

BC Agriculture Council

Submission to:

Canada Transportation Act

Review Panel

by the:

The BC Agriculture Council

and the

BC Division, Animal Nutrition Association of Canada

**Vancouver, BC
Friday, March 23rd, 2001**

The BC Agriculture Council and the BC Division, Animal Nutrition Association of Canada – Joint Submission to the Canada Transportation Act Review Panel
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Introduction

Established in 1997, the BC Agriculture Council (BCAC) is a producer association representing the collective interests of the majority of B.C. agriculture producers. The BC Division of the Animal Nutrition Association of Canada (ANAC, formerly Canadian Feed Industry Association) represents the interests of the feed manufacturers in British Columbia, which supply the poultry and livestock sectors with quality feed.

This submission is being made jointly by the BCAC and the BC Division of ANAC, on behalf of BC feed manufacturers and those BCAC members with an interest in the efficient transportation of feed grain from the prairies to British Columbia, namely broiler hatching egg producers, cattlemen, chicken growers, milk producers, egg producers, pork producers, and turkey growers.

The B.C. poultry and livestock sectors account for approximately \$1 billion annually in farm gate value alone and are responsible for thousands of local jobs. It is important to stress that these sectors, and B.C. agriculture generally, are under considerable pressure from many directions, including higher input costs and increased competition in the market place. This is true at both the production and processing levels, and has been documented in a number of recent studies¹. This competitive situation makes it difficult or impossible to pass on any higher production costs in BC that have come about as a result of excessive feed grain transportation costs.

Feed Grain Transportation Regulation – Historical Context

Until 1995, the rail transportation of western grains was regulated and subsidized through federal legislation, first by the Crow's Nest Act and later through the Western Grain Transportation Act (WGTA). In addition, the Feed Freight Assistance (FFA) Program subsidized the transportation of domestically used feed grains to a number of identified feed deficient areas of Canada, such as British Columbia and the Maritime provinces.

Both the WGTA and FFA Program were eliminated in 1995 as part of the Federal Government's efforts to meet its budgetary objectives. It should be noted that both the WGTA and FFA Program accounted for very significant expenditures, with the FFA program alone paying out an average of \$5.2 million per year in transportation subsidies during the last five years recorded by the Livestock Feed Board of Canada in its Annual Reports² (Appendix A).

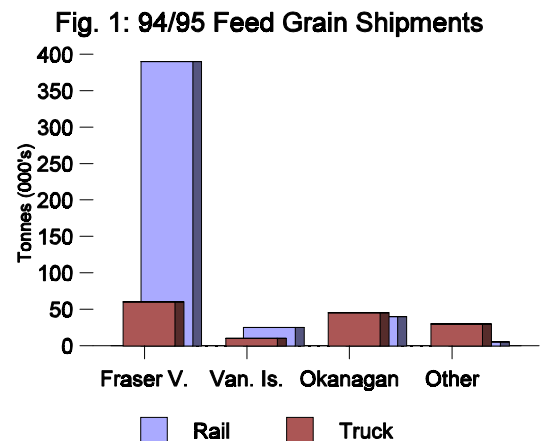
While repeal of the WGTA ended cost based regulated freight rates, it did not end legislated protection against high freight rates. Conversely, there has been no protection whatsoever provided against high freight rates for domestic grains since the elimination of FFA.

The BC feed industry and feed grain users are of the view that it is a federal government responsibility, through the *Canada Transportation Act*, to end this discrepancy. The Federal Agriculture Minister, however, suggests that because domestic grains were not regulated historically, their rates do not need protection, stating, “...the CTA is consistent with previous legislation dating back more than 70 years regarding its treatment of the shipment of Prairie grain by rail for domestic use in BC³” (Appendix B). Historical treatment is in our view no excuse for continued discrimination against domestic feed grain users in BC.

The Importance of Canada’s Rail Transportation System to the British Columbia Livestock and Feed Industries

Actran Consultants⁴ recently demonstrated the major extent to which the BC livestock and feed industries are impacted by the cost of moving feed grains by rail. In addition to the fact that over 80 percent of feed grain movements into BC are destined for the Fraser Valley and Vancouver Island, the furthest points from the prairies, nearly 85 percent of this grain is transported via rail (Figure 1).

Actran suggested that the high level of rail movement is because truck movement has proven not to be a competitive option over such vast distances. In his correspondence to the BC Agriculture Council (Appendix B), however, the Honourable Lyle Vanclief suggests that, “*Trucking is an alternative for intra-Prairie moves, shipments from the prairies to British Columbia and for grain moving into the US.*” While this statement is likely true for intra-Prairie movement and shipments into the US, it is clearly not the case for shipments from the prairies to BC. Some other means of protecting BC feed grain users from high transportation costs is therefore required.



At current consumption levels of over 630,000 tonnes of feed grain per year, deliveries to BC livestock and poultry producers represent a sizable market for rail transportation services. In fact, there is no other region of the country of which we are aware that relies on the railway system for feed grain movement to this extent.

While there is significant information provided by the Canadian Transportation Agency regarding rates under the regulated system, the Agency does not monitor rates for feed grain utilized in British Columbia. It is therefore difficult to determine the exact differential between export and domestic rates, but industry estimates suggest that the difference could be in the order of \$10.00 per tonne. This would translate into more than \$6 million dollars each and every year, which is a major

impact on our industry. Even with a very conservative estimate of \$5.00 per tonne differential, the annual impact would still be \$3 million.

It was clear from the Estey Report⁵ that both producers and grain companies were of the view that there is no competition between railways in Western Canada, and that the previous *Canada Transportation Act* provisions are ineffective in ensuring competition and preventing abuse by the railways of their market power. Indeed, the rail routes that are used for feed grain shipments to specifically meet the BC poultry and livestock sectors' needs were examined in 1995 by Actran Consultants⁶, leading the report to conclude that the limited competition for primary feed grain markets in BC results in transportation costs that are considerably higher than would be expected in a competitive environment.

This would cause continued unjustified hardship, and is very likely to result in irreparable long term damage to the industry. All of the livestock and poultry sectors operate in an extremely competitive environment vis-a-vis other provinces, so we require a mechanism to immediately provide protection from exorbitant feed grain transportation rates.

Discriminatory Nature of the Current Rate Cap

Currently, the transportation of feed grains destined for export markets through west coast ports are included in the legislated revenue cap under provisions of the *Canada Transportation Act*, but rates for feed grains utilized domestically are not. BC is the only destination that is specifically only for export. Section 147 of the Act states the following:

"movement", in respect of grain, means the carriage of grain by a prescribed railway company over a railway line from a point on any line west of Thunder Bay or Armstrong, Ontario, to

(a) Thunder Bay or Armstrong, Ontario, or

(b) Churchill, Manitoba, or a port in British Columbia for export,

but does not include the carriage of grain to a port in British Columbia for export to the United States for consumption in that country.

It has long been the view of the BC livestock and feed