety, Department of Transport):** Hello. Thank you for your question.

In order to improve rail safety, we are currently considering a range of measures including fatigue. We have in fact begun discussions and preliminary consultations with the industry and unions to review regulations pertaining to fatigue. This was discussed at the rail safety advisory committee's last meeting. In early October, the minister will issue a notice inviting input on the regulatory changes pertaining to fatigue.

● (1235)

**Mr. Robert Aubin:** Thank you. If I understand you correctly, you are holding consultations, gathering input and considering the issue of fatigue. In the bill before us, however, which is practically an omnibus bill, we would have expected to see concrete measures. The same can be said for passenger rights. As my colleague Mr. Sikand so rightly pointed out, two years later, there are still no regulations. Rather, you are saying that consultations will begin after royal assent to determine what the bill of rights should include. In other words, it will take at least another year until passengers find out the basis for their rights.

Are we about to miss the train or the plane on this?

In the previous Parliament, a bill of rights was introduced which the minister—who was not the minister at the time—was very favourable to. He even voted for that bill of rights.

Why can the process not be speeded up in order to serve the public?

**Ms. Helena Borges:** Thank you very much for your question.

I would like to clarify something. We already have legislative powers and regulations pertaining to fatigue, and we are going to amend the legislation. On the other hand, we do not have legislative powers pertaining to locomotive voice and video recorders. That is something the bill would establish. We need that power in order to introduce regulations.

The same thing applies to passenger rights. At present, the Canada Transportation Act does not yet give the Canadian Transportation Agency the flexibility or power to make regulations on passenger rights. Once this bill is passed, as we hope it will be, we will then, together with the Canadian Transportation Agency, be able to accelerate the regulation process in order to implement the technical aspects of those rights as quickly as possible. The same is true for locomotive voice and video recorders. We have to conduct consultations, but we are prepared to work as quickly as possible in order for these aspects to be in place in 2018.

**Mr. Robert Aubin:** Thank you.

[*English*]

**The Chair:** Thank you very much, Ms. Borges.

I'm sorry, Mr. Aubin, but your time is up.

Mr. Badawey.

**Mr. Vance Badawey (Niagara Centre, Lib.):** Thank you, Madam Chair.

I have a quick question with respect to the earlier comments about amending the Canada Marine Act to allow Canada port authorities, the CPAs, and their wholly owned subsidiaries to access the anticipated Canada infrastructure bank loans and loan guarantees. We all recognize that most of those CPAs are former federally owned assets that were negotiated to the private sector.

One of the four pillars contained within the government's transportation strategic plan places an emphasis on trade corridors. As we all know, this is a catalyst to better position Canada to capitalize on global opportunities and to perform better globally and to ensure disciplined asset management, which in turn will develop a stronger trade-related asset that will contribute to Canada's international performance, international competitiveness, and prosperity.

Will the Canada Marine Act allow the St. Lawrence Seaway, a federally owned asset, to access Canada infrastructure bank loans and loan guarantees?

My second question is with respect to other programs that we're currently offering. This government has taken it upon itself to offer, for example, programs attached to super clusters, trade corridors, and smart cities and, finally, in Q1 of 2018, the actual infrastructure program that we're going to be embarking on.

Will the St. Lawrence Seaway have access to those programs as well as CPAs?

• (1240)

**Ms. Helena Borges:** I'll clarify right off the bat that you're right that the St. Lawrence Seaway is a federal asset. Because of that, it receives a statutory appropriation from Transport Canada on an annual basis for any capital improvements that are required on the seaway. The company that operates the seaway on our behalf tells us basically what the requirements are and receives the funding to make those improvements. Given that it receives a statutory appropriation, that's how it will be appropriated in the future. It doesn't need to have access to these programs because it has access to the fiscal framework directly.

**Mr. Vance Badawey:** Great. Thank you.

There are areas located along the St. Lawrence Seaway that actually have their trade corridor—I won't say “designations”—but their trade corridors. There's road, air, multimodals, and so forth, that have plans to put in place an economic strategy to take advantage of these assets. Unfortunately, a lot of times those improvements—under that allocation that is being made to the St. Lawrence Seaway—are not being made. The assets have deteriorated and they're in need of some work. When we read today's article by Mr. Runciman, we see that he recognizes that. Moving forward, we expect that work to be done.

If the work isn't in fact part of that program, in terms of the appropriations, what then happens to those areas that made this part of their strategy? Can they make an application for one of those programs that I mentioned earlier to get some of the work done to further their economic desires on a federally owned asset?

**Ms. Helena Borges:** If there are needed improvements to the seaway that the corporation hasn't identified and that we're not funding, we would ask that we be made aware of what those are so that we can approach the corporation and find out why those aren't included. That would be part of the answer.

To answer the rest of your question, the minister announced in early July the national trade corridors fund. It's a national fund and its sole purpose is to fund trade-related transportation infrastructure. This is very exciting. There is \$2 billion available over the next 11 years. In fact, we've already gone out and just last week received some expressions of interest for projects that people would like funded. The eligible recipients are basically anyone that owns and operates transportation infrastructure that supports trade. They are more than welcome to apply through that program. This will be a first round. We will have subsequent rounds in future years, but that is a way for others, like port authorities, road authorities, airport authorities, railways, and anybody who operates transportation infrastructure that supports trade, to seek funding support for their projects.

**Mr. Vance Badawey:** Thank you, Ms. Borges. I appreciate both of those answers. One is to get into contact with Transport Canada to ensure that the assets that should be managed appropriately are—and I'll follow up on that at a later date. But the second part is the other partners that may, in tandem with a federally owned asset such as the seaway, apply to the trade corridors or other programs that are being made available to enhance those assets, as well as having the federally owned asset there, too.

My last question is just that. Do you see it as appropriate that these private sector partners, as well as municipalities that run alongside, in this case, the Welland Canal and the St. Lawrence Seaway, make those applications to work in tandem with a federally owned asset?

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

Could we get a short answer to that question?

**Ms. Helena Borges:** The answer is yes.

**Mr. Vance Badawey:** Thank you.

**The Chair:** That's great. Thank you very much.

Mr. Hardie.



**Mr. Ken Hardie (Fleetwood—Port Kells, Lib.):** Thank you, Madam Chair.

It's good to see everybody back, and some new faces here as well.

I wanted to reach into the air passenger bill of rights issue a little bit. A lot of focus, of course, has been on the airlines and what they do or don't do. We've had some pretty alarming examples of some difficulties in recent weeks, but I've also been in situations waiting on the tarmac because, for instance, the terminal doesn't have the crew there to operate the gantry and the ramps, etc.

Would we not necessarily focus specifically on airlines but have this be, if you like, a “whole of experience” approach, where if there's a deficit in service to the public it isn't just focused on one part of the sector, which could easily do the old finger-pointing to someplace else?

● (1245)

**Ms. Helena Borges:** That's a very good question. Yes, there are multiple parties involved in the air experience. As I mentioned in my remarks, one of the elements that is in the bill is giving us the authority to collect information from all of those who are involved in the air traveller experience—the airline, the airport, everybody else who works at the airport, the Canadian air security agency, all of that chain—to look at where things are working, where they are not working, and what kinds of issues are coming up, so that we can report to Canadians on how well those are working.

**Mr. Ken Hardie:** There was also, I think, historically some resistance from the Department of Transport to the Government of Canada on joint ventures. I gather there will be some players, particularly in the airlines, that are resistant to joint ventures.

In managing these arrangements on a go-forward basis, can you describe some of the triggers, some things that joint ventures may present to you that would cause concern?

**Ms. Helena Borges:** I'm going to ask my colleague, Sara Wiebe, and perhaps Mark Schaan, to answer some of those questions based on the experience to date and what we're proposing as different going forward.

**Mr. Mark Schaan (Director General, Marketplace Framework Policy Branch, Strategic Policy Sector, Department of Industry):** Thanks so much. Bill C-49 proposes a new approach to metal-neutral joint ventures, or joint ventures in the air sector. Right now they are assessed solely on the basis of competition and competition law, wherein the primary considerations are duration of competition and economic understanding.

What C-49 does is broaden that examination to include a whole and robust competition assessment by the bureau. It also includes public interest benefits, which may include things like connectedness, safety, or the traveller experience. Insofar as a joint venture raises concerns, I think those would be that the public interest benefits assessed by Transport Canada in that review process are insufficient to overcome what would be the significant lessening of competition in the sector. What C-49 does is to attempt to balance potential negatives in any proposed transaction with potential public surplus benefits that Canadians might experience. It is necessary for one to overwhelm the other in order to go forward. It's a voluntary system by which the proponent has to have a reasonable assumption

of likelihood of passage to be able to pursue the voluntary process to get the minister's authority.

**Mr. Ken Hardie:** Thank you for that.

On the issue of video and voice recorders, I had gone through this in a former role at metro Vancouver's transportation authority in respect of onboard video and voice recording on buses. There are some significant labour relations issues inherent in that, particularly the concern of members that this would be used for disciplinary purposes. The whole privacy issue, of course, centres on who owns the data, how it's stored, how it's accessed, and how long it's going to be kept. Are all of these issues going to be addressed in regulation as we go forward?

**Ms. Helena Borges:** The answer is yes. I'll ask my colleague Brigitte to give you a little more on how we're addressing these issues.

**Mr. Ken Hardie:** I have one additional question I'll throw in right now. We're focusing only on class 1 railroads for this technology. Coincidentally, some of the legal action around Lac-Mégantic is starting just now. Even if these provisions had been in place, the railroad in question wouldn't have had them. Given what we know about the status of the health of short-line railroads, why not have this extended to them? You can include that.

**Ms. Helena Borges:** Thank you.

Brigitte.

**Ms. Brigitte Diogo:** Madam Chair, I would say that the regulations under development—and we are engaging stakeholders on this—would indeed look at issues related to data protection, the retention period of the data, the requirement for companies to develop policies to prevent unauthorized access, and the record-keeping requirements a company would need to have in place. How to put this measure forward while we safeguard privacy rights is top of mind.

There is no decision yet on the scope of application. In fact, we are planning to define the scope in regulations, and it would not just be on class 1. It's not a de facto conclusion that it should be class 1. We are doing the risk assessment to determine whom it's going to apply to, and this could include short-lines.

● (1250)

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

I'm sorry, Mr. Hardie, but your time is up.

Mr. O'Toole.

**Hon. Erin O'Toole (Durham, CPC):** Thank you very much, Madam Chair. It's good to join my colleagues today.

Thank you, ladies and gentlemen, for being part of this.

I think this bill is critical to Canada's future. Modernizing our transportation network is essential to the way we get our goods to market in Canada, across North America, and around the world.

Marine, air, rail, and, by extension, transporter trucking—these form the infrastructure of our economy. This bill's goal is to build that out to 2030 and beyond. One thing I see missing is cabotage. I am wondering which industries considered cabotage, that is, allowing a domestic carrier to pick up and remove commercial goods or passengers en route, by marine or air transport, within the United States. In regard to 2030 and beyond, if we're looking at efficiency—which Ms. Borges said was the goal of all of this—cabotage should certainly be about that. Has the government examined this in any of these areas?

**Ms. Helena Borges:** Cabotage is something we've examined repeatedly. The issues behind cabotage go beyond transportation. They deal with the ability of workers from one country to work in another country, and thus would implicate the immigration departments of those countries in terms of their allowing that to happen. We are allowing some cabotage through this bill related to marine transportation, and it relates to empty container movements. Right now, an international vessel that brings in containers full, then empties them here, cannot move them between one point in Canada and another point in Canada. They have to be moved either by truck or by rail. This is allowing them to move empty containers from one port to another port by marine vessel, which, in fact, is the most efficient way to do it, not to mention that it's probably the most environmentally efficient way as well. They can then take the containers back to get them refilled. We are allowing that, but in the other modes there are other hurdles that would have to be overcome, including other countries allowing Canada to do the same in their countries, which so far has not been allowed.

**Hon. Erin O'Toole:** The interest in timing that we have, Ms. Borges, is that we're modernizing transportation while we're modernizing NAFTA. If you look at efficiency within transporter trucking, for instance, a lot of the trucks we have going south come back empty. If we could fill them—we're burning greenhouse gas emissions, which I know is another area of interest to this government, and of all of us indeed—that would minimize the wasted GHGs of empty trucks coming back. If we're modernizing transportation and modernizing NAFTA, why would cabotage not be part of it? I notice the commissioner of competition asked for this examination in 2015 in many of these same industries, so to you, Ms. Borges, or to representatives from the Competition Bureau, why weren't these elements part of this act?

**Ms. Helena Borges:** As I mentioned, to include that in this act, we would need to have a whole bunch of other issues resolved, such as the labour issue of having people able to work here—and actually, for example, under NAFTA, the U.S. authority to do that. I understand that some of those discussions are going on. Through prior changes, we have already achieved an incidental move: so if you're a trucking company going from Canada to the U.S. and you have a second point in the U.S., as long as it's part of one move, you can stop in two locations. But you're right that we can't pick up the traffic there and bring it back. These are things that are under consideration, as part of discussions, but they're not part of this bill because, frankly, it cannot include those discussions without the other ones happening.

• (1255)

**Hon. Erin O'Toole:** Certainly I don't want to pry into the confidential negotiating positions of Canada, but I'm wondering

whether, within the context of Bill C-49 and the NAFTA negotiations, studies were done on the efficiencies of cabotage, namely in marine, rail, and trucking, and whether an assessment of greenhouse gas emissions was done by your or another department. I'm wondering—without getting into the confidential negotiating positions—whether any studies on those two areas can be shared with this committee.

**Ms. Helena Borges:** I would have to check whether there have been any studies done on that recently that could be shared. We can take that back and get back to you.

On rail, cabotage exists today. The rail lines are taking things back and forth, so cabotage on rail is really not an issue. It's more on the trucking and on the air side.

**Hon. Erin O'Toole:** Now to my last 50 seconds, thank you very much.

Regarding the child portion of the passenger bill of rights, I see that children's ability to be seated near a parent is critical. I think all of us on all sides have been concerned by cases of children caught on no-fly lists and understand why the ministers has talked about it. Should the fairness and quick resolution of that not be a part of the passenger bill of rights, because these certainly are minors? Was that considered for this bill of rights?

**Ms. Helena Borges:** As you may know, it's the Minister of Public Safety who has responsibility for the security elements of the issue you're raising of children on no-fly lists, so I would have to defer that question to Public Safety and Minister Goodale.

**Hon. Erin O'Toole:** Thank you.

**The Chair:** Thank you very much, Mr. O'Toole.

Mr. Fraser.

**Mr. Sean Fraser (Central Nova, Lib.):** Thank you very much to our witnesses, to our chair, and to my colleagues, for being here.

I'll focus my questions on the portion of Bill C-49 that deals with air travel for now, and start with the passenger bill of rights.

You mentioned in passing, Ms. Borges, how these stories sometimes make the news in a rather undesirable way. It doesn't surprise me that some of these videos go viral and I think it's because when we see a passenger mistreated, we have an emotional and visceral response because it sometimes reflects our own experience. I've had my articles of clothing come out one at a time on the conveyor belt before. I've been sitting on the tarmac for hours at a time and I've had my instrument delayed an entire flight before I could pick it up, so I respond the same way the public does and I understand the frustrations.

You mentioned at the beginning a laundry list of the irritants and that language was to be required to be put in place so that essentially consumers understand what the remedies are and how they can enforce them. Could you perhaps go into greater detail to assure Canadians that they are going to have a remedy when their rights are infringed.

**Ms. Helena Borges:** Part of the list that I mentioned, or the first element, was that the air carriers will have to make very clear in their tariff what their obligations are in exchange for a ticket being sold, right? That will have to be very clear and understandable, and it will be the basis upon which then passengers can complain to the agency if something hasn't been done. By having the regulations strictly identify what the irritant or the issue is and how it is to be addressed, this will make it more obvious to passengers what they are entitled to if their rights have been violated. If you are stranded on a tarmac or delayed for whatever reason, what should the airline be doing? Or if you're bumped, what should the compensation be? All of that will become very clear because the regulations will specify all of it.

**Mr. Sean Fraser:** In terms of the scope of application, will this apply to all passengers travelling within or through Canada?

**Ms. Helena Borges:** Yes, it will apply to passengers coming into, leaving, or within Canada.

**Mr. Sean Fraser:** Excellent.

Assuming that one's rights are infringed by an air carrier, I don't necessarily think that governance by an angry mob is the way to go. I do have some sympathy for the airlines that they don't get unfairly dinged in the event they have a minor breach. Is the style of damages or compensation that we might be looking for a compensatory model, as opposed to a penal model so to speak?

**Ms. Helena Borges:** It will definitely be compensatory. In fact, what we envisage is that the penalty will go to the traveller, not as we do sometimes where the government charges the airline for the infraction. And it would be compensatory in terms of directly.... If their flight is bumped and they lose their ticket, it would cover that, but it would also cover the inconvenience faced by the passenger. All of that will be consulted on and we're looking forward to the views of Canadians based on some of their experiences and what we need to put in the regulations.

• (1300)

**Mr. Sean Fraser:** Certainly.

I would like to shift gears for a moment and deal with international ownership of Canadian airlines. I've met with a number of smaller airlines and discount airlines that were looking for this kind of a change. They've assured me that they can come in and offer lower cost fares. If you allow international ownership to be increased and they can raise the capital, they can open access to new markets within Canada.

First, do you anticipate that those benefits will come to pass with this rule change? Will we see the cost of airfares going down and see airlines servicing new markets in Canada as a result of this change?

**Ms. Helena Borges:** Indeed, we do. I'll say that before this bill was put together, the minister authorized two airlines because he has an exemption authority now under the act. Enerjet and Jetlines have filed an application to have greater foreign ownership and he approved that. Interestingly enough, one of them, Jetlines, just announced today that they're planning on starting up their service from Hamilton and Waterloo airports in Ontario starting in the summer of 2018. Those will be new services that are coming to Canadians and, hopefully, as they're saying, these will be lower cost services because they don't have some of the other activities that the other airlines do. We see this as bringing new flight opportunities for

Canadians, and probably in locations where the other airlines are not providing sufficient level of service or number of flights.

**Mr. Sean Fraser:** Certainly.

While we still have a few minutes remaining, I want to tackle the idea of the magic number at 49%. Of course, we all know that's less than 50%, so control would remain within a Canadian entity, but why is Canadian control so important? Some of the arguments that we made—lowering costs and extending service—might be better served at 100% ownership and, of course, we've seen recommendations to that effect before. Why is 49% the right figure?

**Ms. Helena Borges:** We looked across the globe at what other countries are doing. This is a very strategic sector for Canada. Much like telecommunications and others, it is a network sector, and we want to have a strong and vibrant airline industry in Canada.

When we looked across the globe, most countries now are in the 49% range. A few are lower—say, 33%—and 49% provides enough flexibility for airlines to get the private investment they need while still ensuring that the control is based in Canada. We think that is a right balance which meets all the objectives we were trying to achieve.

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

We move on to Mr. Shields.

**Mr. Martin Shields (Bow River, CPC):** Thank you, Madame Chair.

I appreciate the opportunity to be here and to participate in this committee this week. You can thank us from the west for bringing summer to Ottawa, to those people who haven't seen it this year, though we will be inside and will be missing it anyway.

I appreciate, Ms. Borges, your presentation. One thing I would like to ask is this. As the sunset clause went into effect, people, knowing what they were going to be faced with, didn't extend. Did you consider extending, rather than going back to a previous structure?

**Ms. Helena Borges:** Yes, we did consider extending. Some of the provisions that were in the act have in fact been carried forward, such as level of service, arbitration, and penalties when they don't meet their obligations.

We have let one sunset provision go, which was the government's prescribing the volumes of grain that had to be carried. That provision, when it was implemented, was in fact for the situation of 2013-14, the bumper crop in the bad weather. We ended up using it for only about a year and a half, and then we stopped because the railways were in fact carrying more grain than we were mandating; that situation is gone. We believe we don't need it. It wasn't used for the last two years, so there's no need for it to continue.

The other one we allowed to lapse was extended interswitching, because after the assessment we did, we uncovered that it wasn't heavily used, but it was having unintended consequences on the competitiveness of our railways vis-à-vis the U.S. railways. We replaced it with a measure that we believe will provide greater benefit to more shippers across the country, which is the long-haul interswitching provision.

● (1305)

**Mr. Martin Shields:** When you move into the proposals next, in the sense of an ongoing negotiation, it's not as if there will be a consistent formula out there: you have to negotiate it. There is some concern that there will be more bureaucracy, that both sides will have to spend more time to deal with it, if you have to negotiate it rather than having a set formula that's consistent over time.

**Ms. Helena Borges:** In fact, we encourage negotiation on everything in rail, but the long-haul interswitching provision is that if they cannot come to an agreement, then they go to the agency. It's the agency that actually sets the rate for the portion of the route where the product has to be carried to the interchange.

We've made the process quite efficient so that they would get a decision within 30 days. The rate would be based on comparable traffic moving in similar circumstances.

**Mr. Martin Shields:** Okay. Thank you.

You mentioned that you consider the changes to the bill of rights as revolutionary. I guess there could be a slight need for definition of what "revolutionary" is. I don't quite see it as revolutionary in my context.

You also said that you're increasing services but that there would be no cost increase to the traveller. I have a little problem understanding, if you do this, how ticket prices will not be going up. Somebody is going to have to pay for this.

**Ms. Helena Borges:** We have tried to balance the expectation of Canadians, when they pay for a ticket to go from A to B, and what the carrier is selling them. The challenge we have right now is that in many cases the consumer—the traveller—is not getting what they've paid for.

We've made sure in constructing this and looking at these issues that the regulations that will come forward will balance these. We want to make sure that travellers are getting what they paid for—that's what they expect and that's what they're entitled to—and that carriers comply with that. If carriers step up their game and deliver the service better, then it shouldn't cost them any more than it's costing them today, because they're getting paid for it.

**Mr. Martin Shields:** If they made more money the other way, though, when they overbook, and they're going to make less because they can't overbook—

**Ms. Helena Borges:** Yes, we're not prohibiting overbooking.

**Mr. Martin Shields:** Ah.

**Ms. Helena Borges:** We're in fact telling them, "If you overbook and if a passenger is unable to take that flight, then you have to compensate that passenger for the ticket that passenger has purchased because he's not being allowed to fly, and on top of that you also have to compensate him for his out-of-pocket or other expenses", and those would be detailed in the regulations.

**Mr. Martin Shields:** I understand and agree, but somebody is going to pay somewhere because that's less money.

**Ms. Helena Borges:** Somebody's going to pay.

**Mr. Martin Shields:** Yes, exactly.

When you talked about consulting with everybody as you go forward on this, do you have a timeline?

**The Chair:** Mr. Shields, I'm sorry, I hate to interrupt you.

**Mr. Martin Shields:** No problem, thank you, Madam Chair.

**The Chair:** You were on a very interesting group of questions.

Monsieur Aubin, you have three minutes.

[*Translation*]

**Mr. Robert Aubin:** Thank you.

I would like to draw some more comparisons. For a bill as important as this one, as for any other bill, I think it is important to compare ourselves with others.

You used this approach earlier in answering Mr. Fraser's question about the 49% maximum. For my part, I would like to go back to the two points I mentioned earlier, locomotive voice and video recorders and the passenger bill of rights.

It appears that voice and video recordings are not taken into consideration in Canada, unlike European countries, New Zealand and Australia. As to the passenger bill of rights, those same countries, and in particular European countries, have a much stronger bill of rights than what is proposed in Bill C-49.

There will be consultations. Why isn't Canada doing what is being done elsewhere? That is my main question. In the upcoming consultations on the passenger bill of rights, would it not be helpful to draw on a specific example rather than broad philosophical principles?

● (1310)

**Ms. Helena Borges:** I will ask Ms. Diogo to talk about the situation in Europe, because we have looked at what is in place. Let me just say that our regulatory and operational framework is completely different from what they have in Europe.

**Ms. Brigitte Diogo:** To develop locomotive voice and video recorders, we have looked at and are continuing to look at what is done elsewhere. We are looking at the system in the United States in particular, because our trains will cross the border. We always look at what is in place elsewhere and how we can learn from those examples. We have done this and we continue to discuss these matters with our European colleagues.

**Mr. Robert Aubin:** What about the passenger bill of rights?

**Ms. Helena Borges:** As to the bill of rights, we have compared the current frameworks in the United States and Europe, and have taken the best from each of them. When we introduce regulations, we will look at what is in place in the United States, Europe and other countries and develop a framework that is even better than what those countries have. That is our objective.

**Mr. Robert Aubin:** The upcoming consultations will be based on the conclusions of the analysis of those two frameworks. Is that correct?

**Ms. Helena Borges:** Yes.

**Mr. Robert Aubin:** Thank you.

[English]

**The Chair:** Thank you very much, Monsieur Aubin.

Go ahead, Ms. Block.

**Mrs. Kelly Block:** Thank you very much, Madam Chair.

I just want to follow up on some of my colleague's questions around long-haul interswitching as it goes to the extended interswitching that was in Bill C-30. I thought I heard you say that some of the measures in Bill C-30 have been carried over in Bill C-49, but in fact there are no measures in place right now when it comes to interswitching or long-haul interswitching or extended interswitching because that legislation was allowed to sunset on August 1, before this legislation has received royal assent. So right now our shippers are without any ability to do any kind of long-haul or extended interswitching. Is that correct?

**Ms. Helena Borges:** That is correct. They do have access to what we call regular interswitching, which is 30 kilometres; that existed in the legislation before and continues to exist.

**Mrs. Kelly Block:** Okay.

**Ms. Helena Borges:** In fact, we're recommending some improvements to it in this bill, but yes, with the sunset, the extended interswitching no longer operates. That's why we're hopeful that this bill will receive royal assent so that long-haul can be put in place.

**Mrs. Kelly Block:** I have many questions around long-haul interswitching that I'm sure we'll get to over the next few days, but I'm wondering if you could describe the difference between long-haul interswitching and competitive line rates.

**Ms. Helena Borges:** I'm going to ask Marcia Jones to take you through some of the high-level differences between the two and, as you say, we'll probably have more opportunities to get into detail on this.

**Ms. Marcia Jones (Director, Rail Policy Analysis and Legislative Initiatives, Department of Transport):** Thank you for the opportunity to respond to this question.

Long-haul interswitching provides to a shipper that's captive to the line of only one railway outside of the regular 30-kilometre interswitch zone with access to the line of a competing carrier for a distance of up to 1,200 kilometres or 50% of the total haul, whichever is greater. In some respects there are some similarities between long-haul interswitching and competitive line rates, but there are some key differences and I'll set them out for you very briefly.

First of all, long-haul interswitching does not include a requirement for a shipper seeking relief to have an agreement with the connecting carrier. We heard from shippers across the board that this was an impediment to their accessing competitive line rates. That does not exist under this provision. In fact, the legislation specifies that the connecting carrier is required to provide cars and to contribute to the cost of the interchange.

Second, the Canadian Transportation Agency will have access to a much more significant amount of granular waybill data, which will allow it to calculate rates that are comparable. They will have access to 100% of railway waybill data, which is a key aspect of this measure.

Third, just generally, we have evidence that railways can and will compete for traffic, as with the case under extended interswitching, and that long-haul interswitch measure builds upon that by allowing for competition between two carriers by which the agency can set both the rate and the terms of service.

• (1315)

**Mrs. Kelly Block:** One of the questions I have then is with regard to long-haul interswitching rate setting. I know that in Bill C-49, paragraph 135(3)(b), in setting an LHI rate the CTA has to have regard for the rates of comparable traffic for the distance over which the traffic is moved. However, in the "frequently asked questions" document that was circulated last week, it is noted that this does not mean that an LHI rate would be a simple pro-rated amount for the LHI short-haul based on the total distance from origin to destination of the long haul.

Will the total distance from origin to its ultimate final destination and the rates for comparable traffic for these distances be taken into account when setting an LHI rate? Really, it's based on what is perceived to be two different explanations by Transport Canada.

**Ms. Marcia Jones:** To be clear, under long-haul interswitching, the agency is provided with considerable discretion to set the rate. You are correct that it is not a prescriptively pro-rated rate. The agency is given a number of factors to consider in setting the rate, which include the distance as well as other factors, including, for example, the operational requirements of the shipper.

However, it is important to note as well that the rate set is a blended rate. For the first 30 kilometres, it is a cost-based regulated interswitch rate with the balance set by the agency under the approach I just outlined.

**Mrs. Kelly Block:** Thank you.

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

Mr. Graham.

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** I have a few questions to follow up on an earlier question. We're talking about the compensatory versus penal punishment for a passengers bill of rights. Will there be any tracking of infractions? If a company routinely overbooks its planes and has to pay off one passenger, will that be known? Is there any punishment for constantly infringing on the rights of passengers as opposed to doing it once every now and again?

**Ms. Helena Borges:** As we said, the agency will be getting authority to collect data on the performance of the parties involved in the air traveller experience. The agency will then get information. If there are too many complaints coming to the agency from travellers that certain airlines are not respecting what the commitments are and what's in their tariff, which would include the penalties and the compensation and all of that kind of stuff, then the agency can look at what action needs to be taken in a specific area, because that's how the information will come forward.

We're hoping that through these measures—because it will be clear and transparent—the carriers will comply and that we won't be getting a lot of complaints. But yes, the agency will have that information.

**Mr. David de Burgh Graham:** Understood.

On a totally different topic, back to the voice recorders, we're talking about putting them in railways, possibly class 1 railways, or possibly all of them, but we don't know yet. Has there been consideration to doing that in aircraft as well with data recorders?

**Ms. Helena Borges:** We already have them in the air sector and the marine sector. Actually, the regulatory environment there is done on an international scale through the International Civil Aviation Organization, which is located in Montreal. They have had voice recorders on the aircraft for decades. That's in addition to the black box that goes in the aircraft to know how the aircraft itself behaves. They already have that. You often hear those tapes on TV when you see they're also in touch with air traffic control, and the air traffic control has the same kind of capability. They, in fact, already exist.

• (1320)

**Mr. David de Burgh Graham:** I have another question. It's one that I've asked many people and I've never had a good answer to.

We're talking about class 1, class 2, and class 3 railways. There is one company—and I won't name it here—that has about 100 short-lines but it's not considered a class 1 railway. Is there any way of fixing that, or is that always going to be the case?

**Ms. Helena Borges:** The way the definitions are done is by the revenue they make with the amount of tonnage. If you have what I'll call a “holding company” that holds various railways that operate across the country, in some cases those railways may be under federal jurisdiction, and in other cases they may be under provincial jurisdiction. They're not operating as one company, but operating separately under what I'll call a “franchise”, differently. The classification is really based on those revenues and the activity that the companies generate.

**Mr. David de Burgh Graham:** What elements of Bill C-30 are going to remain in place?

**Ms. Helena Borges:** The elements of Bill C-30 that will remain in place are the arbitration for level of service, and the operational terms. The agency was given authority to define those operational terms when the bill was first introduced, so that is one element that is there.

The penalties for the railways not complying with what's in their level of service agreement on service also continues to be in operation.

**Mr. David de Burgh Graham:** I have time left for one question.

On interswitch traffic, railways operate by paying for loaded cars as opposed to empty cars. If you forced another company to take your loaded car and then the company that would originally have had it has to bring back the empty car, who is responsible for that? Is it going to cause problems where one company can be forced to take the traffic and another company has to provide the empty cars?

**Ms. Helena Borges:** We're not forcing anybody to carry anything here. The railways, among themselves, determine what arrangements they have with one another. Usually, the railway is carrying full one way and is empty another way, or sometimes they can bring back some stuff on the cars they've unloaded.

The arrangements between the railways are commercially defined and they determine how those cars are moved, where those cars go. It's all between them on a commercial basis.

**Mr. David de Burgh Graham:** Do I have time?

**The Chair:** You have half a minute left.

**Mr. David de Burgh Graham:** I have a final question on security stuff.

In the United States there is a lot of positive train control and I haven't heard much talk of that in Canada. Are we going in that direction?

**Ms. Helena Borges:** I will ask Brigitte to answer. It's a hot topic right now, but I'll ask her to give you some context on work that's under way.

**Ms. Brigitte Diogo:** On positive train control, we are following very closely what is happening in the U.S., and we've been doing studies of train control in Canada. Last September or November, we shared with this committee a copy of the report of the Advisory Council on Rail Safety, which did an analysis of train control.

The conclusion was that positive train control, in its current form, was not something that we should be pursuing in Canada. Advanced train control technologies are definitely something that we should do, and we will continue to do those assessments. We are currently working with the rail research group at the University of Alberta to conduct further analysis. We will be happy to share future reports with the committee.

**The Chair:** Thank you very much for that information.

Monsieur Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you.

My question pertains to the Federal Railroad Administration, which is also opposed to voice and video recorders. In the report, they say the recorders are detrimental to staff relations.

I raised the following question when I spoke earlier. I wonder whether recorders are really the solution or whether Bill C-49 should instead introduce every measure possible to prevent accidents. Consider the transportation of dangerous substances, for example, which is barely mentioned in Bill C-49. This refers to transporting all kinds of substances by rail. Yet Bill C-49 does not include the development of a transportation mode for the future or specific features for dangerous goods. These include inflammable products, for example. Since trains are getting longer and longer, the risk of rail crashes is even greater.

Have these issues been considered or are recorders being offered as the answer to everything?

• (1325)

**Ms. Brigitte Diogo:** Thank you for your question.

Recorders are not the answer to everything. It is important to look at the factors that affect rail safety and what measures should be taken. Since the Lac-Mégantic accident, the department has implemented various initiatives and measures. Changes have been made to the Railway Safety Act. We also continue to examine ways to improve safety. Recorders are intended to confirm exactly what happened on the train. At present, there is no way of knowing what interactions took place among the team members so as to determine what happened during an accident or how to go about preventing future accidents.

The Transportation Safety Board of Canada could provide further information about the incidents under discussion. The Board would like us to focus more on what happens on the train and, in particular, why people are missing red lights.

**Mr. Robert Aubin:** Thank you.

[English]

**The Chair:** Mr. Badawey.

**Mr. Vance Badawey:** Thank you, Madam Chair.

I have a final question, not that we're running low on time with these witnesses.

Mr. Garneau leveraged key findings from the 2016 Canada Transportation Act review. You were all a part of that, initiating a development of a vision for the future of transportation in Canada. With that, extensive consultations were in fact done. Those in the business, yourselves, were the experts to expand on the Canada Transportation Act review, and of course come up with the findings which we are witnessing today.

I do know that a strong consensus emerged from these consultations. We all understand that Canada's transportation system is critical to the well-being of our economy, moving goods and people throughout the nation, as well as internationally. Federal leadership and a national transportation strategy is, in fact, needed, and well overdue to support the system 20 to 30 years into the future, equalling a vision for transportation, the economy, safety, as well as efficiency.

Being efficient, as I just mentioned, and integrated, the national transportation system is vital to our economic growth, our trade, our social well-being, our environment as my colleagues across the way

noted. Transportation 2030, anchored by five themes, responds to that and of course is a part of that.

Do you find that this legislation, based on your experience, which I might add is a lot more than our experience, actually achieves safety, efficiency, and finally, leverages all of our transportation assets throughout the nation to allow us to expand and enhance our global economic performance?

**Ms. Helena Borges:** My simple answer to that is yes.

This act, this legislative package, is one of our key initiatives to deliver on the five themes you mentioned that are in the minister's vision. It does improve the travellers' experience. It does support trade corridors. It does improve security. It does deal with making the best use of all the modes and making sure that those modes are integrated. There will be other pieces of legislation that come forward and other initiatives that will be announced. This is the crowning achievement in putting a whole bunch of things together.

The minister also announced last fall the oceans protection plan, which deals extensively with our waterways. There's another bill in Parliament, Bill C-49, that complements that, but this one deals with all the parts and all the five themes. In our view, the proposed amendments to the various bills, particularly the Canada Transportation Act, will put us in good standing to having a very safe, efficient, competitive, and sustainable transportation system for the long term.

• (1330)

**Mr. Vance Badawey:** Thank you.

**The Chair:** Thank you very much to all of you.

Ms. Borges, to all of your officials, thank you so very much for coming today as we open this very interesting piece of legislation.

Thank you for all of the information you provided.

Individually, if any of the committee members have come up with some issues they need answers to, I would certainly encourage them to contact you directly as well so that everyone has the knowledge they require.

Thank you very much.

**Ms. Helena Borges:** Thank you. It's been a pleasure.

**The Chair:** We will suspend until the next panel.

• (1330)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1350)

**The Chair:** I will call the meeting back to order, if committee members could please take their seats.

Before we turn to our witnesses, we have a request for budget approval for this study. You all have a copy of it before you. Are there any questions?

Can I have a motion to adopt the budget proposal that's before you?

I have a motion by Mr. Fraser.

(Motion agreed to [See *Minutes of Proceedings*])

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

Turning to our witnesses, thank you very much to all of you for being here.

We now have the Canadian Transportation Accident Investigation and Safety Board, a group that we would hope would never have anything to do, but unfortunately, in these last few years especially, you've had a lot on your plate. Thank you very much for being here.

Ms. Fox, would you like to introduce your colleagues? You have the floor.

**Ms. Kathleen Fox (Chair, Canadian Transportation Accident Investigation and Safety Board):** Thank you, Madam Chair.

Good afternoon and thank you very much, Madam Chair and honourable members, for inviting the Transportation Safety Board of Canada to appear today so that we can answer your questions regarding Bill C-49.

As you know, this bill introduces changes to the Railway Safety Act and to the Canadian Transportation Accident Investigation and Safety Board Act, and these changes would require a mandatory installation of voice and video recorders in locomotive cabs operating on main track and would expand access to those recordings to Transport Canada and the railway companies under specified conditions. You may also know that these kinds of recordings have been in widespread use on board ships and aircraft for many years.

I bring with me today three colleagues who offer a wealth of experience.

[Translation]

Mr. Jean Laporte is our chief operating officer. He has been with the TSB since it was created and has extensive knowledge of our mandate and processes.

[English]

To my left, Mr. Mark Clitsome is a former director of investigations for the air branch and has been working closely with Transport Canada on the proposed legislative changes as well as those changes proposed to our own act.

On my far right, Mr. Kirby Jang is our director for rail and pipeline investigations and was heavily involved in the study on locomotive voice and video recorders that was released last year.

I'll keep my opening remarks brief today so that we can get to your questions quickly. In fact, there are just four key points I would like to make.

Number one is that at the TSB we need voice and video recorders in locomotive cabs to better conduct our investigations.

[Translation]

This is so critical that we have made two recommendations to this effect and put it on our Watchlist of key safety issues. Without locomotive voice and video recorders, or LVVRs, our investigators do not have access to all the information that they need to find out what happened—informed information that we need to help make Canada's rail network safer.

[English]

Let me give you an example.

On February 26, 2012, a VIA Rail passenger train derailed near Burlington, Ontario, killing the three crew in the cab and leaving dozens of passengers injured. The event recorder on board gave us some data, which is how we know that train was travelling 67 miles per hour on a crossover with a maximum speed of 15 miles per hour. What we were never able to determine with certainty was why. Did the crew not see the signals telling them to slow down, or did they see them but somehow misinterpret them? We just don't know, and we never will. An in-cab voice and video recorder would have provided a better understanding of the operational and human factors affecting that crew and would have helped point investigators toward safety deficiencies that could then have been mitigated.

This brings me to my second point. The information obtained from voice and video recorders must remain privileged. It must not be shared publicly. It must remain protected so that only those with the authority and the direct need to use it for legitimate safety purposes may do so.

Third, the information from selected voice and video recorders should be made available to railway companies for use in the context of a non-punitive, proactive safety management system.

● (1355)

[Translation]

Railway companies should be able to review the actions of their employees, for example, to see if track signals are always being called out, or if a train's limit of authority has been exceeded—actions that on their own might not directly cause an accident, but which could still indicate areas where safety can be improved.

[English]

This should not be for the purposes of discipline but rather to identify and correct systemic issues, which might lead to improvements in operating procedures or training. I stress, though, that this must happen in a non-punitive environment, which is why I make my last point. Notwithstanding the fact that we want railways to be given some access to these recordings, appropriate safeguards must be built into the legislation and the regulations to ensure that this information is not used for disciplinary purposes, except in the most egregious circumstances.

This final requirement may ultimately prove to be among the most challenging, in part because it relies on the existence of something called a “just culture”. This can be defined as an environment that draws a clear distinction between simple human mistakes and unacceptable behaviour, one that does not immediately blame the worker but seeks first to find systemic contributing factors.

Canadian railways, however, have often demonstrated a very rules-based punitive culture. While progress is being made to improve that culture, the TSB nonetheless understands employee concerns about the use and possible misuse of this kind of data.



[Translation]

Transport Canada should also have access to these recordings for safety oversight and should be able to use these recordings when taking action against an operator, but not against individual employees.

[English]

The proposed legislative changes are a departure from the way things have always been done, but as transportation evolves, so too must the way we do our work. There is little doubt that the information contained in voice and video recordings can be a valuable tool when used for legitimate safety purposes. The legislation and its implementation need to achieve the right balance between the rights of employees and the responsibility of operators to ensure the safety of their operations.

Thank you. We are prepared to answer any questions you may have.

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

Ms. Block.

**Mrs. Kelly Block:** Thank you very much, Madam Chair.

Thank you for joining us today. I appreciate the opportunity to hear from you and to also ask questions in regard to the legislation before us.

Ms. Fox, I thought I heard you say that there will also be information gathered from, I guess, selected different routes. Here's what I'm looking for. Does this mean there will be auditing happening? Let's say there hasn't been an incident, but during the course of a train trip from one point to another you perhaps would look at and audit different things through the LVVR to see what may have been happening. Will this be done randomly?

**Ms. Kathleen Fox:** That's correct. Under the draft legislation, there are a number of permitted uses beyond the uses by the Transportation Safety Board in the conduct of an investigation. In fact, we've provided you with a one-page fact sheet for ease of reference. It describes the permitted uses.

To answer your question specifically, if this legislation is approved, the railway companies would be allowed to randomly sample voice and video recordings as part of their overall analysis of safety data, as part of their safety management system. The specifics of that would likely be covered under the regulations, so one of the permitted uses would be random sampling under the SMS regulations to help them analyze and identify any concerns on safety.

**Mrs. Kelly Block:** Can you tell me what laws are currently in place to ensure that locomotive engineers don't spend time on their phones, say, or that they are following the rules of the company they are working for while operating a locomotive?

• (1400)

**Ms. Kathleen Fox:** There is the Railway Safety Act, the regulations that apply to railway companies, and a number of rules that have been developed by the industry and approved by Transport Canada. Each railway company has its own standard operating procedures as well.

At this time, the only way to monitor for things that people might be doing that they shouldn't be doing would be through the efficiency testing that the railways currently conduct, where they would have a supervisor-trainer ride with the crew. It is unlikely, during that time, the crew would be doing that type of behaviour. Other than that, unless there's some occurrence, there's really no other way to find out.

Part of the idea of having recorders, video and audio, aside from helping us with our investigations, is that it's a way for railway companies and Transport Canada, for different reasons, to see, for example, if the rules and procedures are being followed, but in a non-punitive sense. In other words, it wouldn't be for discipline, except if the sampling demonstrated an immediate threat to safety, which would be defined under the regulations.

**Mrs. Kelly Block:** We heard from the department officials from Transport Canada that they had undertaken extensive consultations on everything that we see before us in Bill C-49. Was the Canadian Transportation Safety Board involved in those consultations on this specific issue?

As an observation, the main union representing train engineers has historically been opposed to LVVRs. Can you tell us what has been done to ease their concerns with this measure that is included in Bill C-49?

**Ms. Kathleen Fox:** I will give you a general answer, and then I will ask Mr. Kirby Jang to respond. The fact is that the Transportation Safety Board of Canada conducted a class-4 safety study into the implementation of voice and video recorders. That study involved a number of stakeholders, including Transport Canada, a number of railway companies, and Teamsters Canada Rail Conference representatives. We were very much involved in looking at the implementation issues, the legislative issues, and so on.

With respect to the teamsters' position, Mr. Jang, would you like to add to that?

**Mr. Kirby Jang (Director, Rail and Pipeline Investigations, Canadian Transportation Accident Investigation and Safety Board):** Certainly, we recognized that there was a diverse range of opinions in terms of what was appropriate use, when it came to the question of what was the appropriate use of LVVR recordings. As part of the safety study, we had a number of opportunities for very open discussions in terms of what those positions were. They were noted specifically within the safety study. We also explored the question of how these diverging views could be overcome, and there were some strategies identified in the safety study that addressed that question.

**Mrs. Kelly Block:** I'm looking at the—

**The Chair:** I am sorry, you are out of time.

Mr. Graham.

**Mr. David de Burgh Graham:** Thank you for being here. Anyone who has ever watched an episode of *Mayday* has a deep appreciation for your work.

I have a number of questions about the LVVRs. What studies has TSB done on the LVVRs, and how do they compare with the CVR and FDR models in ships and planes? You mentioned ships and planes have these already. They don't use videos. How does that compare and why would we not do video the other way as well?

**Ms. Kathleen Fox:** In aviation, we have the International Civil Aviation Organization, which is the overarching organization to which Canada is a member, having signed the convention. On the maritime side, it is the International Maritime Organization.

Both of those set overarching standards for standards in aviation and marine. Both have required in Canada, in the case of air for over 50 years, and in the case of marine, since 2002, voice recordings. Video is not yet a requirement. It is something that is being discussed, currently, at the international level.

However, there have been recommendations, and in fact, the TSB has made recommendations with respect to the implementation of video recorders in air as a result of the Swiss Air accident back in 1998, and in rail as a result of the Burlington accident in 2013. In the case of rail, there is no overarching international organization, and that is why each country is left to its own to determine how to proceed in these cases.

• (1405)

**Mr. David de Burgh Graham:** How does an LVVR work? Is it one camera looking forward from the front of the cab to the back of the cab, so you can see the crew? Is there one looking at the crew, one looking at the cab, one looking front, one looking back? What is the structure of an LVVR as you see it?

**Ms. Kathleen Fox:** I'm going to ask Mr. Jang to answer. Some of these technical aspects were looked at in the context of the LVVR study we completed last year.

**Mr. Kirby Jang:** In terms of LVVR, there is no standard in terms of configuration or set-up. As you mentioned, there are various views and fields of views that are obviously of interest. Within our study, we looked at four different configurations. It wasn't exhaustive, but they were experienced through Canadian railways, and even within those four installations the configurations were different.

Some of the things we look for include whether there's a view of the locomotive controls or perhaps a frontal view showing some of the interactions between the crew members. The study itself doesn't identify what is appropriate or what should be the case, but we tried to document some of the best practices.

**Mr. David de Burgh Graham:** I understand.

How much would it cost to put a unit into a locomotive?

**Mr. Kirby Jang:** From what I understand, it's about \$20,000 per unit per locomotive.

**Mr. David de Burgh Graham:** Who uses LVVRs now around the world, and what kind of effect are we seeing from them? Do you have a sense of that?

**Mr. Kirby Jang:** In terms of the study, we didn't look at applications throughout the world. It was only the installations in the U.S. that we were able to determine had been put in place. There were no other installations that had advanced to the stage of actual use.

**Mr. David de Burgh Graham:** Okay.

You mentioned in your opening remarks, Ms. Fox, that this would be for equipment operating on main tracks. Which equipment is that? Is that locomotives, high rails, or everything running on the tracks? How do you envision that?

**Ms. Kathleen Fox:** The equipment will be prescribed as part of the regulations. In broad terms, we're talking about locomotives operating on main tracks to distinguish from equipment that's operating in rail yards where they're marshalling trains and moving trains around. It's mainline track.

**Mr. David de Burgh Graham:** I was just asking because there's a whole lot of equipment that runs on main tracks that isn't main track equipment. Is there a line there?

**Ms. Kathleen Fox:** No, it's specific to leading locomotives on main track.

**Mr. David de Burgh Graham:** Okay.

You mentioned in a number of points in your briefing note that TC will enforce compliance with regard to use and privilege. What enforcement methods will Transport Canada...? Sorry, TSB will enforce compliance with the privilege for employee protections. What methods do you have to enforce that privilege, and how do you propose doing that?

**Mr. Jean Laporte (Chief Operating Officer, Canadian Transportation Accident Investigation and Safety Board):** We have been enforcing the privilege in the other modes already. We don't see things any differently with the railways. Essentially, when we find out about an issue, through the use of recordings, as a first step we contact the company and seek to get its voluntary compliance. If it is not willing to comply on a voluntary basis, under our legislation we can then take legal action against the company. In some cases, we have had those discussions. We haven't had to take anyone to court yet, but the provision is there. We're able to do that.

**Mr. David de Burgh Graham:** It would be like a prosecution.

**Mr. Jean Laporte:** Yes.

Under the new legislation, under Bill C-49, in the case of LVVR, we would be able to work with Transport Canada. Also, Transport Canada would have enforcement powers under the Railway Safety Act.

**The Chair:** Your time is up. You have 30 seconds left, but it's not enough time.

**Mr. David de Burgh Graham:** If that's the case, I have a very short question.

The other side of what we're discussing is the passenger bill of rights. In your view, is there anything positive or negative that would impact safety in the passenger bill of rights?

**Ms. Kathleen Fox:** No.

**Mr. David de Burgh Graham:** Thank you.

**The Chair:** Mr. Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you, Madam Chair.

Thank you for being here, dear colleagues.

Since we are talking about the Transportation Safety Board, or TSB, we know, unfortunately, that there has been an accident and that the conclusions of an investigation could be used to improve future safety.

If possible, I would like to know the percentage of types of conclusions the TSB has reached with regard to rail accidents. To my mind, there are three broad categories: mechanical failure, obstruction on the track, and human error.

Is that correct? Have I forgotten anything?

If this is correct, I would like to know the approximate percentage for the incidents that have happened.

• (1410)

**Ms. Kathleen Fox:** Broadly speaking, those are the main causes. I can give you specific figures for human error. From January 1994 to August 2016, there were 223 accidents involving freight trains. In 94 or 42% of those accidents, the cause was human error. Other factors were involved in the remaining 58%.

**Mr. Robert Aubin:** That gives me a good opening. For the incidents that represent 42% of all accidents, to what extent could voice and video recorders have helped prevent what I consider the greatest factor in accidents involving human error, namely, conductor fatigue?

In such cases, could a digital recorder change anything at all? Does Bill C-49 fail to provide sufficient clarity? It does not contain any measures to prevent conductor fatigue and, unfortunately, we will not know until after the fact that nothing could have been done.

**Ms. Kathleen Fox:** Here is what I can tell you about accidents involving human factors. The board determined that about 20% of accidents involved fatigue. That is why, in October 2016, we put fatigue on our latest watchlist of key safety issues for freight train crews.

That being said, whether or not an accident occurs, oftentimes video or voice recordings can reveal what the crew members were doing earlier and whether they had sent signals, whether they were talking and whether they were aware of signals they were receiving. That information helps the TSB identify safety deficiencies. If companies have access to that information, they can introduce training measures and adopt better procedures, which may not have prevented the accident that just took place, but will prevent other accidents.

**Mr. Robert Aubin:** In reports produced on past accidents, did the TSB specifically recommend to the government a number of measures that would help reduce fatigue, which is probably behind the chief human errors?

**Ms. Kathleen Fox:** Fatigue is certainly among those factors. As I said, we put it on our watchlist of key safety issues. We have not issued any specific recommendations on that issue, but we have pointed out that it is a problem for freight train crews.

Regulations already require railway companies to have fatigue management plans, but those do not always take fatigue science into account. The matter is sometimes subject to negotiations between the unions and the employer.

However, many other factors can cause an accident. For example, an accident may occur after a misinterpreted signal, as may have been the case in Burlington. So some of the recommendations we made had to do with automated systems to stop trains if the crew is not responding to a signal correctly.

**Mr. Robert Aubin:** Do you see those automatic measures in Bill C-49 or not?

In this era where means of transportation are increasingly intelligent—our vehicles can recognize a potential accident—instead of having a recorder, would it not be more important to adopt measures or have technology on locomotives that makes it possible to intervene and not only to determine where the error was after the fact?

**Ms. Kathleen Fox:** We have to know that a problem exists before we can resolve it. Recorders will help the TSB, railway companies and Transport Canada identify problems that may require other solutions that we have not yet considered because we were not aware of existing problems.

**Mr. Robert Aubin:** You frequently mentioned freight.

For the TSB, are the measures to be implemented to ensure greater safety the same when it comes to ordinary goods and when it comes to dangerous goods? Are the safety measures to be implemented for the transportation of canola oil different from those for the transportation of flammable products, for instance?

• (1415)

**Ms. Kathleen Fox:** It is clear that different measures must be taken when dealing with dangerous goods, but fatigue can manifest regardless of what the train is transporting. It is just that the consequences of an accident can be more significant when dangerous goods are involved.

The TSB issued a number of recommendations following the Lac-Mégantic incident, and even prior to it, in order to mitigate the risks associated with transporting dangerous goods. Transport Canada has also adopted many measures since those events to reduce the risk, but the systems still involve risks. We continue to monitor the situation and issue recommendations.

[*English*]

**The Chair:** Thank you very much, Ms. Fox.

Sorry, Mr. Aubin.

Mr. Fraser.

**Mr. Sean Fraser:** Thank you very much to our witnesses for being here.

One of the things I struggle with when I'm dealing with safety generally is that it's very hard, in my mind, to balance anything against safety. If you're talking about rights, I feel as though the public is always going to side with what's safest, so I feel that this is a very difficult discussion. When we talk about tragic anecdotes such as the Burlington incident, it's very difficult for me to say we should do anything except what's safest. However, to satisfy my own position on issues such as this, I'd really love to see if there's objective data we can look at to back up the assertion that these measures are going to enhance safety.

Do we have a study or quantitative data that actually demonstrates that the use of these recorders is going to improve safety in the Canadian rail industry?

**Ms. Kathleen Fox:** I don't know if one of my colleagues can point to a specific study. We have had voice recorders for years in aviation and for over 10 or 12 years in maritime. Without those recorders—and I can think of a number of accidents—we would not have known what had happened, particularly when the crew did not survive the accident or sometimes they may have survived but there may be discrepancies in their testimony or they simply don't remember everything that happened. As a result of that, steps have been taken, procedures have been changed, training has been increased, and technology has been introduced, and these things have improved the safety of the system.

The fact of being recorded also has a way of influencing and shaping people's behaviour. If there is an issue, for example, with inappropriate use of electronic devices while operating, people may be less inclined to do that if they know they're being recorded. It's very important, and as I mentioned in French, we can't solve the problems and we can't identify the safety deficiencies if we don't know what they are. We don't always know what they are unless we can get a holistic view of the accident based on voice recordings, video, if it's available, digital recordings, as well as any witness testimony that we have had access to.

**Mr. Sean Fraser:** You mentioned in response to an earlier question that when it comes to voice recording in rail, there's no international standard here. It's being driven at the domestic level. Are there other countries in the global community that have adopted voice and video recorders that have seen a decrease in the number of incidents?

**Ms. Kathleen Fox:** If we look at the statistics, even in Canada in aviation and marine, overall, there's been a decrease in the accident rate.

I'm going to put you on the spot, Mr. Clitsome, and ask whether on the international side for aviation you have any demonstrable studies.

**Mr. Mark Clitsome (Special Advisor, Canadian Transportation Accident Investigation and Safety Board):** As far as I'm aware, there are no studies, but obviously the accident rate is trending down and a lot of that has to do with technology and the use of on-board recorders.

**Mr. Sean Fraser:** It makes sense to me that if it's trending downwards and towards safer transport, this may have played a role and we're just not quite sure how much.

To revisit your comment, Ms. Fox, about how being recorded can change the way a person behaves, your example about using a device when maybe you should be looking at the signal is well taken. Obviously that's hazardous behaviour. Is there a possibility that being recorded could actually change the way a person does their job in a negative way? I know sometimes in my previous career if I went out for lunch and chatted with friends over a beer, although I wasn't on the clock, I may have come up with a good idea that I put into practice, although it was against the office policy.

Is there any concern that it's going to change the behaviour of a person who might ordinarily be quite good at their job or that it could impact their ability to do it safely?

**Ms. Kathleen Fox:** I'm not aware of any negative consequences, and we certainly haven't seen that in the aviation world, where voice recordings have been around for many years. I think after a while the fact that they're being recorded may just blend in with the scenery, so to speak. It may not be obvious to them over time.

• (1420)

**Mr. Sean Fraser:** I'm curious as well. You mentioned that in some instances TSB might use the data and the recordings to take action against an operator if there is some sort of a pattern of unsafe behaviour. Is there a mechanism in place that's going to prevent the operator from identifying the individuals to eliminate this fear of reprisals?

**Ms. Kathleen Fox:** First of all, the Transportation Safety Board's only mandate is to advance transportation safety. We conduct investigations following occurrences, accidents, and incidents. We don't have regulatory or enforcement powers. That is up to the specific regulator, in this case, Transport Canada. The provisions under the act would be that unless there was a threat to safety, the recordings could not be used against an individual employee because of any action, unless it involved tampering with the recording equipment.

However, it could be used by the regulator to take enforcement action against the operator but not against the individual employee.

**Mr. Sean Fraser:** Can you just walk me through? I'm by no means a rail safety expert, notwithstanding that we've gone through a study on this committee. I like the idea that we're trying to be preventative and not just reactive here. Is the real prevention mechanism just the random audit by operators to determine whether we are doing things right?

Can you walk me through the process to say how this is going to prevent more accidents from taking place?

**Ms. Kathleen Fox:** If we look at the use by the railway companies, they can use it in two specific circumstances under Bill C-49. One is to investigate an incident or an accident that is not being investigated by the TSB.

The other is that on a random-sampling basis, as part of their safety management system, they can do samples to look at how crews are operating the train. During that period, they may identify procedural deficiencies or training deficiencies, on which they could then take action on a systemic basis to reduce risk.

**The Chair:** Thank you very much for that quick response.

Mr. Hardie.

**Mr. Ken Hardie:** Thank you, Madam Chair.

First, I think that if Canadians knew a little bit more about your board, the work that it does, and the way it approaches it, they would have a great deal of confidence in the safety of the system. In our past sessions, I've certainly appreciated how candid you've been and the clarity that you offer.

In that regard, looking at the airline industry, what kind of impact would it have on the way you do your job, particularly on the remedies that you're looking for, if fault were in fact included in your assessment of a situation?

**Ms. Kathleen Fox:** Our mandate is to investigate, to find out what happened and why it happened, not to attribute blame or to assign criminal or civil responsibility. That leaves our interaction with people very free in terms of their being forthright in telling us what happened, because they know it can't be used against them for either enforcement purposes or civil or criminal liability. I think that we get a lot more benefit from the fact that it can't be used against them, in terms of identifying what went wrong and what needs to be done to prevent it from happening again.

That being said, if we identify something such as inappropriate use of electronic devices or some other issue, we do not refrain from reporting on it, because somebody else might infer blame.

**Mr. Ken Hardie:** Is that what you were referring to, at least in the first part of your answer, when you talked about privilege? If somebody tells you, chapter and verse, everything that happened, can they do so without fear of retribution, because it's all privileged?

**Ms. Kathleen Fox:** Under our act, what's privileged are on-board recordings. Voice and video recordings are privileged and cannot be released except under certain very defined situations that are specified in our act. They usually have to be ordered by a court. Even then, they are subject to a confidentiality agreement.

The other information that is privileged is witness statements.

**Mr. Ken Hardie:** Given the flags that have already been raised about reasonable access to the data captured by LVVRs, such as privacy and the potential for misuse, would it not simply be better if your board owned that data right from the moment it was created?

• (1425)

**Ms. Kathleen Fox:** There are hundreds of thousands of movements. If you talk about all modes of transport, it's millions, in terms of air, rail, and marine. We only investigate in a very small number of cases. We get roughly 3,500 occurrence reports per year. We do about 60 full investigations with a public report, although all the other occurrences are also documented. The operators are ultimately responsible for the safety of their operations, and of course, the regulator is there to make sure that happens.

In all those cases where we don't have reason to investigate, they really would benefit more than we would by having that data, in order to identify deficiencies in training, unclear procedures, and the need for greater supervision.

**Mr. Ken Hardie:** What happens after a crash or after an accident is one thing. Obviously, access to the data there is critical, but before something happens, is there value in the system investigating a rash of breaches, for instance? Looking at rail operations, what rules are most often breached? What would you love to find out is going on when those rules are being breached?

**Ms. Kathleen Fox:** First of all, we don't only investigate accidents. We also investigate incidents where there was a risk of an accident, which if left unattended could...so we do investigate incidents, even if there was no injury or damage per se.

In terms of the railway industry, they've developed a lot of surveillance technology from the point of view of the conditions of the rail and the condition of the train. That has caused a significant reduction in those types of accidents. What we're missing is on the human-factor side.

Why is it that a crew wouldn't see or respond to a stop signal that's coming up? Why did they not call the signals to each other? Why were they going too fast through a particular area where they were supposed to be operating more slowly? Those are the things that we need to see in our investigations, to point out deficiencies. We believe the railway companies, with the benefit of that information, subject to the safeguards that we mentioned, will be able to take action before an accident occurs to reduce the risk of an accident.

**Mr. Ken Hardie:** Do you know, for instance, if a signal has been missed, or if a train has exceeded a speed limit going through a certain area? Would that be somehow captured and recorded that would then give you the opportunity to go back to the data captured and find out what was going on?

**Ms. Kathleen Fox:** Those types of events, where a signal is missed, where the movement exceeds what's called "the limits of authority", are reportable occurrences under our act. We don't always investigate completely with a full report. It depends on the situation, but we have investigated many of those and that is what led us to recommend video recorders in addition to the audio recorders that we recommended several years previously, as well as some form of automated control to stop or slow a train if a signal isn't properly responded to.

**Mr. Ken Hardie:** Thank you.

**The Chair:** Thank you very much. Time is up.

Mr. Shields.

**Mr. Martin Shields:** Thank you, Madam Chair.

Thank you. I appreciate the witnesses being here today.

Following up on that a little bit, obviously there is push-back from the engineers in the sense of moving to this. I know you talked about four different ways you've modelled that you might use it, and what direction you might.... Were the engineers involved in that process?

**Mr. Kirby Jang:** Specifically within the safety study, no, they weren't, but as part of the guidance that was provided to the railways that were participating in the study, there were certain guidelines that had to be respected, which include advising the operating crew that they were being monitored through on-board recorders.

**Mr. Martin Shields:** You say it included advising.... I've been through this in the enforcement industry, and it was the enforcement industry that brought this for their own protection. We said, "Be careful what you ask for." If you're looking at doing this and you're not involving them, I'm a little curious as to why not.

**Mr. Jean Laporte:** If I can add to Mr. Jang's reply, the unions were invited to participate in the study. They chose not to participate in all aspects of it. They did attend a few meetings and a few debriefings. They did not participate in all aspects of the study, but they were invited to do so from the onset.

**Mr. Martin Shields:** Okay, that answers that question.

Further to that, when you talked about sharing, could you give examples? I know you've used some things in the sense of what you would share, but could you give me a run-through in the sense of what you would share that would make the engineers feel that this would be all right if you shared this information with the rail companies?

•(1430)

**Mr. Kirby Jang:** I'm sorry, could you repeat that question? It's sharing of information that's—

**Mr. Martin Shields:** Yes.

We're talking about safety things that we're all interested in. What examples would you give to the railway that the engineers would say, "Hey, this makes sense to us"?

**Mr. Kirby Jang:** As part of the safety study we did look at the safety benefits and as part of that we tried to document some things that were immediately available and usable. Certainly, as Kathleen mentioned, in terms of identifying any unclear instructions, any areas where improvements can be done, it could actually be ergonomic-type improvements, or improvements that would help improve resource management. Those were some of the items that were identified during the safety study and identified as lessons learned or best practices.

To perhaps add a little more context in terms of how some of these safety benefits were identified, we included some very specific reviews of what I'll call scenarios of interest. These scenarios of interest include normal operation, non-normal operations, and different scenarios like time of day or length of shift. The intent was to try to examine certain types of human performance that could be identified and captured as part of the on-board recording, so it's things like stress, workload, fatigue actually, inattention, distractions. Much of that was captured and proven as part of the safety study in terms of the benefits that were available through recorders.

**Mr. Martin Shields:** Thank you.

Through airline and marine, is there a sampling that's done from those industries?

**Ms. Kathleen Fox:** No, because under the CTAISB Act as it exists today, there is a legislative barrier that prohibits sharing of access or use of that information by anybody but the Transportation Safety Board in the course of an accident, unless, as we said, there are certain principles under which a court can order release of a recording.

The changes to the Railway Safety Act require the consequential changes to the CTAISB Act in order to enable the sharing of recorded information with Transport Canada and with the railway companies.

In order for air or marine to be able to do that, there would be changes required to the Aeronautics Act as well as to the Canada Shipping Act. Until those changes take effect, if they ever do, it would only be possible in the railway industry.

**Mr. Martin Shields:** I think in the sense of what you're attempting to do, which is safety—and we're all considering safety—the challenge with car companies and independents is that they do a lot of crash tests regarding safety. It's hard to do that with big trains. The challenge is that you're often looking at the after-effects of this. You have to deal with it in the opposite way. Is this trying to do it the reverse way to facilitate that?

**Ms. Kathleen Fox:** From the perspective of our mandate, we will listen to recordings after a reportable occurrence takes place in the conduct of a TSB investigation. The use of that data is a reactive approach. What we would like to see and what we're supportive of is the railway companies being able to access that information proactively in the context of a non-punitive SMS or to investigate those incidents that we don't investigate as long as the safeguards are there to ensure that the data remains privileged, not public, and isn't used for discipline against individual employees unless they've identified a threat to safety.

**Mr. Martin Shields:** Thank you.

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

Mr. Badawey.

**Mr. Vance Badawey:** Thank you, Madam Chair.

Just to continue on that same theme, essentially, this is not only going to be giving you an ability to be reactive to the different incidents that happen but obviously, companies will have information for analysis and identification of safety, as you outline in your fact sheet, as well as sampling by Transport Canada for policy development. Will that in fact now be part of your mandate moving forward?

**Ms. Kathleen Fox:** No, our mandate does not change.

Our mandate will continue to be to investigate occurrences in the air, rail, marine, and pipeline modes of transportation under federal jurisdiction to identify causal and contributing factors. It will not change our mandate. What it will change, going forward and with the implementation of regulations, is that we will have to look at our processes internally in terms of how we do business and how we share information with the parties in accordance with the amendments to the Railway Safety Act. This will allow Transport Canada to do random sampling of recordings for policy purposes or to ensure compliance with the act. It will allow the railway companies to do random sampling as well as investigate incidents and accidents that we're not investigating for the purposes of improving their system in a non-disciplinary fashion.

● (1435)

**Mr. Vance Badawey:** On the same theme, with respect to being proactive, do you find yourselves as well not only looking at processes like this and utilizing the resources that may become a mechanism within your day-to-day business but also trying to be proactive with respect to rail lines, waterways, roadways, and trying to look at different situations before they happen with respect to the deficiencies in infrastructure?

**Ms. Kathleen Fox:** Yes, and I can give you a concrete example. We don't do surface. We don't do roadways per se, but certainly we do air, rail, and marine.

I can give you a concrete example right now. There have been a number of occurrences at the Toronto airport involving the potential risk of collision with aircraft. They haven't collided, thankfully, but we are doing a proactive study to look at all of the circumstances that may be leading to that. We're not waiting for an accident to occur.

**Mr. Vance Badawey:** On that, what is the process when identified infrastructure is deficient and may pose a safety concern?

**Ms. Kathleen Fox:** As part of our investigations, we look at everything. If we're looking at a rail derailment, we're going to look at the condition of the track, the maintenance activities and procedures, the condition of the train, the activities of the crew, training of the crew and the procedures and rules they were following, and fatigue. We look at everything. Then we narrow it down to those circumstances and conditions that may have led or contributed to that accident or created a risk of it. If we identify a safety deficiency that isn't being addressed through current regulations, rules, or actions taken by the railway, then we will make a recommendation for further action to be taken.

**Mr. Vance Badawey:** In fact, the stewards of that asset would be liable for the lack of management, performance, investment, etc., if a deficiency is found and/or an incident happens.

**Ms. Kathleen Fox:** I would prefer not to use the word "liable" in the sense that it is not our mandate to determine liability but I would certainly say "accountable". We will point out any deficiencies that we identify, whether those are in infrastructure, procedures, training, or personnel, through the conduct of our investigation.

**Mr. Vance Badawey:** Thank you, Madam Chair.

I'll pass the rest of my time on to Mr. Hardie.

**Mr. Ken Hardie:** Last Thursday, I spent over an hour on the tarmac in Kelowna waiting to take off. The airline had discovered some problems with the landing gear. On the plane there were with

me people who had connections to other flights that they were now going to miss because of that delay. Looking ahead at a compensation system for an air passenger bill of rights to be included there, it occurs to me that you could end up with some conflicts between somebody trying to get people to the place where they wouldn't be looking for compensation versus the time it would take to try to find out and remedy the issue that they have on the ground, which may just simply be a wonky trouble light.

Are you concerned about the inherent conflict that an air passenger bill of rights could create?

**Ms. Kathleen Fox:** Not really, no. Airlines want to stay in business, but they also want to get their passengers safely to where they need to go. They make decisions every day about maintenance issues, and they do so in accordance with Transport Canada regulations and their own internal procedures. I expect that will carry on.

**Mr. Ken Hardie:** Thank you.

**The Chair:** Mr. O'Toole.

**Hon. Erin O'Toole:** Thank you very much, Madam Chair. I'd like to thank all of you for appearing here.

When I was in the Canadian Armed Forces in Shearwater, I dealt with folks from your department in the aftermath of Swissair, which will be 20 years ago next September. The degree of professionalism of your men and women in your department is appreciated. It's an important job.

I have a few questions with respect to LVVR and the rollout. In the permitted uses and non-permitted uses, it seems like random sampling will be permitted. It will be part of the deployment of LVVRs. But then, at the same time, continuous monitoring, as has been assured to employees, will not be the case. Is there a procedure that's been developed for randomized sampling, and how will that be deployed?

● (1440)

**Ms. Kathleen Fox:** First, most of this technology is on board the aircraft, vessel, or, in this case, train. It's not something that lends itself to automatic download necessarily. The specifics of that is part of what will be determined as part of the regulations in terms of who will have access. Those details will be worked out as the department works through the regulations, consults with industry and other stakeholders, as well as ourselves in terms of how those processes are going to work.

**Hon. Erin O'Toole:** In your experience, when LVVRs were being looked at by your department and by industry, in general, and by the department, were other jurisdictions studied that use it, and over a period of time, when they rolled it out, have they seen a net change or net decrease in incidents?

**Ms. Kathleen Fox:** I'll ask Mr. Jang to respond in terms of the LVVR study.

**Mr. Kirby Jang:** The LVVR study was actually a review of several pilot studies. In each case, each of those four were at a very early pilot stage, and in terms of capturing trends of accident decreases, that wasn't available nor initially a scope of the activity.

**Hon. Erin O'Toole:** Certainly, they are useful as tools for reconstructing accident re-creation, causation, and all those sorts of things, which is your key mandate, but it's uncertain on their ability in and of themselves to reduce accidents. Is that a fair statement, or has that been studied?

**Mr. Kirby Jang:** There were clear indications that having recordings available allowed you to get better insight in terms of the actions, decisions, and interactions that occurred prior to any particular scenario of interest. Again, in our analysis, we looked at 37 different situations. None of them were specific accidents or incidents, but they were scenarios that we identified. In each case we were able to identify something about it that allowed us to better understand what was happening over that short period of time.

**Hon. Erin O'Toole:** In your experience, in rail accidents and incidents, your department is then tasked to investigate. What are the top three factors or causations related to accidents? We hear a lot, on Parliament Hill as parliamentarians, about fatigue, training, and a range of issues.

Do you have an itemized top three causes for some of these incidents?

**Mr. Kirby Jang:** As mentioned earlier, essentially, there are three streams of analysis: infrastructure, mechanical and operations, or human factors.

In each case, we've identified decreases in the infrastructure and mechanical part of it, but the proportion of human factors has been increasing. Much of the follow-up that we've conducted on these various investigations have led to recommendations, and some of those recommendations have been highlighted as part of watch-list issues.

In terms of the general safety issues that are of highest priority in the railway industry, perhaps we can draw you to our watch-list. A few that come to mind immediately are following signal indications; fatigue, certainly, has been added; and on-board voice and video recorders allow us to better understand some of the interactions and causations of accidents.

**Ms. Kathleen Fox:** Let me just add one thing. We've been focusing a lot on identifying the things that go wrong, or mistakes that may be made in the locomotive cab, but it's also a way of capturing best practices and sharing best practices across the locomotive, engineer, and conductor workforce, in terms of why it is that some people do certain things that keep them from maybe missing a signal or that improve communications within the crew. If those best practices can be shared as part of the initial training, etc., that's just going to help the system overall.

• (1445)

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

We move on to Monsieur Aubin.

[Translation]

**Mr. Robert Aubin:** Thank you once again, Madam Chair.

When we study a bill that is as comprehensive as Bill C-49, we can make amendments to its content. We can also say what the bill is missing and talk about amendments that should be part of it.

I understand your position on voice and video recorders. However, last year, a study on aviation safety showed that many recommendations issued by the TSB remained without a response.

When it comes to rail transportation, or any other mode of transportation, as Bill C-49 is broad in scope, are there two or three priority issues—aside from voice and video recorders—you would like us to add to such an important bill as Bill C-49?

**Ms. Kathleen Fox:** I remind you of our watchlist of key safety issues. When it comes to railway transportation, we talked about the transportation of flammable liquids, and there are other actions to be taken. Although Transport Canada has been in the process of implementing a number of measures since 2013, there are still measures that could be adopted to reduce the risks associated with transporting dangerous goods.

In fact, we just issued two other recommendations in the wake of two accidents in northern Ontario. Transport Canada considers all the factors that affect the severity of a derailment. It also considers all the rail-related conditions that could affect rail structure. So we have submitted a number of recommendations that would help reduce those risks.

Fatigue is another issue. We have identified a problem related to fatigue with crews operating freight trains. Their schedule is less specific than that of passenger train crews. We feel that Transport Canada could do more with the industry and use scientific data to make changes to employees' schedules in order to reduce fatigue.

In addition, a number of incidents and accidents have occurred because crews misinterpreted certain signals. We hope that the recorders will give us a better idea in that respect. However, technology systems could be used to slow down or stop a train before a collision or a derailment occurs.

**Mr. Robert Aubin:** In light of the examples you are giving me, which are entirely relevant, should the review of a piece of legislation—like the one we are currently doing—include the revision of the *modus operandi* between the time the TSB issues a recommendation and the time the government takes action? I feel that the government's slow response to some recommendations is also a significant risk factor.

**Ms. Kathleen Fox:** In October 2016, the TSB, when updating its watchlist of key safety issues, mentioned, for the first time, Transport Canada's slowness in implementing some of its recommendations. At the time, 52 recommendations were over 10 years old and about 36 of them were over 20 years old. That list includes some recommendations related to the railway sector, but most of them have to do with aviation.



We would like measures to be taken, not only by the department, but also by the government. We would also like the safety-related recommendations to be implemented more promptly.

**Mr. Robert Aubin:** Do I have any time left, Madam Chair?

[English]

**The Chair:** Mr. Aubin, I let you go over because I thought the information was really valuable and your questions were right on.

Ms. Block, you have six minutes.

**Mrs. Kelly Block:** Okay.

I want to go back to the questions my colleague was asking concerning the permitted uses and the protection of workers and follow up your last response to him, which referenced what this information will be collected for in investigating incidents and accidents, but which also said it may be used to identify best practices.

I'll just observe that I'm going to be interested in seeing how you marry the random sampling of data by companies with the fact that for the protection of the workers there will not be continuous monitoring. I don't know how you capture best practices and those kinds of things if you're not actually monitoring continuously. I'm looking forward to seeing how that plays itself out in the regulations.

I want to follow up on the fact that you commented on the watch-list. You said that this was something you had identified many years ago on your watch-list. Is there anything else on your watch-list that perhaps should have been included here in Bill C-49 or that you would have liked to see included?

• (1450)

**Ms. Kathleen Fox:** We're very pleased to see that the Minister of Transport is moving forward with respect to the requirement to install voice and video recorders without waiting for the review of the Railway Safety Act. Of course, that leads to consequential changes to our act, so we're pleased about it.

Certainly there are other issues we would like to see, but many of them don't necessarily require changes to legislation. They could involve mandatory requirements for new equipment, or they could involve regulations. We're pleased to see the LVVR issue coming forward. We think it is appropriate at this juncture to consider the expanded use of this information, for the companies and for Transport Canada.

**Mrs. Kelly Block:** It is my understanding that Canadian regulations mandate that cockpit voice recorders only retain information captured in the last two hours of each flight. Is anything like that, within the use of the LVVRs, being contemplated in this legislation?

**Ms. Kathleen Fox:** I would like to clarify that the current Canadian regulations for the retention of cockpit voice recordings is only for 30 minutes. The TSB, following the accidents, recommended a minimum of two hours, which is the international standard.

With respect to LVVR recordings, the duration—how long—is something that will be worked out as part of the regulations. We would prefer longer, because often the seeds of an occurrence can

happen much earlier than even two hours before, but those details will be worked out as part of the regulations.

**Mrs. Kelly Block:** I have one final question. As the owner and operator of an LVVR, would a railway company have a duty to discipline employees if they spot unsafe behaviour during SMS monitoring? Perhaps that's where the question of being liable arises. If you know something, see something, but are just seeing it for monitoring purposes, what duty would you, the owner-operator, have to act once you have this information?

**Ms. Kathleen Fox:** Again, some of these details will be worked out as part of the regulations.

Right now, under the provisions of Bill C-49 the information gathered as part of random sampling or resulting from an incident or accident investigation conducted by the railway company may not be used for disciplinary purposes, competence, or for judicial proceedings unless it involved tampering with the equipment or there were a threat to safety determined as part of that sampling.

What constitutes a threat to safety remains to be determined under the regulations. This is why we are emphasizing that those regulations and the powers of enforcement have to be strong to make sure there's not inappropriate use or misuse of the data by those who have access to it.

**Mrs. Kelly Block:** Just really quickly, once those regulations are set, what's the process for any comment on the regulations? I think I know, but I just want you to clarify that.

**Ms. Kathleen Fox:** I want to be clear that the regulations would be enacted pursuant to the Railway Safety Act, which means they are Transport Canada's regulations. They're not TSB regulations. Transport Canada has a well-established policy and practice in that it has to go through consultation, Treasury Board, economy impact analysis, *Canada Gazette*, part I, etc. That's a process that's well established, but it's under Transport Canada's authority, not under ours.

• (1455)

**Mrs. Kelly Block:** Thank you.

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

Mr. Fraser.

**Mr. Sean Fraser:** Thanks again, Madam Chair.

Where we left off last time, you explained that there were a few instances where a railway might be able to use the data from a recorder, for example, to date the random audit or to investigate an accident or incident that wasn't being otherwise investigated.

Perhaps call me a bit of a skeptic. I can see a vindictive manager seeing the data, recognizing who the employee is, and taking action. Is there a mechanism that's there or perhaps should be there that would punish someone for acting outside of the rules in this manner?

**Ms. Kathleen Fox:** First of all, let me say that this was one of the concerns I raised during the opening remarks. We know that the Railway Association of Canada, the industry, and the railways are taking steps to try to improve the safety culture within the railways. We hope that the regulations will have very strict prescribed criteria in terms of what types of situations could lead to any kind of action. In other words, what constitutes a threat to safety?

We believe that, just because somebody doesn't follow a procedure, it shouldn't necessarily lead to discipline. We think it's more important to look at why they didn't follow the procedure. Does the procedure work? Were they trained on the procedure? Where's the supervision? Those are the systemic issues we hope the railway industry will look at in terms of identifying ways to improve and reduce the risk. We believe that the regulations have to clearly identify what those criteria are and have very strong enforcement powers for Transport Canada to impose penalties on companies that do not access or use this information in accordance with the Railway Safety Act and with the regulations.

**Mr. Sean Fraser:** In a similar vein, you used two turns of phrase. One was the "most egregious circumstances" and the other was "immediate threat to safety" to describe when an individual could be disciplined or potentially removed from work.

I'm just wondering, is that sort of threshold going to be left up to regulation and the interpretation of what that means?

**Ms. Kathleen Fox:** Yes. I shouldn't use the word "immediate" because that has a very specific meaning, but if there's a threat to safety that's identified. It would be left up to the regulations to determine what constitutes a threat to safety and how that would be dealt with.

**Mr. Sean Fraser:** We've had a few helpful comparisons to recorders used in the air and marine sectors as well during the course of your testimony today.

I'm curious as to whether there have been any sorts of privacy complaints on an ongoing basis based on the use of recorders in those other sectors.

**Mr. Jean Laporte:** Over the past 30 years that I have been with the Transportation Safety Board, we have not seen any trend or major areas of concern with respect to a breach of privacy associated with any of the recordings that are in place. We have from time to time heard about issues, and we have followed up on each one of those, case by case, as required.

**Mr. Sean Fraser:** An additional question back to the watch-list that came up during one of my colleague's lines of questioning, I believe the specific item has been on the watch-list since 2012 or roughly thereabouts.

I'm curious if there are things on this watch-list item that could be better done through Bill C-49, or does the text of the proposed legislation satisfy this watch-list item completely in your view?

**Ms. Kathleen Fox:** The TSB supports the draft legislation in its current form in terms of addressing the deficiency that we identified, which was our lack of data, and we believe that there will be a lot of positive benefits coming out of it for the railway companies and Transport Canada on the condition that the appropriate safeguards

are in place. That we'll largely address. We want to see our watch-list implemented.

**Mr. Sean Fraser:** Of course.

Those are my questions, Madam Chair.

Mr. Graham will pick up if I have extra time.

**The Chair:** You have two minutes left.

**Mr. David de Burgh Graham:** I'll carry right on.

In your studies so far, have you found any companies or operators that are already in routine breach of safety management systems?

**Ms. Kathleen Fox:** Sorry, in breach of safety management systems...?

**Mr. David de Burgh Graham:** They have their SMS, safety management systems. Do you find companies that are in breach of the systems they already have in place?

**Ms. Kathleen Fox:** Again, our role is not one of compliance monitoring. That's Transport Canada's role, as the regulator. They conduct inspections and audits of railway companies, and other companies in other modes, that are required to have safety management systems. Where they identify non-conformance, they take the appropriate action.

However, when we do an investigation, we look at whether the company had a safety management system. Was it required to have it? Was it effective in identifying the hazards that posed a factor in the particular occurrence? If not, why not? Was Transport Canada aware? What action did they take?

A good example of that is our investigation into the Ornge helicopter accident in northern Ontario that goes back to 2013, which we released a little over a year ago. We look at it as part of an occurrence, but in terms of looking for compliance, that's Transport Canada's role.

• (1500)

**Mr. David de Burgh Graham:** I understand.

LVVR is specific to locomotives. I assume that's intended only as a lead locomotive. Would all locomotives always have it operational when the engine is running? Would you have it in DPU engines? Would you have it outside of that, on wayside detectors and so forth? With regard to anywhere else where you have a fixed placement, would you want to go that route, or is it only the lead engine that would have it?

I'm assuming it's Mr. Jang on that one.

**Mr. Kirby Jang:** Yes, in terms of the recommendation that we've made, it is just the lead locomotive on the front of the train where this equipment should be installed.

**Mr. David de Burgh Graham:** Thank you.

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

Mr. Aubin.

[Translation]

**Mr. Robert Aubin:** Thank you.

I want to come back to the issue of recorders, which have to do with the category of accidents related to human error. If such recorders were in place, the authorities could know whether the train had violated a specific rule or whether it was travelling faster than the speed limit, for example. Are the rules reviewed? Does Bill C-49 provide for a mechanism to monitor the evolution of technology in rail transportation or in any other mode of transportation?

**Ms. Kathleen Fox:** If we see during an investigation following an accident that a rule does not cover a specific situation or that no rule exists, we can recommend that a rule be added or reviewed.

**Mr. Robert Aubin:** I will give a specific example that may enlighten us.

After the Lac-Mégantic events, we learned that the very structure of DOT-111s was deficient. So improved DOT-111s were proposed, but that considerably increased the length of trains. Does that have an impact on rail safety? Is it measured? Have the regulations been amended in any way because disaster risk was increased?

**Ms. Kathleen Fox:** I will give you a concrete example. In February 2017, we published our final report on the accident in Gladwick, Ontario. An issue of rail break came up. The train was travelling at a speed that was lower than the speed limit prescribed by the rules. The train was carrying crude oil.

After the accident, we recommended to Transport Canada to carry out a study taking into account all the factors that may lead to derailment, including the train's speed, length and contents—for instance, mixed goods or crude oil. We recommended that Transport Canada review all factors contributing to derailment, that it take measures to mitigate those risks and that it change the rules accordingly.

**Mr. Robert Aubin:** What was Transport Canada's response?

**Ms. Kathleen Fox:** The department simply said it would check whether any studies existed. We are waiting for the follow-up.

**Mr. Robert Aubin:** The department did not provide a timeline.

**Ms. Kathleen Fox:** No.

**Mr. Robert Aubin:** This brings us back to what we were discussing earlier—the fact that the government's slowness leads to poor decisions being made. A good report was produced with good conclusions, but no measures have been taken to avoid the same thing happening again.

**Ms. Kathleen Fox:** Indeed. We hope that the next responses we will receive from that department will be more detailed when it comes to what the department will do with regard to that study.

**Mr. Robert Aubin:** Thank you.

[English]

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

Go ahead, Mr. Graham.

**Mr. David de Burgh Graham:** Hi, I'm back.

To continue on with what we were talking about before on the lead locomotives—and this goes back to Mr. Jang—sometimes an engine is running long hood forward or another configuration where the lead engine is not looking forward the way you'd expect it to. Going back to what I asked in the first round, would you personally

expect locomotives to be pointing both ways with the cameras front and back? Would the camera always be operating, or would it be manually set, or as soon as you put the reverser in, it's running? How do you see that?

• (1505)

**Mr. Kirby Jang:** In terms of the actual configuration in technology, that will be partly answered as part of the regulations. In terms of what we assessed for the configurations in our safety study, all of them had, first of all, a forward-facing camera as well as an inward-facing camera. In terms of the orientation of the locomotive, it was all forward facing.

Certainly to maximize information that's available, it's without question that a forward-facing locomotive with a forward-facing camera, inward-facing camera, would be the optimum set-up.

**Mr. David de Burgh Graham:** Right. Plenty of operations will not have a wye, and you'll have to run the engine backwards. You need to sometimes.

At the beginning, I talked about use of LVVR only on main lines; it's what we talked about from the beginning. What is your definition of the main line for this purpose? If you have an operation—like there's a railway in the northeastern U.S. that runs a whole track basically on rule 105. It's all very slow, basically yard limit rules. Would that company be required to have this, if it were in Canada, in your view? Is that a main line for your purposes?

**Mr. Kirby Jang:** First of all, main line is defined through regulations. In terms of applications within the U.S., certainly the intent is to have similar rules harmonized, but I guess I can't really speak specifically about the U.S. applications.

**Mr. David de Burgh Graham:** With any company that operates without dispatching, which you can do if you're never going over yard limit speeds, it's still technically a main line but do you need the LVVRs? I'm sort of wondering. I think we've killed that one.

Another point is this. Do you have specific examples of where LVVR has actually helped an investigation? I think one of the best known ones is the Kismet investigation in 2006 when two BNSF trains collided. It's really a spectacular video, but was it important to the investigation or is it just a spectacular video?

**Mr. Kirby Jang:** In terms of the investigations where we've had access to LVVR, there are actually very few. But certainly as part of our investigations, and certainly recent ones, we've identified investigations in the past where it certainly would have helped. In a recently released investigation, we documented 14 occurrences where the operating crew perhaps misunderstood or misapplied some rules leading to inappropriate response to a signal. These we've added into that particular investigation, so definitely in each of those 14, that would have been useful information to have.

**Mr. David de Burgh Graham:** Understood.

Is there any move toward simplifying the signals themselves? If you look at a translation table for signals today, what they actually mean, you'll see that "limited to clear" has something like 15 different ways of configuration. Is there any move toward simplifying that?

**Mr. Kirby Jang:** I'm not aware of any specific review of that, along those lines.

**Mr. David de Burgh Graham:** Okay.

Is there any other high-priority item on your watch-list that you haven't seen?

**Ms. Kathleen Fox:** We've talked about the four in rail. There are several in air, one in marine, and then there are two multi-modal, one of which we've talked about, which is the slow progress in addressing TSB recommendations by TC. But we're here specifically about the C-49 provisions for the LVVR, which is one of the 10 items on our current watch-list.

**Mr. David de Burgh Graham:** Thank you.

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

Are there any further questions by any of the committee members? All right.

Thank you to our witnesses again. You provided valuable information as we complete this legislation.

We will suspend until 3:30. Then we will have the Canadian Transportation Agency before us.

• (1505) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1530)

**The Chair:** We will reconvene meeting number 67 on Bill C-49. We have with us now in this next segment the Canadian Transportation Agency as well as the Honourable David Emerson.

It's nice to see you again, David.

We also have AGT Food and Ingredients.

I'll turn the floor over to whoever would like to go first.

Mr. Steiner, go right ahead. Thank you very much for coming this afternoon.

**Mr. Scott Streiner (Chair and Chief Executive Officer, Canadian Transportation Agency):** Thank you, Madam Chair.

Thank you to the committee for the invitation to appear before you today.

The Canadian Transportation Agency is Canada's longest-standing independent and expert regulator and tribunal. Established in 1904 as the Board of Railway Commissioners, the CTA has evolved over the years in its responsibilities as Canada has evolved, its transportation system has evolved, and its economy and society have evolved.

Today the CTA has three primary mandates. The first is to help ensure that the national transportation system runs smoothly and efficiently. This includes dealing with rail shipper issues, rail noise and vibration complaints, and challenges to port and pilotage fees.

Our second core mandate is protecting the fundamental right of persons with disabilities to accessible transportation services.

Our third core mandate is providing consumer protection to air travellers.

Among the CTA's most important activities in recent years is the regulatory modernization initiative. Launched in May 2016, this initiative is a comprehensive review of all regulations the CTA administers to ensure they are up to date with business models, user expectations, and best practices in the regulatory field.

[*Translation*]

Over the next 10 minutes, I would like to speak about how Bill C-49 will affect the CTA's roles and how, if and when it is passed, we will implement those elements for which we will be responsible.

I would like to note that my observations are offered from the perspective of the arms-length organization that has primary responsibility for day-to-day administration of the Canada Transportation Act.

The Minister of Transport's principal source of public service policy advice is Transport Canada, and I would defer to the minister and his department with respect to questions regarding the policy intent of the bill's various sections.

[*English*]

I will structure my remarks around two key elements of Bill C-49: air passenger protection and mechanisms for addressing rail shipper matters.

Air travel is an integral part of modern life. Usually it's uneventful, but when something goes wrong, the experience can be frustrating and disruptive, in no small part because as individual passengers we have little control over events.

Bill C-49 mandates the CTA to make regulations establishing passengers' rights if their flights are delayed or cancelled, if they are denied boarding, if their bags are lost or damaged, if they are travelling with children or musical instruments, and if they experience tarmac delays of more than three hours. This is a significant change.

The current regime simply requires that each airline develop and apply a tariff: written terms and conditions of carriage. The CTA's role as it stands right now is to assess whether an airline has properly applied its tariff and whether the tariff's terms are reasonable.

We have said it's important that air passengers' rights be transparent, meaning that they can be found easily by travellers; clear, meaning that they are written in straightforward, non-legalistic language; fair, meaning that they provide for reasonable compensation and other measures if something goes wrong with the flight; and consistent, meaning that travellers facing similar circumstances are entitled to the same compensation and measures.

Last fall we launched public information efforts to help make travellers aware of the recourse available to them through the CTA if they have a flight issue that they are not able to resolve with an airline. We did so because we believe that for remedies created by Parliament to be meaningful, the intended beneficiaries have to know that those remedies exist.

The results of these efforts combined with the Minister of Transport's and media's focus on air travel issues have been dramatic. Between 2013-14 and 2015-16 the CTA typically received about 70 air traveller complaints per month. Over the last year, since we started our public information efforts, that number has risen to 400 complaints per month. And over the last week alone we have received 230 air traveller complaints. That is to say that in one week we have received one-third as many complaints as we used to receive in an entire year.

● (1535)

This jump suggests that the need for assistance has always existed and once Canadians knew that the CTA is here to help, they began turning to us in far greater numbers.

If and when Bill C-49 is passed the CTA will move quickly to develop air passenger rights regulations. Our goal will be to balance, on the one hand, the public's high level of interest in air travel issues and desire to shape the rules with, on the other hand, the expectation that those rules will be put into place quickly. To strike this balance we will hold focused, intensive consultations over a two to three-month period with industry, consumer rights associations, and the travelling public using both a dedicated website and in-person hearings across the country. Once in force, the new air passenger rights regulations will give Canadians travelling by air greater and long overdue clarity on their rights and what recourse is available to them.

[Translation]

Let me turn now to the second main component of Bill C-49: changes to the provisions dealing with relations between freight rail companies and shippers.

Facilitating these relations has been a key part of the CTA's mandate from the beginning. That reflects both the fundamental importance of the national freight rail system to Canada's prosperity, and the enduring concern among shippers about what they see as an equal bargaining power between them and the small number of railway companies on whom they depend to move their goods.

The CTA has observed that, notwithstanding these concerns, shippers make relatively limited use of the remedies available to them under the law. If this is because good-faith commercial negotiations are producing mutually satisfactory agreements across the board, that is excellent news. But if it is because the cost and effort involved in accessing the remedies are perceived to outweigh the likely benefits, or because of challenges with how these remedies are structured, the provisions in question may not be fully realizing their objectives.

[English]

We have also noted that there is relatively little information available about the performance of the freight rail system. This paucity of information affects the effective functioning of the market and evidence for decision-making, and stands in contrast to the situation south of the border.

The freight rail elements of Bill C-49 have the potential to address some of these issues. Amendments related to rate arbitrations, service level arbitrations, and level of service adjudications may help recalibrate the cost-benefit analysis that shippers make when

considering whether to access recourse mechanisms. The the requirement that railway companies submit more data and that the CTA publish performance statistics online may help fill information gaps.

Perhaps the most significant rail-related change in Bill C-49 is the replacement of both the CTA's authority to set general interswitching limits beyond 30 kilometres and of the competitive line rate provisions with a new mechanism called long-haul interswitching. The CTA's role with respect to long-haul interswitching will be to order that the requested service be provided if an application is made and certain conditions are met, and to establish the rate for that service.

The bill gives the CTA 30 business days to receive pleadings from parties and to make these determinations. We've already begun to develop a process to ensure that we can meet that extremely tight timeline. We know that the parties will be watching our decisions on long-haul interswitching closely. Those decisions will be based on the criteria that Parliament ultimately adopts and on the CTA's analysis of facts before us, because as a quasi-judicial tribunal and regulator, what guides us is nothing more and nothing less than the law and the evidence.

● (1540)

[Translation]

Before concluding, I would like to mention one item that is not contained in Bill C-49: extension of the CTA's ability to initiate inquiries on its own motion.

The CTA already has this authority for international flights—and most recently used it to undertake an inquiry into some of Air Transat's tarmac delays. That case shows how relevant the authority

[English]

**The Chair:** I'm sorry.

**Mr. Scott Streiner:** I've almost finished. Are we at 10 minutes, Madam Chair?

**The Chair:** Yes, you're at 10 minutes and 20 seconds.

**Mr. Scott Streiner:** I will conclude in the next minute.

**The Chair:** Could you possibly put that into your remarks to one of our colleagues, so we make sure that everybody gets sufficient time?

**Mr. Scott Streiner:** Absolutely, Madam Chair.

Thank you.

**The Chair:** Mr. Emerson, would you like to go next?

**Hon. David Emerson (Former Chair, Canada Transportation Act Review Panel, As an Individual):** Thank you, Madam Chair, and honourable members. I'm appearing here not really on behalf of anybody except myself. I headed up a transportation review, some two and a half to three years ago, of the Canada Transportation Act. Much of what I have to say will reflect some of the conclusions of that report.

In the interest of disclosure, I also serve as the chairman of the board of Global Container Terminals, which is in the transportation space, as you know. I am not speaking on behalf of that organization; I'm speaking on my own behalf here today.

I'll just read a statement into the record.

Never before has the triangulation of trade, transportation, and technology been so central to Canada's economic success. We are a small trading nation spread out over a massive and diverse geography. Canada has to get transportation right, in the interest of our competitiveness and of future generations of Canadians. Getting it right requires that we recognize the massively complex, tightly integrated, multimodal, and international nature of the transportation system. It's increasingly a system that is in constant motion, 24 hours a day, seven days a week.

In 2014, as I alluded to, I chaired a committee charged with conducting a wide-ranging review of the Canada Transportation Act and related matters. Some 56 recommendations came out of the report, plus over 100 sub-recommendations. An overarching theme in the report was the need for better, more timely decision-making adapted to the evolving nature of today's trade, transportation, and logistics networks.

Many recommendations have been or are being acted upon, at least in spirit, by the government of the day, for example, elevated priority to infrastructure investment, including development of financing mechanisms and a more systematic database on the state of Canada's infrastructure; an increase in the foreign ownership limit for Canada's airlines; recapitalization plans for the Canadian Coast Guard; greater and more comprehensive focus on the transportation needs of Canada's north; a serious move to separate passenger rail lines and operations from freight in the high-density corridors of Ontario and Quebec; a major funding initiative to continue developing Canada's transportation and trade corridors; enhanced rights for air travellers—Mr. Streiner was alluding to that in his remarks—and strengthened standards for travellers with disabilities.

The core of the CTA review was a recognition that there are no magic fixes or silver bullets, and that getting it right involves improving governance. By that we mean establishing frameworks for decision-making that are better adapted to the massive complexity of the modern transportation system and its millions of users and service providers. Getting it right means recognizing that transportation crosses all sectors of the economy, all parts of the country, and virtually all parts of government and public policy. In few areas is the so-called whole-of-government approach more critical to our long-term future. Getting it right also means that the regulator, the CTA, Transport Canada, and other agencies, have the information, the mandate, and the tools to deal in real time with a massively complex and dynamic system.

Bill C-49 includes some significant steps to improving the information base to enable better decisions, improve dispute resolution, and generally enhance the regulatory framework. However, in my view, more is needed. Perhaps the most glaring omission in the context of Bill C-49 is the continuation of the reactive, one-at-a-time, complaint-driven approach of the CTA. I believe the agency needs the mandate and capacity to anticipate and deal with issues before they become systemic crises. Dealing with one complaint at a time when many complaints are symptoms of a broader malaise is simply not effective.

● (1545)

Similarly, the agency needs the power to self-initiate investigations. Where there is real and substantial evidence of an emerging problem, the agency needs the own-motion power to self-initiate an investigation, and it should have the ability, where practical, to initiate mitigating or preventive measures. None of this should detract from the ultimate authority of the minister and Parliament to direct the agency, but it should enable better, more timely decisions that lubricate the transportation system in support of better service to the travelling and shipping public.

Getting it right also requires the establishment of robust governance frameworks for organizations created and empowered by government to run various aspects of the transportation system. Airport authorities, for example, were set up 25 years ago to recapitalize and operate Canadian airports. In general this has worked very well, but the governance arrangements need to be refreshed. Airports are for the most part local monopolies with de facto powers of taxation. I note airport improvement fees, for example, buried on airline tickets, tepid accountability to the public, and no real shareholder to hold boards and management to account for the way in which capital is deployed. Similar arguments could be made about port authorities. For the most part there are no legislated guiding principles spelling out public interest considerations. Authority relationships with tenants and customers are important aspects of the public interest, yet there is no clear guidance against abusive pricing power or limiting preferential arrangements with tenants that may undermine the common user principles that are so critical to well-run public facilities. Also, should authorities be permitted to go into business in competition with their own tenants, for example?

At the moment, there is no practical mechanism of appeal for possible abuse of power over tenants and/or customers. An aggrieved party can't even appeal to the CTA because the agency is not empowered to deal with it, and appealing to the minister is generally not practical. There are many mandated entities outside of government. They operate across different modes of the transportation system and with arrangements that are generally spelled out in ground leases, bylaws of the entities or some other form of contractual arrangement. Many of these governance issues were highlighted in the CTA review.

Again, decision making in the world of transportation, where thousands of service providers interact to serve millions of customers and shippers, is all about governance. A healthy, vibrant, global, competitive transportation system requires clear accountabilities in combination with strong checks and balances. The Canada Transportation Act should spell out the principles of good governance to be applied to regulatory bodies as well as non-governmental facility operators and service providers. The act should also include the formal requirement for ongoing renewal of a national transportation strategy. The concept of a decennial review is archaic and it should be done away with in favour of an evergreen process.

Thank you, Madam Chair and honourable members. I look forward to our discussion.

● (1550)

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

Mr. Al-Katib, go ahead, please.

**Mr. Murad Al-Katib (President and Chief Executive Officer, Former Advisor, Canada Transportation Act Review, AGT Food and Ingredients Inc.):** Thank you.

I'm Murad Al-Katib. I'm CEO of AGT Food and Ingredients Inc. I had the honour of serving with Mr. Emerson on the Emerson report as well. I was his lead adviser on the grain sector, on the western Canadian rail chapter, as well as on natural resources, including oil and gas and the mining sector. I'm going to bring to you some perspectives not only in that role, but also as president of one of Canada's largest container intermodal shippers. AGT Food is among, maybe, the top five or seven container shippers in the country. We're also the largest class 3 railway in the country now as well, with the purchase of a short-line railway in Saskatchewan.

Let me pick up on a couple of points that were made by my colleagues. One concerns the work we put forward and the work before you now as Bill C-49. For Canada as a trading nation, transportation infrastructure and the interaction of policy with that infrastructure is one of what I would consider to be Canada's most important generational activities. It means taking a look at how we enable the economy to seize the opportunity, as trade continues to grow, particularly to get our products to market, because of the large geographies we have in our blessed country. With these physical distances, the regulation within the system needed to be addressed in a number of areas. I'm going to break them down into bite-sized pieces.

Transparency of the transportation system was a resonating point of our report and a point that continues to resonate within industry. I think that Bill C-49 addresses greatly one of the major criticisms of the system previously. At least now we have a system such that, if these measures are put forward, the railway systems will be not only encouraged but mandated to provide data input to a system. That data will come into the CTA, will be synthesized, will be published, and will allow policy-makers to make more informed decisions instead of attempting to react on the fly. I think data transparency is a very important part. It is something that was demanded by industry, among the recommendations we made, and certainly it is something we see within Bill C-49.

When we looked at transparency, though, to reiterate both of my colleagues' comments, there was quite a strong desire for *ex parte* powers of the agency to investigate and be able to look more like a Surface Transportation Board, like a U.S. type of system. We seem to be falling a little bit short on that within this particular round, but we are encouraged as industry, I think, by the type of moves that are being made.

In talking about transparency, I always made the point to industry to be careful what you ask for, because it comes with responsibility. One thing you have to recognize always is that this is a transportation system. Think of it as a supply chain in which each link in the chain is essential for the link directly in front of it and directly behind it. One thing we have in the transportation system is a tendency whereby each link only blames the link ahead of or behind it.

This is a very important element, in that the responsibility of the industry becomes also reliable reporting of our forecasting, reliable reporting of our performance within the system. Efficiency is something that data transparency will drive in the system. I think this is a very important element. This isn't just about railways; it's about each link in the chain.

As that chain continues, fair access to the system is part of what we were looking to see achieved, and I think we made some very good measures in Bill C-49. What we were aiming for in our recommendations was a system whereby the playing field would be levelled to a point that we could encourage commercial agreements.

I think we have to also be very careful. Over-regulation of the transportation industry is a very slippery slope. Over-regulation of our railway system can certainly also have unintended consequences. We have a difficult environment, with long distances, the physical attributes of our terrain, and climate, such that with over-regulation we could actually drive a non-competitive system to become a drag on the economy. But while I say that, I think that fair access to the system and encouraging commercial agreements was really part of the foundation of what we were recommending.

● (1555)

So let's get to some of those.

Shipper remedies were quite strong within Bill C-49. There were a number of moves on the agency's authority to make operational terms within service level agreements more permanent. Reciprocal financial consequences were mandated, which was a major ask of shippers for well over a decade, and which were actually skipped in a number of the previous policy revisions. So it was a very popular move within the shipper community to encourage, then, that when you would sit at the table with your railway on a service level agreement, those operational terms would be defined, reciprocal financial consequences would be mandated by each side, and the agency could then impose those on the parties if they couldn't come to a commercial agreement.

Streamlined dispute resolution mechanisms were key. I think we made some very good progress on those. With regard to the definition of adequate and suitable accommodation, you're probably going to hear a lot about that over the next three or four days, but I do think we've certainly made some very good progress there.

In terms of the overall efficiency piece within the system, long-haul interswitching is also something that there's a lot of angst about in the system, because within the grain industry in particular, with the Fair Rail for Grain Farmers Act, we actually had 160-kilometre interswitching available, hanging there as a shipper remedy that was basically accessible. It was there, and it was extended. That has been sunsetted now, and long-haul interswitching has been introduced as a potential new remedy. I think the angst amongst shippers is from not understanding whether or not it truly can be implemented. Having heard the comments of my colleague Mr. Streiner, I have a level of optimism that in essence shippers will have a chance to apply for 12-month long-haul interswitching, which will involve distances much longer than 160 kilometres, and combining interswitching and the competitive line-haul rates could be an effective mechanism.

It is a new system, and I think that sometimes leads to angst, and as Mr. Streiner has stated, the CTA will be judged by its ability to react and implement. I've also made very strong recommendations to both Transport Canada and the agency to consider expedited renewal processes. So once it is approved for a one-year duration, how do we get the second year and the third year approved on a quicker and quicker basis? Those are service delivery things that I have some optimism about.

In terms of the maximum revenue entitlement, the modernization started within the provisions of Bill C-49 being suggested here, we recommended much broader modernization of the maximum revenue entitlement. There are some first steps that I think are very positive. The container intermodal traffic being excluded and the interswitching revenues being excluded are, I think, common sense provisions, and it made a lot of sense to include those within the modernization. To me, the ability of the railways to reflect individual railway investments was always a ludicrous provision; when one railway invested, that investment was split between the two railways. We've now fixed those. We've fixed out, with the proposals, adjustments to incentivize hopper car investments. These are all positive provisions that still protect the farmer within the MRE and still allow time to see what effect those mechanisms have, but I think they have been very positive.

There are the regulated interswitching rates as well, and then the reduction or the elimination of the minimum grain volumes.

We've made some good progress, I think, and I'm looking forward to being here over the next hour to answer your questions and to give our perspective as you need.

Thank you, Madam Chair.

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

Thank you to all of our witnesses.

Mr. O'Toole.

**Hon. Erin O'Toole:** Thank you very much, Madam Chair.

Thank you to all of our witnesses for being here. I certainly appreciate your testimony today and your participation in a review of our transportation system.

Mr. Emerson, it would be my privilege to ask you a couple of questions. We're at an interesting time in Canada. In your report, the "Pathways" report that you provided to government, which in some ways was the precursor to Bill C-49, you said on a few occasions that the theme of the report was the relationship between trade and our systems of commerce, and our transportation system, and getting those goods to markets in Canada, in North America, and around the world.

You, as a former minister of international trade, would know that we have a unique opportunity in that we're renegotiating and modernizing NAFTA at the same time that we are supposed to be modernizing our transportation networks for the next 30 years.

In your consultations, did you hear a demand, particularly from the air and the trucking side, for the transborder cabotage approach to linking the North American transportation system, and wouldn't this window—of renegotiating NAFTA—which didn't exist when you wrote the report, be an obvious opportunity to integrate the transportation system in North America?

• (1600)

**Hon. David Emerson:** I guess the short answer is we heard—and I know from my own experience in business that while we all obsess over international trade, and tariffs, and related agreements—that when you actually look at how supply chain costs accumulate in the total supply chain of companies, transportation and logistics is a lot bigger factor in terms of competitiveness than tariffs and related trade barriers.

Trade barriers are still important, but as you point out, the biggest risk is probably administrative and other kinds of delays, or discrimination, at the border that aren't really a tariff. It's some other form of impediment to a smoothly functioning liquid border, and so clearly North American integration of the transportation system is vitally important, because if you really look at where the potential to be competitive against Asia and some of the emerging power blocks in the world today is, North America really has to integrate integrate itself and not break itself into a fragmented three-country arrangement when it comes to trade, job, and value creation.

**Hon. Erin O'Toole:** It's interesting that you say that when free trade with the U.S. was negotiated in the mid-1980s, both Canada and the U.S. were in a process of breaking down internal barriers. The Mulroney government at the same time was turning Air Canada from a crown corporation into a private sector player, so to integrate transportation into the NAFTA negotiations wasn't really possible then, but perhaps it is now.



From your industry experience, when we're talking about efficiency, do you see both a cost saved to business and an environmental positive to integrating transport in North America? Would it make the private sector more efficient because we're using our systems more efficiently and therefore burning fewer GHGs with empty boats and empty trucks moving around the continent?

**Hon. David Emerson:** If I were to make a categorical statement, it would be this. For any given entity whether it's a province, a country, or North America, the more efficient the transportation system is in terms of its integration, its fluidity, and how it delivers products to the end user, the less greenhouse gases are produced per dollar of gross domestic product, whether it's North American GDP or Canadian GDP. So to me, people never talk about it, but it is fundamentally true that a highly efficient transportation system is probably one of the best anti-greenhouse gas policy frameworks you could adopt.

**Mr. Murad Al-Katib:** I would just add one thing to Mr. Emerson's comments.

The gateway approach was very prevalent within our analysis and the ability now to look at the Port of Prince Rupert and Vancouver as efficient gateways to Asia linking into the Midwest U.S. corridor. In particular, when I look at the Rupert CN Rail connection and 96 hours it takes to go from Rupert to Chicago and the congestion at Long Beach and on the west coast U.S., there is an opportunity to optimize that entry of traffic because this is a trade flow opportunity where imports come in and then we have an opportunity to stop those trains in Saskatoon and fill them with agriproducts so that those containers are not going back out empty.

From that perspective, the optimization of the north-south corridors both on the inbound and then also the north-south rail corridors and the trucking corridors, I think is certainly a massively impactful opportunity, not only, as you say, for the environment but for the economic performance of our country.

**Hon. Erin O'Toole:** I have a final question then. I think it's clear that optimizing our routes within North America—

Am I out of time?

• (1605)

**The Chair:** I want to give everybody as much time as we can.

Can you hold that and try to get it in later? Sometimes I have to stop this right when we're getting some really key information and I don't like having to do that.

Mr. Sikand.

**Mr. Gagan Sikand:** Thank you, Madam Chair.

My question is for the CTA and Mr. Streiner.

In your view, why doesn't our air passengers rights approach deal with physical assault, sexual assault, and assault generally?

**Mr. Scott Streiner:** I assume that your question is with respect to what's proposed in Bill C-49.

**Mr. Gagan Sikand:** Yes.

**Mr. Scott Streiner:** That said, as I indicated in my opening remarks, questions around the policy intent in the legislation, I think, are best directed to the Minister of Transport and to Transport

Canada. I would say, however, that I think those sorts of matters have the potential to be police or criminal matters. It may well be that part of the reason was simply that there is another existing mechanism within the law to deal with them. However, the underlying policy logic of the legislation is a question best directed to the minister.

**Mr. Gagan Sikand:** Okay. Thank you.

In your opening remarks, you did mention tarmac delays. How do you see tarmac delays addressed through the proposed amendments?

**Mr. Scott Streiner:** As you know, the bill proposes that the CTA make regulations with respect to a series of different potential events, one of which is tarmac delays over three hours. Exactly how those will be dealt with in the regulations is something that we'll be able to determine after we've held consultations with industry, with consumer rights associations, and with Canadians and the travelling public. That said, I think the hearings we held on August 30 and 31 on the tarmac delay incidents involving two Air Transat flights underscored the importance of getting this right. I think the public reaction to those events and to the hearings themselves indicated that these are issues that Canadians think are very important.

**Mr. Gagan Sikand:** In your opinion, what would be a fair metric to determine the CTA's effectiveness in protecting passenger rights?

**Mr. Scott Streiner:** I think one important metric is the speed with which we are able to process the various complaints.

As I noted in my opening remarks, Madam Chair, we've seen a significant increase in the number of complaints. I think that Canadians expect that when they turn to a body like the CTA, they're going to get relatively quick resolution. We've been placing a great deal of emphasis on a process we call facilitation. It's an ombudsman-like process through which one of our officers will make some phone calls between both parties, the complainant and the airline, to see if a quick and mutually acceptable resolution can be found. We've managed to resolve over 90% of complaints, including some of the more difficult complaints, through the facilitation process. I think Canadians will judge us in part on our ability to secure a fair but timely resolution of their air travel concerns, and that's something we're going to continue to focus on.

**Mr. Gagan Sikand:** I would like to follow up on a question I asked earlier.

Do you think specific penalties should be placed in the rights? Penalties are not specified in there.

**Mr. Scott Streiner:** At the moment, the bill indicates that for certain of the events listed in the section that deals with the regulations, the Canadian Transportation Agency should establish appropriate levels of compensation. In other cases, it talks more about treatment or appropriate measures. At the end of the day, obviously, the regulations that we pass are going to follow whatever you and your fellow parliamentarians decide to put in the law. If the law provides for monetary compensation as well as other measures, then we will set the monetary compensation levels through the regulations. If the law doesn't provide for monetary compensation, then obviously we will not be able to include that.

**Mr. Gagan Sikand:** I have a very specific question for Mr. Emerson.

In regard to CN, I know there are changes proposed regarding the percentage an individual shareholder can have. Can I perhaps get your view on that?

**Hon. David Emerson:** For the benefit of other members, there is a restriction that is being altered—I don't know if it's through this legislation or another bill—that limits a single shareholder presently to 15% of the voting shares of CN. That is being raised to 25%, but the reality is that CP is not subject to that. We have a situation in which railways in North America are either consolidating or on the verge of consolidating. We have Berkshire Hathaway owning 100% of Burlington Northern Railroad. It makes no sense to me to have a limitation placed on CN that wouldn't apply to other competitive railways here in Canada. I would be an advocate of lifting it entirely and putting them on the same footing as CP.

• (1610)

**Mr. Gagan Sikand:** Mr. Al-Katib, do you want to add anything to that?

**Mr. Murad Al-Katib:** At the end of the day, it's not an issue that we spend a lot of time on, but the consolidation is real, and the competitiveness of our railways is reliant on their ability to raise capital. I think placing one restriction on one railway over all the other players in this market.... There is an integration of the North American rail system. We can't just consider CP and CN and consider that they're not a part of an integrated North American system.

**Mr. Gagan Sikand:** Thank you very much.

**The Chair:** Your time is up. Thank you very much.

Mr. Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you, Madam Chair.

I want to thank the witnesses for joining us this afternoon.

My first question is very simple and is probably for Mr. Emerson and Mr. Streiner. They can answer with a yes or no.

In the previous Parliament, when the NDP was the official opposition, I remember that one of my colleagues invested a tremendous amount of time and energy into putting together a private member's bill, which proposed a passenger bill of rights.

Did you have a chance to look at that bill at the time?

[*English*]

**Hon. David Emerson:** No.

[*Translation*]

**Mr. Scott Streiner:** Yes, I knew about that initiative.

**Mr. Robert Aubin:** Thank you.

I am asking you this because that bill, which had received the Liberals' support but did not make it through, contained very specific descriptions that are in line with Mr. Emerson's report. It said that the passenger bill of rights should be consistent with or close to what was being done in the United States or in Europe. Most of the measures were very specific. For example, in case of a cancelled

flight, the airline company was asked to provide two or three options. Failing to do so, the company would have to pay a fee that was even costed.

With Bill C-49, we are light-years away from that. We are in the philosophy of what the passenger bill of rights should have been. We will go into consultations once Bill C-49 obtains royal assent. So are we not losing precious time, given the work that has been done already and the fact that problems are becoming more and more persistent?

[*English*]

**Hon. David Emerson:** Because I didn't see the bill, and I wasn't aware of its content, I really couldn't answer that. In principle, I think you make a good point.

[*Translation*]

**Mr. Scott Streiner:** If the bill is passed, the Canadian Transportation Agency will focus on the regulatory process. Our objective is to complete the work in two or three months. That is precision work.

[*English*]

In the United States and Europe, if I'm not mistaken, some of the details of passenger rights protection are found in regulations as well. We will look at practices in the United States and Europe, but our commitment and our objective is to get the job done and to get the job done quickly.

[*Translation*]

**Mr. Robert Aubin:** Wouldn't it have been possible for Bill C-49 to give an overview of what those regulations could be, so that we would know where we are headed? I think that is relatively clear, since we are among the last countries to implement a passenger bill of rights.

Had we benefited from the experience of others, we would have already implemented certain elements. But the consultation will be based on major philosophical principles or regulatory proposals, which we could improve and completely remove or add new ones.

• (1615)

**Mr. Scott Streiner:** The agency's consultation will be very targeted and will focus on specific issues and details.

**Mr. Robert Aubin:** I have another question for you, Mr. Emerson. It has to do with the conclusion of your report, where you propose increasing the United States' possible foreign ownership from 25% to 49%.

When you were considering that aspect of the bill, did you read the conclusions of the research report on that issue produced by the University of Manitoba task force?

[*English*]

**Hon. David Emerson:** If you're referring to the 15% limitation on single-share ownership in CN, we didn't hear from anyone on that issue during the review process. I don't recall anyone advising us on that in our discussions, or receiving a submission on it.

[Translation]

**Mr. Robert Aubin:** Sorry to interrupt you, Mr. Emerson, but the idea of wanting to increase foreign ownership in airports from 25% to 49% is the topic I really want to discuss. According to the University of Manitoba's results, it has not been shown that this would lead to value added for consumers.

So I would like to know whether you have read the report published by the University of Manitoba and, if not, on what study you based your proposal to go from 25% to 49%.

[English]

**Hon. David Emerson:** You're referring to ownership of airlines, air carriers. Okay.

[Translation]

**Mr. Robert Aubin:** Yes, that's right.

[English]

**Hon. David Emerson:** We received submissions verbally, particularly from some of the insipient operators or creators of ultra-low-cost carriers. We heard that they were having difficulty raising the kind of capital they needed to start low-cost carriers. We basically recommended something we thought would have traction, because it had been recommended before by, I believe, the Wilson report on competitiveness some years ago. We went to 49% as a threshold that would enable early start-up carriers to get a single shareholder that might get them over the hump in setting up an air carrier. Some of the staff may have, in fact, read the Manitoba study. I did not personally read it.

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

Sorry, Mr. Aubin, but your time is up.

Mr. Fraser.

**Mr. Sean Fraser:** Excellent, thank you very much.

I could probably spend an entire day with this panel, so to the extent you can keep your answers short, and I'll try to do the same with my questions, it would be helpful.

First, Mr. Streiner, you mentioned a relative explosion in the number of complaints you dealt with when the public learned that the CTA was there to help. I'm picturing that through a well-publicized process, including these committee hearings and debate in the House of Commons, if C-49 passes, Canadians are going to be very well aware that they have some sort of recourse for the ordinary frustrations that come with travel. Do you have the capacity to deal with a further explosion of complaints? If not, what mechanism can be put in place to give you that capacity?

**Mr. Scott Streiner:** I'll try to keep my answer brief, as the member requested, Madam Chair.

I will say that the CTA is, no doubt, somewhat stretched today. This dramatic increase in the number of complaints has stretched us. We're a relatively small organization with a significant number of mandates, including, but not limited to, processing and dealing with air travel complaints. I would be not entirely truthful if I didn't say that we are stretched. That said, we are, for the most part, managing to keep up. We've done some temporary redirection of resources to deal with these complaints. I was very happy to hear the Minister of

Transport indicate that the government has committed to ensuring that the CTA has sufficient resources to do its job, but at the end of the day, those decisions on resources, as well as the responsibilities assigned to us, lie with Parliament and lie with the government. We will absolutely do the best we can to provide service to Canadians with whatever resources Parliament chooses to assign to us.

**Mr. Sean Fraser:** In addition, at the outset of your remarks, you commented that part of your core mandate is to ensure that individuals living with disabilities have access to effective means of transportation, which I think is extraordinarily important. Do you see that the passenger bill of rights is going to enhance the ability of individuals living with disabilities to access air transportation in a fair and effective way?

● (1620)

**Mr. Scott Streiner:** Accessible transportation services are, without a doubt, a fundamental human right and one we are committed to advancing. As I understand the bill, which is currently before the committee, the consumer protection regulations it proposes do not deal specifically with accessibility issues. The former Minister of Sport and Persons with Disabilities indicated on the part of the government that national accessibility legislation would be coming forward in 2018. I understand this is still the government's plan and that legislation may deal in part with questions of accessible transportation.

**Mr. Sean Fraser:** If we can shift gears to Mr. Emerson, we haven't touched much on the measures impacting marine transport. One of the measures, of course, is growing access by port authorities to the Canada infrastructure bank. Is there any reason we shouldn't be allowing ports to tap into this new source of capital to grow and expand in an era of international trade?

**Hon. David Emerson:** Could I just add something? I want to do two things. One, I want to answer a question you asked Mr. Streiner, that as long as you're restricting the CTA to dealing with issues on a "one complaint at a time" basis, frankly, you're never going to have enough resources to deal with the multitude of complaints. It's lunacy to expect to deal with the accumulation of complaints unless you're giving the agency the authority to deal with clusters of complaints of a similar sort.

On the port authorities, my own feeling is that until there is a thorough review of the governance arrangements that deal with port authorities and airport authorities, I get very nervous about opening up more spigots, if you like, for these authorities to get hold of more money, because I'm concerned with the governance framework that applies both to ports and to airports. I think there is inadequate governance in relation to deployment of capital; there's inadequate governance when it comes to making sure that there is a recourse to a regulator where there is abuse of monopoly power; and there is inadequate governance when it comes to port or airport authorities entering into business in competition with their own tenants, and so frankly I wouldn't give them any more access to money until you clean that up.

**Mr. Sean Fraser:** If we can, I'd like to again shift gears and go into some questions about interswitching, and I'll start with Mr. Al-Katib.

We heard during our prior study on Bill C-30 from some folks not in the grain industry that, "Gee, we'd really like to have this, too." It impacted a certain geography and a certain industry. Although it was put forward, really, in an environment where we were dealing with a bumper crop and terrible weather, the fact that we can be introducing competition where there is none seems to me like a good idea. Is there any reason that we shouldn't be extending this to different industries across the entire country?

**Mr. Murad Al-Katib:** Well, one of the things that are being attempted with the long-haul interswitching solution is to expand that out to various sectors and across the country. There is one glaring criticism at this point of the Bill C-49 provision: the Kamloops-Vancouver corridor is actually excluded from the long-haul interswitching. It's not very clear to me why that is the case, and I think it's certainly something that needs to be looked at. But from the perspective of having it accessible, one thing is that when we did our consultation, the broad 160-kilometre interswitching wasn't being used. It was being used after we filed our report. We couldn't find a single incidence of it being used at the time. That being said, I'm not a fan of remedies just hanging out there for the convenience of shippers. But with a well planned remedy, like the long-haul interswitching, if we can get the CTA to react quickly and to extend that from year to year quickly, I think it's a very effective mechanism, and it is going to inject competition into the system.

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

We will go on to Mr. Badawey.

**Mr. Vance Badawey:** Thank you, Madam Chair.

I have a quick question, and I think it will go to Mr. Emerson.

With respect to the reviews of the CTA, how important is it to regularly revisit laws as well as to review the Canada Transportation Act?

• (1625)

**Hon. David Emerson:** Well, we said in our report, and I said in my remarks, that the system today is so big and so complicated and so messy that keeping up with competitive conditions requires much more than a decennial review. There needs to be an evergreen process, I would argue, at least every two years. I believe the act should spell out the requirement for there to be a national transportation strategy and probably specify some of the key components to it, such as a strategy for national infrastructure projects that are critical to transportation and logistics over the next 20 years. You have to get ahead of these projects 20 years or you're going to be building and producing something and getting into regulatory delays and so on to the point where by the time you're finally finished, the economics has swamped you in some other way.

**Mr. Vance Badawey:** And you'll obviously find that both the strategy and the infrastructure investments that are being made will yield better returns if they're in fact going to follow one another?

**Hon. David Emerson:** Well, for anything, I believe, you need an infrastructure priority list, if you like, that is carefully thought through and analyzed, with a lot of the pre-engineering done, and a

lot of the economics and financial dimensions, and some comprehensive assessment of risk. You need private sector investors to give you input into what kind of cost of capital you're looking at for different types of infrastructure and the different arrangements that might be put to financing them. That's all part of it. Leaving it vague and ill-defined and then expecting to be able to implement a timely infrastructure program, I think, is wishful thinking.

**Mr. Vance Badawey:** This is with respect to sustainable infrastructure investments and, most importantly, the returns for both the economy and the industry itself.

I guess I can shift over to Mr. Streiner with respect to the agency. Is it incumbent upon the Canada Transportation Agency? You mentioned earlier that you're responsible for, as you say, smooth and efficient transportation systems. Is it appropriate to assume, for lack of a better word, that part of your role is to ensure that the infrastructure that is carrying trains, floating boats, and so on is actually being sustained, is safe, and is adequate for the current transportation environment?

**Mr. Scott Streiner:** No, Madam Chair, the CTA's mandate does not include monitoring the maintenance of transportation infrastructure. That's not included currently in our mandate under the legislation.

**Mr. Vance Badawey:** So who in fact is...?

**Mr. Scott Streiner:** With respect, I would refer the question back to Transport Canada. It regulates for safety and security purposes. The Canadian Transportation Agency, the institution I lead, regulates for economic and accessibility purposes.

**Mr. Vance Badawey:** We spoke a lot on governance today. Mr. Emerson had a lot of comments with respect to governance and how much better we can be in governing our airports especially and similar assets, including marine-related. I can cite a few governance challenges that we have with some of those assets, but I'll leave that to another discussion.

Is the CTA charged with ensuring that those who oversee these pieces of infrastructure are doing so in an appropriate manner, whether it be through a code of conduct or whether it be reporting of conflicts of interest and things of that nature? Does the CTA have any opinion and/or any jurisdiction over that area?

**Mr. Scott Streiner:** We have very limited jurisdiction with respect to, say, airports or port authorities, which I assume is what the honourable member is referring to. We do have authority with respect to accessibility issues, which I talked about earlier. That's the accessibility of airports and port terminals that serve passengers. We do not have oversight with respect to some of the other issues you identified, or not under the law as it currently stands.

**Mr. Vance Badawey:** How about currently owned federal assets that may be managed by private corporations? Do you have any authority there with respect to the question I just asked?

**Mr. Scott Streiner:** If the question pertains to governance issues, such as the use of funds, etc., again, we don't have authority to oversee that. We can hear or receive complaints regarding the fees charged by port authorities or by pilotage authorities, but with that exception, and the earlier exception I talked about on accessibility, we have very limited jurisdiction with respect to the entities you describe.

• (1630)

**Mr. Vance Badawey:** Great. Thank you.

For my last question I'll switch gears and ask Mr. Al-Katib a question with respect to the interswitching.

In your opinion, is asking the CTA to set the long-haul interswitching rates based on comparable traffic a feasible way of setting the fare rates while also ensuring that class 1 railroads are not penalized?

**Mr. Murad Al-Katib:** That's probably the biggest outstanding question. To set it at a fiftieth percentile and to be able to effectively deal with that in the 30-day window I think will be the judgment of success or failure of this initiative. I think it can be done. I think the costing data is there. The comparables can be identified. I think it can be done.

**Mr. Vance Badawey:** Great.

Thank you.

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

Ms. Block.

**Mrs. Kelly Block:** Thank you very much, Madam Chair.

My colleague Mr. O'Toole was about to ask a question and wasn't able to. He pleaded with me to get this question on the books, so I said I was willing to use—

**The Chair:** [*Inaudible—Editor*] leave, or I would have had to make an exception.

**Mrs. Kelly Block:** That's okay.

The question is for you, Mr. Emerson. He noted that you served as a trade minister in the past, and he wanted to know, if you were the trade minister in the position of renegotiating NAFTA, whether you would have transportation as a key priority.

**Hon. David Emerson:** Well, I think it's a very important priority and should at least be part of the strategic thinking when it comes to the negotiations. Canada might want transportation as a sector specifically discussed at NAFTA. Whether you would get take-up on that from the Americans in particular, I don't know.

As I said earlier, I believe that probably the number one driver of competitive success that we need to deal with going forward is transportation and logistics. As I've said, we have a massive, high-volume, high-speed system. We have all kinds of issues around taxation of rail assets and so on. A large range of issues and border issues create kinks and discontinuities in what should be a smoothly flowing, liquid system.

**Mrs. Kelly Block:** Thank you very much.

I feel like my colleague Mr. Fraser. There are many things I would like to ask, but I am going to go to you, Mr. Streiner, and circle back to some of the comments you made in your opening remarks.

You said that perhaps the most significant rail-related change in Bill C-49 is replacement of the CTA's authority to set interswitching distances beyond 30 kilometres and of the competitive line rate provisions with long-haul interswitching. I think it connects quite well with what Mr. Al-Katib said in terms of the angst around interswitching. This would be one of the issues that is raised with me time and time again when I'm meeting with stakeholders around the long-haul interswitching, so some of my questions are based on the conversations with them.

For you, Mr. Streiner, I first want to ask about long-haul interswitching orders and reasonable direction of the traffic. In the bill, clause 136.1 states that an LHI order should be applicable to the "nearest" interchange "in the reasonable direction of the...traffic". In southern Manitoba, for example, traffic is often moving north to an interchange in Winnipeg, before it moves somewhere down into the lower 48 states. There are, however, closer interchanges at the border, but these are not of the same size or efficiency as the Winnipeg interchanges.

Does Bill C-49 allow for an LHI order to have traffic still move to Winnipeg even if there's a closer but less efficient interchange?

**Mr. Scott Streiner:** Madam Chair, I trust that the members will understand that as an adjudicator I have to be careful about interpreting legislation that's not yet on the books and on which we don't have an application. Having said that, as I read the bill, it doesn't dictate to the CTA that the traffic must flow in one direction only, so I think we will make that determination and other determinations, if Bill C-49 is passed into law, based on the facts before us and the arguments brought by the parties.

**Mrs. Kelly Block:** Okay.

Another question that was posed to me related to the prohibition to apply for a long-haul interswitching order if a shipper has any interchange within 30 kilometres. Again, clause 129 prohibits shippers from applying for an LHI order if the originating facility has an interchange within 30 kilometres of it. For many, this doesn't make sense if the interchange isn't "in the reasonable direction" of the traffic's ultimate destination. Again, in clauses 129 and 136.1, the legislation allows for the agency to make a rational judgment about the most appropriate nearest interchange given the reasonable direction of the traffic.

The question I was asked is, why wouldn't this also apply to facilities that have an interchange within 30 kilometres, and doesn't that measure put facilities with an interchange within 30 kilometres at a commercial disadvantage to those that do not?

•(1635)

**Mr. Scott Streiner:** Again, I want to be a little careful about interpreting legislation that I may need to interpret as an adjudicator. I think what I would say is that if the committee wishes the legislation to be clearer on this point, then of course the committee can suggest adjustments that would more clearly direct the CTA with respect to these kinds of assessments.

To the extent that we're left with discretion, we will always apply that discretion in light of section 5 of the Canada Transportation Act. That's the national transportation policy, as you know, which speaks about allowing competition and market forces to be the primary drivers for securing fairly priced and good transportation services and for regulatory intervention to be strategic and targeted. We always look at section 5 for the purposes of interpreting provisions that may otherwise be somewhat unclear.

**The Chair:** Thank you, Ms. Block.

Mr. Graham.

**Mr. David de Burgh Graham:** Thank you.

Mr. Streiner, first of all, do you have anything left from your opening remarks that you haven't had a chance to address yet?

**Mr. Scott Streiner:** The only points I would make, I will make extremely briefly, Madam Chair, and Mr. Emerson has already underscored one of the points. Since 2010, the CTA has suggested in its annual reports to Parliament that its own-motion power, its ability to initiate inquiries on its own motion, be tied less specifically to international air travel. Currently, that's really what it's tied to. We used that own-motion authority to launch the Air Transit tarmac delay inquiry. We believe, as Mr. Emerson has indicated in reviewing the results of his review, that within reasonable parameters, it may make sense for that authority to be available to us more broadly. That would bring our tool kit into line with that of other independent regulators, and it would allow us to respond with greater agility to challenges in the transportation system.

**Mr. David de Burgh Graham:** Thank you. That answers one of my other questions too, so thank you.

You mentioned that the act provides for a three-hour tarmac delay as the baseline. Is that an appropriate amount of time, in your view?

**Mr. Scott Streiner:** A three-hour limit with respect to when the tarmac-delay provisions come into play is, if my memory serves me correctly, consistent with the practice in some other jurisdictions. Whether that is the right limit, I think, is something that I would defer to the committee and to Parliament to make a decision on. But certainly, that threshold exists, as I recall, in other jurisdictions.

**Mr. David de Burgh Graham:** You mentioned in your opening remarks that there have been about 230 complaints in the past week. What prompted that jump? Was it a specific incident that had a lot of complaints? Did one plane have a really hard landing, or what happened?

**Mr. Scott Streiner:** No, all of those complaints do not come from a single flight. We're entering a bit into the realm of speculation here, but I would suggest, as I did in my opening remarks, that in general the jump in air travel complaints reflects the public's increased awareness of the availability of recourse through the CTA. The Air Transat hearings may have raised public awareness. The committee's

work on this bill may have raised public awareness. Media reports on air travel issues may have raised public awareness.

**Mr. David de Burgh Graham:** We talked about this with Transport Canada earlier. Do you have enforcement mechanisms to ensure that companies that routinely violate standards or customer rights can be singled out publicly for doing so? Is there a public disclosure database of complaints so you can track which airlines are really not as good as others, for example?

**Mr. Scott Streiner:** We already have an obligation under the Canada Transportation Act to report annually to Parliament on trends that we see in air traveller complaints, including how many complaints have been filed with respect to service by different airlines. So that's already in the public domain. Bill C-49 would provide additional provisions with respect to the submission of performance information by airlines, and some of that information may well be available to travellers as they make assessments on the airlines with which they wish to book.

•(1640)

**Mr. David de Burgh Graham:** You commented earlier that there are few performance metrics for the rail system. What metrics would you like to see improved? You mentioned a few, but is it a widespread problem that there are no metrics?

**Mr. Scott Streiner:** One of the things we've observed in our administration of the legislation—and I believe that both of my colleagues at the table have referenced this in some way—is that in the United States, the Surface Transportation Board posts a significant amount of information online on the performance of the freight-rail system. That information is of assistance to decision-makers, both shippers who are deciding whom to contract with and also policy-makers. That kind of information allows us collectively to see where the system is flowing smoothly and where there are pinch points or problems in the system. I think it's important that comparable information be posted online in Canada. That said, it's also important that we protect information that's commercially sensitive. So getting that balance right, I think, will be something that will be important for parliamentarians in finalizing the legislation and for the CTA in implementing it.

**Mr. David de Burgh Graham:** I have one last question for you before I go to Mr. Emerson. Can the CTA protect us from the ever-declining quality of airplane food?

**Voices:** Oh, oh!

**Mr. David de Burgh Graham:** Mr. Emerson, you noted in your comments the looming consolidation of rail. In 1999 CN made a bid to buy BNSF and in 2015 CP tried to buy NS. Is rail consolidation a good thing, in your view?

**Hon. David Emerson:** I think it is a good thing that we have transcontinental railways, and I think some of the consolidation will be aimed at ensuring there are coast-to-coast high-speed, high-volume corridors. I think consolidation is probably in the interests of greater North American transportation efficiency.

However, I am concerned that, with the consolidation and the greater reliance on high-speed, high-volume corridors, the feeder lines are not being attended to appropriately. I think I would very much like to see the Government of Canada designate a national rail system, whether some of the railways are short-lines within provincial jurisdiction or not. If we do not take much more seriously and become more aggressive about the financial viability of short-lines, we've got literally hundreds of communities that are not very close to the high-speed, high-volume corridors, and they're dependent on truck or short-line. I don't think there's enough attention being paid to it.

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

Go head, Mr. Shields.

**Mr. Martin Shields:** Mr. Streiner, you described a process earlier in which you dealt with about 70 complaints a month, up to almost 1,000 a month now if you take the recent numbers, and you talked about resolving them one-on-one. That can't go on. I'm assuming you've alluded to that, and you probably listened to Mr. Emerson saying there's a different method of doing it. So I'm assuming you can't do that and you are looking for something else in the process as this is coming to light.

Do you want to respond to that?

**Mr. Scott Streiner:** Thank you.

I should clarify that while we've had a surge in the last week—230 complaints—we've actually been running at about 400 per month, not 1,000 per month, over the last year. That said, 400 per month is still four, five, or six times, more than we had been processing in the past, depending on the month.

I would reiterate the comments I made earlier. I think that if the CTA had own-motion authority and was able, where it has reasonable grounds to believe that there may be some sort of an issue in the transportation system, to deal with that proactively and on a more systemic basis, that might help to resolve some of the complaints.

It's also possible that when we pass the air passenger rights regulations and there's greater clarity in the system on what traveller's rights are, over time we may see a stabilization at lower levels. I am not certain that would happen at the outset. I think at the outset we might well see a surge. That's what happened in Europe after the new regulations were brought on stream, because these raise people's awareness. But it may be the case that over several years, as people get used to their rights and as the system stabilizes, there might be a levelling off.

• (1645)

**Mr. Martin Shields:** That is a significant cost factor to deal with them in the way you have been dealing.

**Mr. Scott Streiner:** There's no doubt about that. Dealing with complaints takes staff. We have introduced a number of efficiency

measures. We've redirected resources to deal with this large number of complaints. We've also introduced a number of efficiency measures that have helped to improve our productivity, so that's good news. The use of facilitation, which I referenced earlier—this ombudsman-like approach in which complaints are resolved through a couple of phone calls, in many cases, a day or two days of a staff member's work—certainly helps to manage the demand. There is no doubt that this many complaints, this dramatic an increase, creates resource pressures on the organization.

**Mr. Martin Shields:** Right. You'd be out of business if all that stuff kept coming back to you from dissatisfied customers and that's all you were doing. You'd be out of business, spending all your time on that end.

But going to Mr. Emerson, in the sense of your remarks about systemic issues, do you have a solution that you would suggest?

**Hon. David Emerson:** I think the own-motion power—with the premise that this power would require the agency to demonstrate there is reasonable and credible evidence that there is a problem that is not unique to one complainant, or that there are other systemic issues that are incipient or are about to develop—would enable the agency to get ahead of the issue and try to provide preventive guidance or measures or mitigating measures.

I do not believe, as many do, that somehow this could create a rogue agency and that we have to leave it to Parliament and the minister to do everything. I think that comes back to governance. If you haven't got a way of putting an administrative management team in at the agency and governing it properly so that they're doing things in a responsible way, then you'd better go back and look at the governance that you're using that would allow an agency or an agency head to become a rogue. To me it's a pretty straightforward thing, and if it were the corporate sector, I can tell you they'd figure it out pretty fast.

**Mr. Martin Shields:** In your 56 recommendations, I'm assuming that the airport authority is one that didn't get dealt with and might be something that you would like to see done.

**Hon. David Emerson:** For sure.

The truth of the matter, honourable members, is that we threw the cat amongst the pigeons with the airport authorities. They're very comfortable organizations these days, I have to say. They've mounted a very strenuous lobby campaign to basically argue that everything is good and nothing needs to be fixed. Frankly, I think it's up to people who dig into this to look at the underlying weaknesses, because it was 25 years ago that the airport authorities were basically created. At the time, there was a thought that maybe they should be for-profit authorities because they're essentially amenable to private sector finance. There is a relatively easy way to contain the for-profit influence that a shareholder would bring. To me, it's just so important over time that you have a shareholder looking at and applying discipline to the way capital is being spent and operations are being run at some of these authorities. Today, they are really nice facilities, but going forward it's not clear that we're going to be quite as happy, because the cost base is building up.

**Mr. Martin Shields:** Thank you.

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

Mr. Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you, Madam Chair.

My next questions are for you, Mr. Streiner. I really need you to shed some light on the reality of western agriculture, which I'm not familiar with.

My first question is about the maximum revenue entitlement. I'm not able to find why soy derivatives or products are excluded from this measure, especially since the market seems increasingly integrated. Grains from the United States are part of the equation but the soybeans from Canada are not.

Could you enlighten me?

**Mr. Scott Streiner:** Once again, it is a matter of politics, objectives and the logic of the bill. With all due respect, this question should be addressed to the minister and the folks from Transport Canada. It is not a question for the agency that administers the act, but is not its author.

• (1650)

**Mr. Robert Aubin:** To date, has this caused you a number of issues in your relations with the producers or carriers?

**Mr. Scott Streiner:** Once again, I don't think this is a question for the agency responsible for administering the act.

**Mr. Robert Aubin:** I understand.

Let me try with a second topic, hoping—

I see that you want to add something, Mr. Al-Katib.

[*English*]

**Mr. Murad Al-Katib:** I could make a quick comment.

Soybeans were actually not very prevalent in western Canada up until recent years. They are spreading eastward. Manitoba has just in the last handful of years become a very major soybean producer. There is a movement by farmers that they do want the number of crops to be expanded in the MRE. Soybeans were raised, chickpeas were raised. They're excluded as well. There were recommendations on our side. We did recommend a few crops to be reviewed and added.

[*Translation*]

**Mr. Robert Aubin:** I fully understand that the perspective is historic. At the time when production was minimal, that was understandable, but today, it would be unacceptable. Thank you.

My second question is about interswitching and, specifically, the possibility for a railway company to request an interchange to be removed from its list. Subclauses 136.9(1) and (2) of the bill describe the obligations of railway companies to keep up to date a list of the locations of interchanges and a process including a 60-day notice to remove an interchange from that list.

From reading that, my understanding was that, after a 60-day notice, the obligations no longer applied since the time expired. However, in its FAQ last week, Transport Canada notes that the railway companies have other general obligations that they must continue to fulfill beyond the 60 days.

There is an issue with the consistency between Bill C-49 and Transport Canada's FAQ. At the very least, there is a lack of clarity in terms of the general obligations that carriers must fulfill.

**Mr. Scott Streiner:** I was not here for the presentations of the people from Transport Canada. So I'm not sure which provisions they discussed.

[*English*]

If the reference was to the discontinuance provisions in the legislation, those provisions require the railway company to go through a fairly lengthy process to end the operation of or to transfer a railway line.

My understanding with respect to the provision you've spoken about is that removing an interchange from a line is covered by a separate process, the provision to which you referred, but that's different from ending service on a line.

[*Translation*]

**Mr. Robert Aubin:** Thank you.

[*English*]

**The Chair:** Mr. Brassard.

**Mr. John Brassard (Barrie—Innisfil, CPC):** Thank you, Madam Chair.

I have one question. Mr. Emerson, you spoke about short-lines and not enough attention being paid to their role. I know that in my municipality, in Barrie, for example, the municipality owns a short-line. In many cases, it's a much cheaper alternative for local businesses to get their goods to a class 1 line so they can be moved down the line. There are some significant capital costs required to maintain the line crossings, rail maintenance, etc.

I'm just wondering if you can expand on that. What attention needs to be paid to ensure that the short-lines many municipalities rely on are made viable or remain viable?

**Hon. David Emerson:** A lot of the short-lines were kind of abandoned lines from the class 1 railways. When you look at the financial health of the short-line railways, they're pretty fragile, and they do not get the same kinds of tax benefits and advantages American short-lines get, for example.

In our report we recommended that there be a much greater harmonization of the treatment of investments in Canadian short-lines, more like those that exist in the U.S. The U.S. also has various capital pools available from government for investments in short-lines.

I don't know, Murad, if you want to add to that. I think it's a very serious problem, and if we don't deal with it, it's either going to force everybody onto the roads in trucks, or we're going to have to fix the problem probably when it's very late in the day and maybe ineffective.



•(1655)

**Mr. Murad Al-Katib:** We did recommend first-mile, last-mile short-line-related incentives, in particular the extension of the accelerated capital cost allowance for short-line railways, the establishment of a short-line railway infrastructure, and allowing short-lines to apply for the building Canada fund. These were all things that were there.

This is an essential element of interconnectivity. The rail lines, with consolidation, will go to main lines. The densification of short-lines is essential for rural economic development in this country.

**Mr. John Brassard:** From your standpoint, then, are you disappointed that you didn't see this addressed in this piece of legislation? Should this be something that is looked into?

**Mr. Murad Al-Katib:** We recommended it as a key recommendation. It was not contained in this round. It's a disappointing aspect, for sure.

**Mr. John Brassard:** Thank you.

**The Chair:** Mr. Hardie.

**Mr. Ken Hardie:** Thank you, Madam Chair.

Mr. Al-Katib, you brought it up, so I'm going to ask you a question about what constitutes adequate and suitable service. If you have some opinions on what that should look like, I'd love to hear them. If you don't want to go that far out on a limb, you could just tell us or even suggest what we should be thinking about when we come to define that.

**Mr. Murad Al-Katib:** This was a point of significant consultation. One of the things is that shippers are of the view that adequate and suitable accommodation is satisfying all the needs of the shipper, full stop. We came to the conclusion that the rights of the shipper need to be satisfied but within an efficient transportation system, so we went one step further. Some of the shipping community really felt that it was quite egregious that we went further than the rights of the shipper, full stop.

For instance, if you have to invest \$10 to achieve \$1 of efficiency to achieve the rights of the shipper, full stop, is that efficient? My answer would be no. Adequate and suitable accommodation has a number of factors to be considered. The rights of the shipper are paramount, but an efficiently functioning system that addresses the needs of all the players in the system is a key element.

**Mr. Ken Hardie:** Mr. Streiner, you mentioned that you'll be looking at the airlines' tariffs to determine their performance standards. Did I hear that correctly?

**Mr. Scott Streiner:** No, we currently have the ability to look at tariffs. If we get a complaint, for example, about an incident, we can look at whether the airline applied its tariff, but we can also look at whether or not the terms of the tariff are reasonable. Under Bill C-49, we'll be making regulations that establish minimum standards for things like flight delays and lost baggage, and those minimum standards will be deemed to be part of the tariff unless the tariff provides for better compensation than is in the regulations.

**Mr. Ken Hardie:** So you would essentially audit the tariffs then to make sure that the right ingredients were in there.

**Mr. Scott Streiner:** By definition, if the regulation set a level of compensation, for example, that's here and the previous tariff was lower, the regulations would prevail.

**Mr. Ken Hardie:** What about the pieces of the puzzle that aren't covered by a tariff, like the terminal, CATSA, etc.? This is similar to a question I asked an earlier panel. Sometimes it isn't the airline's fault that somebody is stuck on a tarmac somewhere. So again, how do you see that working in?

**Mr. Scott Streiner:** At the moment, the legislation, including the act as it would be amended by Bill C-49, does not give us the authority to go and set standards for or investigate other players in the air travel supply chain. Under the legislation, we are to focus on the airlines and their tariffs. That said, we recognize—and we saw some of this in the testimony at the Air Transat hearing—that there are multiple players and that sometimes events involve more than the airlines. So even in the absence of the authority to make regulations or to adjudicate complaints with respect to other players, to the extent that our assistance could be helpful in facilitating smoother, more fluid, more effective working relationships between the different players, we are more than happy to play that role.

**Mr. Ken Hardie:** With respect to compensation for passengers who are basically done poorly by, I use again an example. I had a flight in Kelowna stuck on the tarmac while they worked out a technical issue, and I was late getting to where I needed to go, but other people on the aircraft missed flights, missed connections that they weren't going to be able to take until the following day. So when you are looking at a compensation system, this probably is a regulatory issue, but obviously not every person on the plane is affected in the same way. Would there not be a rationale then for having differential compensation depending on the level of impact?

•(1700)

**Mr. Scott Streiner:** As things currently stand in the law, we do have in certain circumstances the ability to order compensation for expenses. Some of what you're describing might fall into the category of expenses if somebody had to, for example, stay overnight because they missed a connection, or they needed to pay for some meals. Whether the compensation levels that are set through the regulations that we're going to make are specific numbers that apply across the board or whether there's some variability based on individual circumstances is something, I think, we're going to have to look at when we undertake the consultations.

**Mr. Ken Hardie:** I have one final question for you, Mr. Emerson. Talk about the far north. What in here is going to make life better for those folks out there?

**Hon. David Emerson:** We spend a lot of time in the north talking to people there, and I have a long-standing bias that Canada has neglected the north. That bias remains today. I still do not think we pay enough attention to infrastructure in the north. I don't think we pay enough attention to the roads and the seabed, the mapping of the latter, or the systems for weather forecasting. For example, the air carriers in the north have a terrible time getting their services onto the website that public servants use to book flights, and I don't think that's been resolved yet. For example, Air North has a heck of a time getting a major source of northern travel onto its aircraft because, somehow, somebody in this town doesn't really want to make it easy for public servants to get on Air North. There's a wide range of issues. We identified trade and transportation corridor issues that we think are critically important, because eventually there has to be environmentally sustainable development of the north and you need to get 20 or 30 years ahead of that in identifying corridors and developing infrastructure finance techniques that will allow some of these corridors to be developed, recognizing that the first development in any corridor is not going to be able to pay for the whole corridor, so you need some fairly sophisticated techniques to ensure that you're bringing institutional capital to the north to help them develop.

**Mr. Ken Hardie:** Thank you.

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

Mr. Emerson, Mr. Streiner, and Mr. Al-Katib, thank you so much. You can see by the interesting questions that your comments are greatly appreciated.

I think Bill C-49 reflects a lot of the work that you've already done, Mr. Emerson.

So thank you all very much. Thank you very much for being here.

For the committee, I will suspend for now.

• (1700)

(Pause)

• (1800)

**The Chair:** I call the meeting on our study of Bill C-49 back to order.

Welcome to the witnesses we have with us now. They are Jeanette Southwood, vice-president, strategy and partnerships, Engineers Canada, from the city of North York; and Ray Orb, president of the Saskatchewan Association of Rural Municipalities.

We know you very well. We have a member on this committee who reminds us constantly about Saskatchewan. We're really happy to have you with us here, as well.

Of course, we also have George Bell from Metrolinx.

Welcome to all of you.

Mr. Orb, do you want to start?

**Mr. Ray Orb (President, Saskatchewan Association of Rural Municipalities):** Yes. Thank you.

Good evening. Thank you for the opportunity to address the committee tonight. I am pleased to be here today.

My name is Ray Orb, and I'm the president of the Saskatchewan Association of Rural Municipalities, or SARM.

SARM represents all 296 rural municipalities in Saskatchewan. Our members are home to a major agriculture sector. Saskatchewan represents nearly 40% of Canada's farmable land. This has allowed Saskatchewan to become the world's largest exporter of lentils, dried peas, mustard, flaxseed, and canola.

In 2016 Saskatchewan exported \$14.4 billion worth of agrifood products. For a landlocked province like Saskatchewan, getting these products to market requires an efficient and effective world-class rail transportation system. That is why I'm appreciative of today's opportunity to talk about Bill C-49 since SARM members and the agriculture sector rely so heavily on the transportation system.

SARM has been an advocate for increased data reporting. More data means that better decisions may be made by producers and others in the supply chain. In SARM's view, railways should be required to produce plans that detail how they will deal with demands resulting from the upcoming crop year. This should include railways' contingency plans for larger yields and how they will deal with the cold winter months in the Prairies—that is, the equipment and the number of crews that will be needed, for example.

SARM is pleased to see that Bill C-49 includes an expansion of the Governor in Council's powers to make regulations requiring major railway companies to provide information regarding rates, service, and performance to the Minister of Transport. Enhancing data requirements and making more information available to those in the supply chain is not an immediate resolution to transportation issues, but it is a crucial piece of the solution.

Another advocacy point for SARM has been the need for reciprocal penalties. Holding railways and others in the supply chain to account is important as producers are the ones who ultimately lose out when levels of service are not met.

It appears that Bill C-49 will enable shippers to obtain terms in their contracts dealing with amounts to be paid in relation to a failure to comply with conditions related to railway companies' service obligations. Clarification for producers on how this will function is required. It would be beneficial for all parties involved if the Canadian Transportation Agency would provide further clarification on the issue, such as guidelines or best practices for reciprocal penalties.

SARM is disappointed that reciprocal penalties are not officially mentioned in the legislation. Should an impasse occur between the shipper and the carrier regarding reciprocal penalties, will the CTA intervene? Further clarification on the informal dispute resolution services is required. While there appear to be more details to sort out regarding reciprocal penalties, SARM is happy to see that reciprocal penalties will be allowable.

SARM also welcomes the amendment on the informal dispute resolution services. Providing cost-efficient, effective, and timely dispute resolution services is imperative for producers. Once the harvest is completed, producers must get their products to market in a timely manner to fulfill their contract obligations. Disputes should be resolved as quickly as possible so that producers won't face any additional penalties or unnecessary delays.

Long-haul interswitching may also be a positive new provision for producers. SARM supported the increased interswitching distances in the Fair Rail for Grain Farmers Act. It was hoped that extended interswitching from that act would be made permanent. While the extended radius will benefit more producers who are eligible, they must still negotiate with carriers before applying for long-haul interswitching. It remains to be seen whether this new provision is the long-term solution needed.

The retention of the maximum revenue entitlement, or MRE, is appreciated by SARM and its members. SARM members oppose the elimination of the MRE. This provision protects producers from excessive freight rates, ensures the movement of grain, and allows railways to reinvest in the rail network. Rather than eliminating the MRE, SARM members have passed a resolution requesting that the MRE formula be reviewed as soon as possible. SARM hopes that the changes to the MRE will continue to ensure railway accountability and transparency while still protecting producers from high freight rates.

• (1805)

Overall, Bill C-49 appears to address many of the concerns facing producers. The CTA review provided the agriculture sector with many opportunities to provide feedback and SARM is appreciative of this. SARM will continue to provide comments and feedback at every opportunity and looks forward to continuing to work with the federal government and all agriculture stakeholders to advance the sector.

Thank you again for the opportunity to speak to you today.

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

Mr. Bell, Metrolinx.

**Mr. George Bell (Vice-President, Safety and Security, Metrolinx):** Thank you.

First of all, I'd like to thank you for the opportunity to speak to you today. I'd like to address what we consider to be the critically important issue of locomotive voice and video recorders.

My name is George Bell and I work for Metrolinx, an urban transit authority in Toronto that operates Go Transit systems and the Union Pearson Express linking downtown and the airport in Toronto. Metrolinx, through GO Transit, is the largest commuter rail operator in Canada, with over 450 kilometres of track on seven lines in the greater Toronto-Hamilton area. What surprised me when I moved to Toronto for this work is that one in every six Canadians lives in the GO Transit service area. We move over 250,000 people a day. We have a very large fleet of rail equipment: 651 passenger cars, 62 locomotives, and we supplement that with the 15 rail vehicles we have on the Union Pearson Express line. We run 61 train sets a day and we make about 300 trips a day currently. If we put that in context a little further, our largest trains hold about 2,500 passengers. That

means that each of our largest trains has about the same number of people on it as five jumbo jets—five.

When we operate our trains, we operate in what's known as a push-pull fashion. That means the locomotive always stays on one end of the train. If we were on an east-west run, the locomotive stays on the east end of the train, no matter which direction we run. If we run north-south, the locomotive runs on the south end of the train. We supply motive power either to push or pull our cars across the track. When the locomotive is pushing, the crew that operates the train is on the opposite end of the train in what's known as a cab car, which has a replica of the locomotive controls and controls the locomotive by remote control. It's converse when we operate from the locomotive. This is important context.

Since our inception, Metrolinx and GO have steadily increased GO transit train service with the goal of transforming from a rush hour commuter service to a two-way, all-day regional transportation service. Our newest program, regional express rail, will build on the planning and infrastructure progress we have already made and fast-track future service expansion. This means that electric trains will be running every 15 minutes or better on our heaviest corridors; that four times the number of trips outside of weekday rush-hour periods will be run, including evenings and weekends; and twice the number of trips during weekday rush-hour periods. The result of this expansion is that we will see approximately 6,000 weekly trips by 2024.

All of this is critically important when we consider the contributions to railway and passenger safety that can be gained from the introduction of locomotive voice and video recorders. Metrolinx and GO have very significant safety responsibilities to our commuters, our communities, and our employees. We take these responsibilities very seriously indeed. We strive to be leaders in safety and are frequent early adopters of new technologies and techniques. Locomotive voice and video recorders are one example of our forward thinking. GO has already equipped all its locomotives and cab cars with LVVRs.

To give you an idea of what those look like, they consist of a recording system that's fed by four cameras and two microphones. I'm sorry, I'd hoped to have some pictures for you, but I don't have them. Three of the cameras show the interior of the locomotive. We can see the two operators from behind, we can see them in the corners of our view, and we can see the back wall of the locomotive from the front of them. We do not focus on the faces or expressions of our operators. The cameras that are looking at them from the front focus on the back wall, which is full of diagnostic equipment for the locomotive, and we can see a great number of outputs from our diagnostics on that wall. The two cameras that are looking at them from behind can see how they operate the trains. We can see their hand motions, we can see their throttle controls, their brake controls, we can see if they're on the phone, which is a prohibited activity—but nonetheless possible.

•(1810)

We have two microphones in the locomotive that can capture all the ambient conversation within the locomotive. The fourth camera faces out in front of the locomotive. It's an unfortunate reality that railroads, and commuter railroads in particular, see a lot of suicides. The camera that looks out the front of the locomotive gives us evidence of what's occurring in front of the locomotive. It's the only camera in the system that is readily downloaded. The other three cameras need special permissions to be downloaded and can't be downloaded by anyone but the relevant authorities.

When we consider the system, we strongly believe that the technology that we have in place in our locomotives can save lives and make the travelling public safer. The Transportation Safety Board has called for the use of LVVR technology to be used both as part of their investigatory processes and by railway companies as part of the safety management systems to proactively identify areas for safety improvement. It's undoubtedly useful to collect evidence that may be used after an accident to assist in determining the cause of that accident. It's our opinion that a more powerful and responsible approach is to enable the information captured by an LVVR to be used before an accident occurs. The ability to identify behavioural or ergonomic trends that may lead to accidents would be a great benefit in maintaining our safety.

Metrolinx agrees that the privacy of our operating crews is very important. In the case of an LVVR installation, crews have been well informed that the technology is in place and how it's used. That said, we do not view the operating controls of a cab car or a locomotive to be a place where there should be an expectation of privacy. Our engineers and conductors are highly qualified professionals, and we expect them to conduct themselves in such a manner when they're operating our trains. Further, we believe that if there is to be a balance between safety and privacy, safety must prevail. This is particularly true when we consider that any risk-taking behaviour on the part of the operator of a commuter train puts not just the safety of that operator in jeopardy, but can also put in harm's way the 2,500 people who may be on the train. We believe that we owe those passengers and their families an utmost duty to look after their safety on our trains. Empowering railways to use locomotive voice and video recorders in a non-punitive and proactive manner will help us meet that duty.

Thank you for your attention.

•(1815)

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

Ms. Southwood.

**Ms. Jeanette Southwood (Vice-President, Strategy and Partnerships, Engineers Canada):** Thank you for the opportunity to be here today, Madam Chair. I'm very pleased to discuss Engineers Canada's stance on Bill C-49, the Transportation Modernization Act.

My name is Jeanette Southwood. In my previous role as principal at a global engineering firm, I was global sustainable cities leader and Canadian urban development and infrastructure leader. My team focused on areas that included supply chain, business continuity, and climate adaptation, urban intensification and restoration, and the strategic integration of cutting-edge global innovation and knowl-

edge into solutions for private and public clients. Our portfolio included rail.

I am currently the vice-president of strategy and partnerships at Engineers Canada based here in Ottawa. Engineers Canada is the national organization that represents the 12 provincial and territorial associations that regulate the practice of engineering in Canada and licenses the country's more than 290,000 professional engineers. Together we work to advance the profession in the public interest.

With the entire Transportation Modernization Act open for public review and consultation, Engineers Canada's testimony today pertains directly to section 11 of the Railway Safety Act, specifically in relation to the design, build, and maintenance stages of railway work in Canada, and we have three recommendations in particular that I'd like to touch on in my remarks today.

The first recommendation is that the engineering principles in section 11 of the Railway Safety Act be further defined. The second is that professional engineers be involved in the entire life cycle of railways' infrastructure. The third is that climate vulnerability assessments be carried out on Canada's rail infrastructure and that Canada's rail infrastructure be adapted to a changing climate.

First, regarding engineering principles, in Canada engineering is regulated under provincial and territorial law by the 12 engineering regulators. The regulators are entrusted to hold engineers accountable for practising in a professional, ethical, and competent manner and in compliance with the applicable provincial or territorial engineering act, code of ethics, or legal framework in place. Technical provincial and professional standards of conduct are set, revised, maintained, and enforced by regulators who are all professional engineers in their jurisdiction.

By virtue of being a regulated professional, professional engineers are required to work with the public interest in mind and to uphold public safety. For this reason, Engineers Canada strongly supports and encourages the direct involvement of professional engineers in the design, construction, maintenance, evaluation, use, and alteration of all engineering work related to railways in Canada, not only to increase transparency and public confidence towards a safe and well regulated rail system, but also to uphold public safety and accountability on all railway work.

It is vital that the federal government incorporate professional engineers through the entire life cycle of a rail project, and not just in the final approval of rail work. Engineers Canada encourages the federal government to put measures in place to ensure that this is the case. It is equally important that it be professional engineers who take on the responsibility of overseeing and maintaining the standards and regulations set out by the federal government.

Currently the Railway Safety Act outlines that companies are obligated to report on the qualifications and licences of safety personnel. However, ambiguity and the possibility of misinterpretation are evident in section 11 of the Railway Safety Act, specifically in regard to the definition of engineering roles and engineering principles. The act states:

All work relating to railway works—including, but not limited to, design, construction, evaluation, maintenance and alteration—must be done in accordance with sound engineering principles.

The ambiguity around the term “engineering principles” creates space for misinterpretation and a potential situation where public safety is compromised. The act should specify that where engineering principles are to be applied, they must be applied by a professional engineer. Federal public servants who are tasked with overseeing the engineering work referred to in section 11 must also be professional engineers. Communities are better protected by the consistent application of safety and siting procedures where professional engineers are involved in decisions.

Our second recommendation is regarding the life cycle of railways' infrastructure. Involving professional engineers in the life cycle of rail projects will not only ensure that they are carried out with public safety top of mind, but engineers are also well equipped to design, build, and manage resilient rail infrastructure.

● (1820)

Canada's railway infrastructure is an integral enabler of Canada's growing economy, as we've heard from the two speakers who preceded me, providing services to more than 10,000 commercial and industrial customers each year, moving about four million carloads of freight across the country and into the U.S., and getting approximately 70 million people in Montreal, the GTA, and Vancouver alone to work each year. This vast integrated network needs to operate with efficiency and public safety in mind, both of which require a high level of reliable service.

Finally, I'll turn to our recommendation regarding climate vulnerability. Resilient infrastructure is the driving force behind productive societies, stable industries, and increased public confidence in civil infrastructure. However, Canada's infrastructure report card noted that much of Canada's current infrastructure is vulnerable to the effects of extreme weather, which is becoming increasingly frequent and severe. Vulnerable rail infrastructure presents a risk not only to public safety but also to the productivity of Canadian individuals and businesses and of the country's economy. Without the consistent application of climate vulnerability assessments to inform rail design, public confidence and trust in rail infrastructure will be fragile.

For example, floods and historic record water flows severely damaged Churchill, Manitoba's Hudson Bay Railway tracks on May 23, 2017, just a few short months ago. This major flood severely damaged five bridges, washed away 19 sections of track bed, and required that 30 bridges and 600 culverts be checked for structural integrity. This specific rail line transports food, supplies, and people to the remote community of Churchill, Manitoba, a community frequently visited by tourists during the summer months. With severe damage to the Hudson Bay Railway, service disruptions have now caused goods, services, and people to arrive by air transportation, an expensive mode of transportation to the northern commu-

nity. The catastrophic damage to the rail line will take months to repair, causing major service disruptions to both individual and business productivity, as well as decreased public confidence in rail infrastructure.

Climate vulnerability assessments provide early awareness to planners regarding the potential impacts that extreme weather events could have on both public and private infrastructure in communities across Canada. Professional engineers in Canada are leaders in adaptation and are ready to work collaboratively with the federal government to provide unbiased and transparent advice to safeguard rail infrastructure from the devastating effects of climate changes. Engineers Canada, in conjunction with Natural Resources Canada, has developed a climate risk assessment tool that greatly enhances the resilience of infrastructure, increases public confidence in rail infrastructure, and decreases the severity of climate change impacts on individual and business productivity.

The public infrastructure engineering vulnerability committee protocol, also known as PIEVC, gives engineers, geoscientists, infrastructure owners, and managers a tool to design and construct rail infrastructure that will withstand today's rapidly changing climate. The protocol has been applied to a wide range of infrastructure systems more than 40 times in Canada, including with Metrolinx, and three times internationally. Engineers Canada encourages the federal government to invest in early assessment and prevention tools, such as the PIEVC protocol, to be a condition for funding approvals, accepting environmental impact assessments, and approving designs for rail infrastructure projects that involve rehabilitation, repurposing, maintaining, and decommissioning existing rail infrastructure. This investment will contribute to maintaining levels of service, safeguarding the environment, strengthening individual and business productivity, and upholding public safety.

Madam Chair, thank you for allowing Engineers Canada to present to the committee today on this important issue. We hope the committee will recognize that professional engineers play an integral role in Canada's transportation infrastructure and that our profession is ready and willing to ensure that Canada's railway system is resilient and safe and continues to be an enabler of Canada's economy.

● (1825)

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

Go ahead, Ms. Block.

**Mrs. Kelly Block:** Thank you very much, Madam Chair.

I'd like to welcome you all here. It's been a long day. We've heard from many witnesses, but perhaps we've saved the best for last. It may not be an enviable position to be that last candle of a long day, but I certainly do appreciate the testimony you've given us.

We talked a fair bit about locomotive video and voice recorders, and we heard from Transport Canada as well as the CTA on that issue.

Mr. Bell, you spoke about using LVVRs in a proactive, not punitive, way. I'm wondering if you could expand upon that, particularly by defining the limits of non-punitive.

**Mr. George Bell:** Madam Chair, I'd like to respond by giving a parallel example.

Under the railway safety management system regulations, we as railways are required to institute non-punitive reporting, in the sense that if someone who is less than negligent reports an issue on our railway, there is no possibility that they can be disciplined for doing so. They are doing us a favour, and we look at it in the same way.

We would look at LVVRs in much the same way. We have no interest in delving into the private lives of our operators. What we have an interest in is looking at trends, anomalies, and ways in which we can improve our system without punishing the folks who are doing our work.

What we would intend to do there is use the information we can get from the LVVRs to look at behavioural or ergonomic trends within our locomotives and to respond to the trends rather than the individuals.

**Mrs. Kelly Block:** If you were to see activities that would cause you concern and perhaps were unsafe activities taking place, would you feel a duty to act or respond to the data you had collected?

**Mr. George Bell:** Yes, we would feel a duty to respond, but not necessarily to the individual. We strive to create safety culture within our railways founded on three principles. One is that we need to have a reporting culture. One is that we need to have a just culture. The third one is that we need to have a learning culture. In order to empower the last two, you can't be punitive to people. If you're overly punitive to them you cannot learn, so we would strive not to do that.

**Mrs. Kelly Block:** Thank you.

I'm going to completely change my track of questioning and ask some questions of you, Mr. Orb. Welcome. It's good to see you here. Thank you for taking the time to come to Ottawa to share your thoughts with us.

I noted that in your statement you talked about a number of measures in Bill C-49, but specifically I want to ask you about reciprocal penalties, because you made a comment that SARM was disappointed that these penalties were not officially mentioned in the legislation. I'm going to ask you to expand on that and to then perhaps tell us what your thoughts are in regard to the long-haul interswitching measure in Bill C-49

Thanks.

**Mr. Ray Orb:** We're particularly disappointed by the lack of a mention of reciprocal penalties. This has been an outstanding or ongoing issue for several years. If you recall the record crop we had in 2013-14, a lot of our submission statements are based on what happened that year. We certainly don't want anything like that to recur.

The reciprocal penalties are an issue because this is left up to negotiation and, in the end, arbitration, and sometimes it's a cost. Small shippers in particular often can't afford to take anyone to court to fight this. It can be very expensive. The lack of a mention of that is disappointing.

The interswitching is a different issue. We don't totally understand the new legislation. We've been talking to many of the grain elevator companies, and they're really cynical about it. We talked about it at the crop logistics working group, which is made up of industry and, particularly, producers, agriculture commodity groups, and the grain elevator companies.

The advice we've been given is that we need to spend more time on this to be able to clarify it. The problem with that is that the new crop year is already in place, and in Canada, particularly western Canada, we're looking at a far better crop than what was estimated by Stats Canada in July, so we need to fast-track this legislation. It's imperative that those two issues be dealt with.

• (1830)

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

Mr. Hardie.

**Mr. Ken Hardie:** Thank you, Madam Chair.

Mr. Bell, if we were to ask the union representing workers at Metrolinx, what would they tell us about that relationship they have with the company vis-à-vis the LVVRs on your system?

**Mr. George Bell:** One of the unique features of Metrolinx and some other commuter rails is that we operate on a contract model. The crews that operate our trains actually do not work directly for Metrolinx. They work for Bombardier, who is a contractor to us.

The LVVRs have been in place and active for about six months. We've had no push-back whatsoever from the unions. We have positioned it in a non-punitive manner, very constructive manner. We have also communicated to our operators that part of the reason we wish to review the data on the LVVRs is to illustrate what a good job they do rather than a poor job. There is a positive as well as a learning opportunity there.

So we've had no push-back from the union. As of now, they're fine with what we're doing.

**Mr. Ken Hardie:** You and I had the benefit of working together in the past, at Metro Vancouver's transportation authority. I know that quite a number of years ago they went through the process of looking at voice and video recording on the bus system in metro Vancouver. I know that some of the same issues we've been talking about here with respect to labour relations came up there. How close were you to that process? What can you tell us about the state of labour relations, to your knowledge, with that system in Vancouver?

**Mr. George Bell:** Actually, I can tell you very little. I spent almost my entire career on the rail side in Vancouver.

**Mr. Ken Hardie:** Yes.

**Mr. George Bell:** I wasn't party to the bus system.

**Mr. Ken Hardie:** Fair enough.

You don't get live feeds from the cabs, do you?

**Mr. George Bell:** We do not.

**Mr. Ken Hardie:** Okay.

It's been just a short period of time, but have you noticed any changes with respect to any missed signals or some of the other things that railways would be concerned with on a day-to-day basis, not necessarily leading to a crash but obviously a signal of risk?

**Mr. George Bell:** As of yet, we haven't proactively used the information. We're waiting on some of the results of your deliberations before we will consider doing that. As of now, we haven't proactively used it. However, if the outcome was significant enough, we would expect the Transportation Safety Board to intervene and use the information to the best of their ability.

So no, as of yet, we haven't seen the behaviours change because we're not in a position to see the behaviours change.

**Mr. Ken Hardie:** Ms. Southwood, I'm quite interested in the climate vulnerability assessments that you mentioned. We have a Burlington Northern and Santa Fe line that comes through the waterfront at White Rock, follows the Semiahmoo Peninsula, and then ultimately ends up in Vancouver. That route has been subject to frequent washouts, landslides, and degradation due to erosion from the ocean along the shores. Is that the sort of thing an environmental assessment might illuminate and maybe push toward some kind of resolution or change?

• (1835)

**Ms. Jeanette Southwood:** Yes, Madam Chair and Mr. Hardie, a climate vulnerability assessment would take into account those kinds of current challenges. It would also look to the future to better understand the impacts on the rail line of extreme weather, for example, or changing weather patterns on erosion and other vulnerabilities. It's a current view but it's also a future view so that when investments are made in, let's say, improving or maintaining the rail line, or in expanding such rail lines, a full understanding of the impacts of the investments but also the vulnerabilities to such investments are understood.

**Mr. Ken Hardie:** Mr. Orb, I'm going to ask this question a few times unless some of my colleagues beat me to it in any given round. One thing that is a question in Bill C-49 is the development of a definition for "adequate and suitable" service. When you're speaking with your networks, what do they think about that? Can you give us any directions as to the sort of things we would ask government to think about when coming up with the definition?

**Mr. Ray Orb:** I think that is a difficult question to answer within the industry. Obviously there are some delivery points, especially on branch lines, that require not an extra service but a different kind of service because of the fact that they're not on a high-volume line. The other one is producer-car loading sites. That's required in the Canada Grain Act. Although it wasn't in our submission, we noticed

that it was a recommendation from the standing committee that the producer-car rights be continued on the loading sites.

So the level of service that's deemed adequate differs from point to point, but in the industry I think it has to be something that's acceptable—a basic service that's acceptable by the shipper and the carrier.

**Mr. Ken Hardie:** Do you have any thoughts as to the kind of data reporting that you'd like to see? Are there some key measures that you would want to see on the list of the data that railways would be required to report just in the interests of transparency?

**The Chair:** Give a short answer, if possible.

**Mr. Ray Orb:** I think there should be a continuation of what's being done now. There is fairly good reporting, but I think it needs to be done a lot faster than it is. Rather than a month's end kind of review, I think it has to be done almost day by day.

**The Chair:** Thank you.

Mr. Aubin.

[Translation]

**Mr. Robert Aubin:** Thank you, Madam Chair.

My thanks to all three of you for being here with us.

I have questions for each of you and my first question is for Mr. Orb.

Before even talking about Bill C-49, I would like to point something out. It is almost the middle of September and a number of the provisions in Bill C-30 sunsetted on August 1. Without even knowing what will happen in a few months, are the measures that have not been renewed and that sunsetted on August 1 causing problems for exporters?

[English]

**Mr. Ray Orb:** Yes, they are problematic. One of the things that I mentioned was the interswitching that was in place in the previous legislation. That is creating some angst amongst the industry, particularly the grain elevator industry, because of the fact that they don't know what will happen if the opposing railway doesn't grant rights for another company to run on the same line. I know there are contracts already put in place, particularly to go into the U.S., and they're really concerned about not being able to service those markets.

The other thing I think would be minimum haul volume requirements. I know that's something that was recommended by this committee to be in this legislation, and we're hoping that it would continue. The fact is, as I mentioned, the crop that we're looking at is at a higher volume than expected.

[Translation]

**Mr. Robert Aubin:** In your opening remarks—tell me if I'm reflecting your comments correctly—I did not sense a great deal of excitement for Bill C-49. You seem to have trouble measuring the impact of some of the provisions and determining whether they are true solutions.

Let me give you a few examples of what I heard. I understood that the reciprocal penalties process should be better explained. My understanding is that you don't think the provisions in Bill C-49 are sufficient. You are saying that interswitching might be useful, but you don't seem sure that it is the solution.

Do you have some more specific solutions that you would like us to recommend to the government?

•(1840)

[English]

**Mr. Ray Orb:** On the interswitching, we would prefer that the interswitching provisions in place in the prior legislation be continued.

On the reciprocal penalties, we think there has to be a better definition in the legislation of what the penalties actually are. We know that there are penalties to the shippers if the railcars aren't loaded on a timely basis, and they know that there's a tariff in place that penalizes those companies. We think there should be a penalty. We're not going to mention a specific penalty, but we think that the railroad should be held accountable to deliver the cars on time.

I can give you a quick example of how it affects the rural municipalities, as well, in the wintertime. We often have to open the roads out to the farmers' yards to get access to the grain. If the grain cars don't show up on time, the roads have to be opened again, and it's an added cost to the ratepayers.

[Translation]

**Mr. Robert Aubin:** Clearly, I don't know Saskatchewan as well as you do, so I'm really pleased that you are here.

Do you have any major soy producers?

[English]

**Mr. Ray Orb:** We do have some soybean farmers. It's a crop that's being grown more regularly now.

[Translation]

**Mr. Robert Aubin:** I will jump right to my question because time flies.

How do you explain that soy is excluded from the maximum revenue entitlement?

[English]

**Mr. Ray Orb:** I mentioned this previously in response to a question by Ms. Block, from Saskatchewan, but not specifically about soybeans. I mentioned the crop logistics working group. That's a committee that has been created by the federal government. That is a request that will be coming from the crop logistics working group that soybeans be included in the MRE.

[Translation]

**Mr. Robert Aubin:** At this very moment, you have no idea why the government decided to exclude soy.

[English]

**Mr. Ray Orb:** Actually, I don't have the answer to that. I'm sorry.

[Translation]

**Mr. Robert Aubin:** Thank you.

[English]

**The Chair:** You have one minute.

**Mr. Robert Aubin:** One minute.

[Translation]

I have a question for you, Mr. Bell. In your comments, you said that the position of the cameras in the cabins made it impossible to see the faces of the drivers. It is impossible to see whether they are happy, sad or whatever. However, it is possible to see whether they are using a cellphone, which is prohibited.

What do you do when you see that one of your employees is talking on a cellphone while driving?

[English]

**Mr. George Bell:** We would go back to the policy we put in place when we're empowered, if we're empowered to use the information. We would go back to address that as a trend rather than with the individual employee. We wouldn't look at it as an opportunity to punish that person. We'd look at it as an opportunity to educate him or her and the remainder of the workforce.

[Translation]

**Mr. Robert Aubin:** Thank you.

[English]

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

Mr. Graham.

**Mr. David de Burgh Graham:** Thank you.

Mr. Bell, it's nice to meet you.

You mentioned that the LVVRs have been in place for only about six months, but I think the GO trains have been recording for a heck of a lot longer than that. Can you talk about the previous system and what the change is?

**Mr. George Bell:** The difference for us is the migration to the locomotive voice and video recorders. What we had been recording for a long time were the external views. It's the internal views that are new to us.

**Mr. David de Burgh Graham:** You mentioned that the front-facing camera is readily readable. Does that include audio recording from inside or only external views?

•(1845)

**Mr. George Bell:** There is no audio on the front-facing camera, only video.

**Mr. David de Burgh Graham:** Okay. In what circumstances would you read that in a hurry?

**Mr. George Bell:** The most common use of the front-facing video is when we encounter a suicide on the tracks. In that case, we will download that information and provide it to the attending coroner. It's almost always a coroner who attends. It provides, in our experience, incontrovertible evidence as to what has happened in front of our train.

**Mr. David de Burgh Graham:** That then permits the train to carry on more quickly than it otherwise would.



**Mr. George Bell:** Yes, indeed. If there were to be an ambiguity as to the finding, it would be treated as a crime scene, and it could tie up the train and the subsequent trains for a long time.

**Mr. David de Burgh Graham:** When that happens, what happens to the crew? Are they taken off and given two weeks off, as it were?

**Mr. George Bell:** The crew is relieved from duty. They're not able to continue their trip. They're given post-incident counselling, as are our other responders who come to the scene. As a result of that, there's an assessment made by them and their managers, or our managers, as to when they can return to duty.

**Mr. David de Burgh Graham:** Are the cameras always on or only when the engine is running or only when the reverser is in? When are they operating?

**Mr. George Bell:** The external camera is on when the locomotive is powered up. The internal cameras are only on when the train is active.

**Mr. David de Burgh Graham:** Okay. You mentioned earlier that the rear-facing camera in the cabin looks at diagnostic information on the back wall. Is there not also a data recorder? Why would you need to visually look at the instruments rather than having it recorded separately?

**Mr. George Bell:** There is a data recorder, but it has a limited number of channels. What we can see on the back wall are a number of indicator lights and other things that may not necessarily be shown on the data recorder but may be useful in interpreting an incident.

**Mr. David de Burgh Graham:** I get you.

How long is the data retained on those cameras?

**Mr. George Bell:** Currently the data is recorded for 72 hours and then automatically overwritten.

**Mr. David de Burgh Graham:** That's 72 hours of operation, not 72 hours on the calendar.

**Mr. George Bell:** I believe it's 72 hours in which the cameras are active.

**Mr. David de Burgh Graham:** That's actually a good few weeks probably.

**Mr. George Bell:** No, our trains, our locomotives, run a lot.

**Mr. David de Burgh Graham:** You mentioned that you have 61 train systems and 62 locomotives, and you have one out of service at any given time, which is fairly impressive.

**Mr. George Bell:** There are certainly sometimes more than one out of service at a time, but that's how we run.

**Mr. David de Burgh Graham:** Fair enough. Thank you for that.

I'm going to move to Ms. Southwood briefly. I'm going to focus quickly on only one thing.

I'm trying to understand what your suggestion is in the first recommendation. Are engineers not currently involved in the process of rail? Your suggestion is that the law needs to be changed to say that professional engineers, rather than engineering principles, have to be used. Are you suggesting that engineers are not currently used in the maintenance of railways?

**Ms. Jeanette Southwood:** Engineers are currently used in the maintenance of railways but not consistently. What we are offering is that we're happy to work collaboratively with the federal government to be able to identify and further define what is meant by "engineering principles" so it reduces the current ambiguity.

**Mr. David de Burgh Graham:** Thank you.

In the case of the Churchill line, if that ambiguity had not been there, would anything had been different?

**Ms. Jeanette Southwood:** The case of the Churchill line is an example of the need for climate vulnerability assessment.

In the case of the Churchill line, there was no climate vulnerability assessment undertaken. Therefore, there was not the understanding that with the change in climate, more extreme weather, and a change in weather patterns, that was a very vulnerable area.

If the assessment had been done, it would have been much more clear just exactly how vulnerable the railway was and what kinds of practices—as well as what kinds of mitigation measures—needed to be put into place.

**Mr. David de Burgh Graham:** Thank you.

I have one final question for you, Mr. Bell, in my remaining few seconds.

On a number of occasions, you've mentioned the proactive use of data. What would that look like? I'm just trying to imagine somebody sitting in a room watching hours and hours of videotape of the trains operating. That doesn't seem like a very efficient way of doing it. How do you do proactive use of data?

**Mr. George Bell:** What we would do is look at operating anomalies. We understand very well how our trains run, what our schedules are like, what incidents we may see, and in particular what we may call "near misses". In all of those cases, we would want to gain that data and look at what is happening inside the cab of that locomotive to see if there's an interaction there that we might act upon to make this a safer railway.

• (1850)

**Mr. David de Burgh Graham:** Thank you very much.

**The Chair:** Thank you.

Mr. Fraser.

**Mr. Sean Fraser:** Thank you very much.

I'll start with you, Mr. Orb. On the data issue you mentioned, you described how the railway "should be required" to disclose its plans to address the demand. Then, in response to a question by one of my colleagues, you said there should be day-by-day reporting. Is it your view that each day the railways should be disclosing what their plans are to deal with demand? Or did I misinterpret something?

**Mr. Ray Orb:** You may have misinterpreted it.

The point I'm trying to make is that it needs to be reported more expeditiously. Right now, it's reported monthly, at the end of every month, but it's a weekly report. I think that in certain delivery points, we need to have the information a lot faster. The reporting is done, and for the minimum amounts that were moved under the order in council of the previous government, it's based on corrodoring. The problem with it is that there are some delivery points in western Canada in particular that are being missed, and the corridors are getting the grain but not necessarily the delivery points. We need more refined data.

**Mr. Sean Fraser:** On the issue of reciprocal penalties, I need another point of clarification. You expressed I think some general support for some of the items in Bill C-49, but on this issue you think it comes up short. I'm looking at clause 23 of the proposed bill. It seems to me that this is addressing the reciprocal penalties portion, where it empowers the agency to order a company "to compensate any person adversely affected for any expenses that they incurred as a result of the company's failure to fulfil its service obligations".

Is it that this doesn't apply as a reciprocal penalty or that it doesn't go far enough? Or is it that you think there should be some further guidelines?

**Mr. Ray Orb:** I think that provision was in the previous legislation, but as was mentioned, I don't think it was ever enacted, because of the fact that if there's a dispute about what the penalty should be, the smaller shippers are not able to undertake such an endeavour. I really believe that it needs to be mentioned specifically. There needs to be more mention of what a penalty actually is.

**Mr. Sean Fraser:** Okay. Just for the sake of clarity, that language I'm looking at is meant to replace paragraph 116(4)(c.1), but I am hypersensitive to your point about dispute resolution, particularly for smaller shippers. I was a litigator in a previous life and saw too many cases end when someone couldn't afford to go to court.

Is it your view that the dispute resolution mechanism will be more efficient, in that it will allow more shippers to have their disputes fairly resolved in an expeditious way?

**Mr. Ray Orb:** I think it will be more palatable to the shippers, especially the smaller ones, so we believe it's a step in the right direction.

**Mr. Sean Fraser:** That's excellent.

With respect to the MRE, you mentioned that it protects producers. One of the things I want you to elaborate on a little as well is the importance of continued investment in railway infrastructure, particularly from a rural perspective.

I come from a very rural community, and we sometimes get complaints about the quality of rail transportation infrastructure. Can you elaborate a little on how this approach is going to allow investment in these important rural networks?

**Mr. Ray Orb:** Are you talking in particular about railroads purchasing the hopper cars?

**Mr. Sean Fraser:** If you want to take it broader, feel free, but please describe it in your own words.

**Mr. Ray Orb:** Well, we believe that the MRE, the entitlement right now, compensates railroads fairly, not only for the costs but also a profit margin and for them to actually be able to service the

railcars. I believe that the purchase of the railcars in legislation is actually outside of the MRE, and we're a bit concerned about that because of the fact that it may drive up freight rates and, ultimately, farmers or producers will inherit those costs.

**Mr. Sean Fraser:** I will shift gears.

Madam Chair, how much time do I have remaining?

**The Chair:** Two minutes.

**Mr. Sean Fraser:** Oh, great. I'll shift to Mr. Bell, please.

You mentioned, I think quite appropriately, that prevention is probably a better way to go than merely reacting to incidents and accidents as they may occur. I completely agree. I'm wondering if you think that the prevention mechanism being considered in Bill C-49 is okay. Is it okay to allow a random snapshot in time to see how things are going? Do you need to be able to have the full body of video? Do you think the proposed mechanism is an appropriate way?

• (1855)

**Mr. George Bell:** The proposed mechanism is an investigatory one, mostly driven by the Transportation Safety Board. We'd much prefer to investigate proactively. We'd much prefer to investigate at a much lower level. The Transportation Safety Board generally doesn't get involved until there are some very serious consequences or probable consequences.

Yes, we would like to have access to the full suite of video with appropriate protection so that the information that the TSB gets is completely protected; but, yes, we would like to be able to look at any part of the record on an appropriate cue from our operators.

**Mr. Sean Fraser:** In earlier testimony, Ms. Fox of the TSB indicated that there were two circumstances you could use this mechanism in, one of which is sort of your random systemic checks. The other is an investigation into an incident or accident where the TSB is not proceeding. Am I mistaken in my understanding that you would, in those near misses you describe, be able to go back and check the record under the proposed mechanism?

**Mr. George Bell:** My understanding is that it would be difficult, if not impossible. I would be happy to be wrong about that.

**Mr. Sean Fraser:** I'm wondering if there would be any internal checks and balances in place to ensure that Metrolinx doesn't come across some kind of a vindictive manager who realizes that one of their employees is breaking the rules? Are there safeguards you would put in place as an organization to ensure that doesn't happen?

**Mr. George Bell:** Yes, indeed. We already have a very robust privacy protection system, and we would certainly make sure that there is no misuse of the system.

**Mr. Sean Fraser:** Thank you.

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

Mr. Shields.

**Mr. Martin Shields:** Thank you, Madam Chair.

I appreciate your being here today and I appreciate your information.

Ms. Southwood, earlier you referred to the engineering principles versus professional engineers, and you alluded to the fact that it isn't always the case that engineers are involved. Have you any idea of percentages or numbers? Have you anything to back that up?

**Ms. Jeanette Southwood:** We do have information to back that up. I don't have the percentages here with me today, but I can provide them to the committee following this meeting.

**Mr. Martin Shields:** What is the cost implication of doing that?

**Ms. Jeanette Southwood:** I think there are several aspects of the cost discussion, and it's a cost-benefit risk discussion. We would need to look at what the risks are of not using a professional engineer and factor those into the cost.

**Mr. Martin Shields:** That would be good to know, if you can supply that.

Good, thank you.

**Ms. Jeanette Southwood:** Thank you.

**Mr. Martin Shields:** Mr. Bell, you talked about implementing a change six months ago. I understand that you have a contract piece here as well, but do you know if the process that went through included the people involved with this versus what they were doing before? Do you know how it was implemented, how it was worked with? Are you familiar with that?

**Mr. George Bell:** Yes. I wasn't there when the process was implemented, but I am familiar with it. It was implemented as an early response to what we saw as forthcoming legislation or regulation, and we explained that to our contractors. We explained our values, of which safety is paramount. They were able to buy into that. We were able to explain the process to their managers and then later to their employees.

We used, as we always try to do, some sound change management principles to make sure that we had buy-in to the extent we could get it from the front lines and all the way through the system.

**Mr. Martin Shields:** You weren't there, but you found obviously that you were able to work that in a positive manner at the end result.

**Mr. George Bell:** Yes.

**Mr. Martin Shields:** Thank you.

Mr. Orb, in regard to Bill C-49 I think I heard some concerns and some positives. If you had your choice, what would be the most positive thing you see out of this and what would be the change you would like to see happen?

**Mr. Ray Orb:** I think ultimately it would have to do with defining adequate rail service, and there would be reciprocal penalties. Those are the two big issues, I believe. Our shippers, our rural municipalities, and the farmers within are concerned about

interswitching, but the two issues that I mentioned I think are the high priorities.

**Mr. Martin Shields:** Is it possible to define that word?

**Mr. Ray Orb:** I think there has to be more time spent on that. I think there could even be—we're hoping—something put into regulations that gives a better definition of what that is. I think we need to have a minimum requirement for coverage.

**Mr. Martin Shields:** Now you're getting to where I want to go. You want to establish some basic lines to go with the word. It's an adjective.

**Mr. Ray Orb:** That's a good point. I think it could be a timeframe perhaps, a quantity. We need to have a certain amount of railcar capacity. We mentioned that previously. That was one of the recommendations that came out of this committee as well that we agreed with, that the railroads needed to show ahead of time in any given crop year what their capacity is and how to be able to handle that.

●(1900)

**Mr. Martin Shields:** As we move into this, the harvest is well under way in a lot of places and even finished in others. So how sensitive is this document to what needs to happen this winter?

**Mr. Ray Orb:** It's very sensitive because I believe the majority of the farmers would already have contracted grain through the grain companies or perhaps other modes of transportation to get that crop into place. That is really important. As I mentioned, a new crop year is already here. We're looking at an above average crop in this country. Our ability to get data from the railroads on a more timely basis—and I think even for our provincial estimates to be handled more expeditiously—will help the industry.

**Mr. Martin Shields:** We don't want to face another year like 2013 for grain movement, cereal crops.

For the ones that are missing, are you pursuing all avenues to get those other crops recognized in there, soybeans and the rest of them?

**Mr. Ray Orb:** Yes, there is a mention of soybeans, and that's something the crop logistics working group will be putting forward later this week. Soybeans have become an interesting crop because the genetic research has provided better varieties of that kind of grain. It's a product that I think is going to be very important to farmers.

**Mr. Martin Shields:** The last thing I'm going to ask about would be the data, in the sense of the weekly reporting now, but culminating in the monthly reports. Who is that distributed to?

**Mr. Ray Orb:** The data now is distributed to the general public. It can be found on a website. It's very important to the shippers, particularly the grain companies, who look at that. But the producers look at that too to be able to get better prices in contracting.

**Mr. Martin Shields:** That's an excellent point in the sense of the technology involved in the agriculture industry, of how the agriculture sector follows and is technologically advanced. That advanced information data is critical these days.

**Mr. Ray Orb:** It's very important.

**The Chair:** Thank you.

Mr. Badawey.

**Mr. Vance Badawey:** Thank you, Madam Chair.

I just have a few questions with respect to your comments about life cycle of railways, but I'm going to take it a step further. I'm going to refer to the life cycle of all transportation-related infrastructure, whether waterways, railways, roads, or airports, etc.

Currently there is a strategy that the minister has established, and this legislation, Bill C-49, will complement that strategy when we get it. With that there is going to be—I spoke about this with other witnesses—a need for infrastructure investments as it relates to life cycle, replacement maintenance, and ultimately replacement of those assets 30, 40, 50, 60 years down the road.

My question for you as engineers, as folks who are part of transportation-related systems, is do you find that the life cycle is actually being abided by? Are the strategies and asset management plans being put in place? That's my first question.

My second question is, are those asset management plans actually being financed?

**Ms. Jeanette Southwood:** Regarding asset management plans, I might defer to my neighbour George Bell, regarding Metrolinx, to begin.

**Mr. George Bell:** Thank you.

Yes, indeed we have asset management plans. We do life cycle analysis and life cycle costing. The responsibility—although it's outside of my direct area of expertise—for us is to squeeze the assets and get the greatest economic safe-life out of them that we can. We try to do that. Currently, I believe we are resourced to do that.

**Ms. Jeanette Southwood:** Regarding asset management plans and whether they are being adhered to, that is a question I will have to take back to my organization and we will provide information to the committee on that.

However, in addition to the asset management plans, I would like to raise the climate vulnerability plans and assessments. Certainly infrastructure in Canada is just embarking on the beginning of the road for those types of assessments. They are a key part of asset management, truly understanding where the vulnerabilities are, what assets are needed, and how to plan for the future, bringing those all together. Thank you.

**Mr. Vance Badawey:** Madam Chair, the reason I asked that question is that we can have all the strategies in place and legislation that supports those strategies, but if we don't have proper infrastructure and the infrastructure investments being made to ultimately satisfy the recommendations contained within those strategies, it's a no go. Therefore, you folks who are in the business would know best from your travels, whether it's public or private sector, who are the users, the operators, the managers of these assets who are, first, actually adhering to asset management, but most important, second, financing those asset management plans. That is the reason for the question.

Mr. Bell, did you want to comment on that, from the point of view of Metrolinx?

•(1905)

**Mr. George Bell:** Yes, we have a relatively new system at Metrolinx called assetlinx. Everything at Metrolinx has a “linx” in it.

That's entirely designed to do just what you're asking. It's to make sure that we work the economic life of our assets, that we know where we are, that we know what our state of good repair is—something you should hear a lot about from railways—and that we know what we need to do. Currently we have, I think, adequate financing, at least on the capital side. Our operating financing sometimes lags our capital, however.

**Mr. Vance Badawey:** That's great, thank you.

Madam Chair, I'm going to give the rest of my time to Mr. Hardie.

**The Chair:** You have two minutes.

**Mr. Ken Hardie:** Thank you.

**Mr. Vance Badawey:** You're welcome.

**Mr. Ken Hardie:** Mr. Bell, I made a strategic error in asking you about the Coast Mountain Bus Company and its experience with on-board video and audio.

Certainly video has been a fact of life for the company you used to work with—for 31 years, I think—and that's the SkyTrain system, which of course is totally automated. Again, I go back to the question about the labour relations climate. Obviously those cameras, and there are hundreds of them on that system, capture every angle and incident. So not only the transit staff but also the transit police staff are covered by that. What can you tell us about the use and management of those video records?

**Mr. George Bell:** You're correct; there are in fact thousands of cameras on the SkyTrain system. They cover almost every aspect of the system itself, including something as arcane as inside the elevators. It's always been run, with that as a management tool. We've had no labour relations issues, that I know of, relating to the use of the cameras. We use them to plan proactively, we use them to respond, and we allow transit police to use them to respond to incidents or to plan for future incidents. The cameras capture pretty much everything that takes place outside the trains. There are a limited, but increasing, number of cameras inside the trains. That is for public protection, as well as for staff protection. As we'll see in the future in that system, everywhere will be covered by the cameras. Currently we use them for those purposes, and we've had no trouble with our staff over them.

**Mr. Ken Hardie:** Ms. Southwood—

**The Chair:** Make it very short, Mr. Hardie.

**Mr. Ken Hardie:** It'll have to be very short.

Maybe if I get a chance a little later I'll ask you and Mr. Orb to talk about the health and well-being of the short-line railroads.

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

Go ahead, Mr. Brassard.

**Mr. John Brassard:** Thank you, Madam Chair. I have just a couple of questions.

The first is to you, Mr. Orb. You spoke about the angst among the grain and elevator industry with respect to opposing railways not allowing another company to run on the same line. There seems to be some confusion and, of course, when there's confusion it creates doubts. Do you see the potential risk in the short term to the Canadian grain economy as a result of what's going on right now?

**Mr. Ray Orb:** I think there is a certain amount of risk. In particular, the Western Grain Elevator Association is concerned about that. Although I obviously can't speak for them, I have heard them speak about the concern about the contracts, and specifically about being able to deliver into the United States. I believe that they were delivering, and now this new legislation poses a dilemma.

**Mr. John Brassard:** The legislation is going to take time. Is there anything that you can recommend to the committee as far as an interim measure to allay some of those concerns?

**Mr. Ray Orb:** I think the concern won't be alleviated until the legislation is passed. If there are amendments that need to be made, that's one amendment that.... Perhaps you should go back to Bill C-40 and look at that legislation and reinstate the part of the legislation dealing with interswitching. In the future, perhaps it could be investigated if it needs to be changed.

•(1910)

**Mr. John Brassard:** Thank you, Mr. Orb.

Ms. Southwood, you spoke about the public infrastructure engineering vulnerability protocol and how that could have related to Churchill. The Churchill incident was a more recent incident. Do you know when that rail line and a large part of that infrastructure was built?

**Ms. Jeanette Southwood:** I don't have the dates at my fingertips, but it is something that we could provide to the committee after the meeting.

**Mr. John Brassard:** You said that had this protocol and the measurement of vulnerability been in place, that could have prevented this type of situation from occurring.

I'm interested to know if you could tell us more about this tool and how it would have prevented the situation in Churchill from occurring.

**Ms. Jeanette Southwood:** Certainly.

The way the tool works is that a project, whether a proposed project or a piece of infrastructure currently in place, is assessed in terms of how it is operating in our current climate. For example, we look at rain, wind speeds, and so on. Then, we look at what will change in terms of the climate data. One of your colleagues referred to the importance of data earlier. We ask how the weather is going to be changing. Then, we look at the vulnerabilities related to that.

I'll use the Finch Avenue washout as an example that many of you might be familiar with. Finch Avenue was a very important arterial in the city of Toronto that had many unknown vulnerabilities. It had culverts that were not being properly maintained. In addition to being a road that many people used, it was also the location of other key aspects of infrastructure, such as cable, telephone, electricity, and gas. So when the Finch Avenue washout occurred, the city was left with many challenges from the users of the arterial and also

astronomical impacts on their economy and the competitive advantage of the city.

If that type of an assessment is done in advance or undertaken on the key infrastructure that a municipality or region depends on, it helps to anticipate where the weaknesses are. For example, in the case of a road like Finch, it was the culverts; it was the importance of cleaning the culverts but also the importance of building the right culvert.

We'll go back to the railway now. Doing this kind of an assessment would identify the vulnerabilities associated with a particular railway. Mr. Hardie talked about the railway, the erosion, the washouts, and the rock falls. All of those are impacted if the weather is changing. Doing this kind of an assessment can assist in preventing and reducing the risks associated with not having the infrastructure at all.

**Mr. John Brassard:** Okay.

There's a lot of infrastructure in this country that would require a lot of these types of assessments. Literally, you could run into generations of assessments that go on. I know there's a cost and an impact from these types of infrastructure failures, but what's the cost of doing this type of assessment for every piece of infrastructure in this country?

**Ms. Jeanette Southwood:** What we would propose is that the assessments be included in new federal funding. Let's look at a simple way of going forward. If the federal government is going to be investing large dollars into new infrastructure, then we believe that it needs to know the vulnerabilities of those infrastructures to changing weather and a changing climate, in order to get the most out of its investments.

**Mr. John Brassard:** Okay, thank you.

**Ms. Jeanette Southwood:** The cost, we believe, would be relatively small compared to the larger cost of losing the infrastructure completely.

**The Chair:** Thank you, Ms. Southwood.

Ms. Aubin.

[*Translation*]

**Mr. Robert Aubin:** Thank you, Madam Chair.

Ms. Southwood, I would like to continue the discussion with you.

I see no problem with recommendations 2 and 3 of the document that you submitted to us. Involving professional engineers in the entire life cycle of the railway infrastructure and adapting the rail infrastructure to Canada's changing climate make sense to me. Things get more muddled in recommendation 1 that asks to define the engineering principles in section 11.

Could you clarify that? Are you referring to broad principles or to specific standards? Actually, later in the paragraph, you say that consistent standards for engineering roles are not in place.

•(1915)

[English]

**Ms. Jeanette Southwood:** I'm going to separate your question into two. The first aspect would be around the question of the engineering principles. Currently when we see the term "engineering principles" in the Railway Safety Act, we see ambiguity—we see that it's interpreted in a number of different ways. We're offering to work collaboratively with the federal government and departments to provide language to further define the term. We have a large network of subject matter experts on this topic. Our profession is ready to provide that advice and that collaboration.

[Translation]

**Mr. Robert Aubin:** Could you give us a concrete example of an aspect that you would like to see better defined in Bill C-49?

[English]

**Ms. Jeanette Southwood:** I'm going to go to the other aspect, which is how our professional engineers are currently consulted for a railway project. We look at the way that professional engineers are consulted and we see an inconsistency. We see that it's not always clear exactly when a professional engineer needs to be consulted, and this leads back to this term "engineering principles", which is not clear. It doesn't lay out exactly when engineers would need to be consulted. We want greater clarity on that, and we're offering to work collaboratively with the federal government and other departments to provide that clarity.

[Translation]

**Mr. Robert Aubin:** Do provincial associations of engineers follow exactly the same principles? Are they consistent across the provinces?

[English]

**Ms. Jeanette Southwood:** We have consulted our member regulators on the Railway Safety Act and these are the key issues that our member regulators have identified nationally. Thank you.

[Translation]

**Mr. Robert Aubin:** Thank you.

[English]

**The Chair:** I believe Mr. Hardie has a question.

**Mr. Ken Hardie:** Yes, thank you, Madam Chair. I wanted to follow up on my earlier question about the health and well-being of short-line railways. Saskatchewan certainly has a very robust network. Last year we took a trip to Lac-Mégantic to have a look at the situation there. The locals were showing us some pretty horrible things about the state of repair of that line. So from the engineering side and from Saskatchewan's side, I'd like to hear your

comments on short-lines and on any issues you think Bill C-49 may need to address.

**Ms. Jeanette Southwood:** I'm going to start with a previous question you asked. It was about climate vulnerability assessments and their connection to environmental assessments. The way that environmental assessments currently work, there is not traditionally a part that includes the climate vulnerability assessments. At this time, they definitely are two separate things. We would like to have those intertwined more frequently.

On the health and well-being of short-line railroads, this is something I would need to consult with my organization about and get back to the committee at a later date.

Thank you.

**Mr. Ken Hardie:** Mr. Orb.

**Mr. Ray Orb:** Saskatchewan, I believe, has more short-lines than any other province in Canada, especially in the southwest part of Saskatchewan, where the major carrier abandoned a good part of the railway system decades ago. Is it very important that those short-lines be maintained and continue to deliver grain? There is a lot of damage to our infrastructure. They're provincially regulated under the ministry of highways, and some of the regulations differ from province to province. Saskatchewan may have some different regulations. One concern when we met with the Saskatchewan Shortline Railway Association was a liability insurance that was imposed on the changes in rail safety. However, I think they are coping with that and are continuing to operate. I don't think they now have the concerns they had at first. I don't know if that exactly answers your question.

•(1920)

**Mr. Ken Hardie:** Well, for instance, we were quoted earlier a cost of around \$20,000 per unit to install LVVRs. Would the short-lines be able to deal with that kind of capital cost?

**Mr. Ray Orb:** I'm not sure. I would have to consult with the association again.

It may be onerous, but there may be other ways that they would be able to get funding.

**Mr. Ken Hardie:** Thank you.

**The Chair:** I'm not seeing any further questions from the committee.

Thank you very much to our witnesses. It was very informative, and I very much appreciate your contribution.

I move adjournment for this evening.









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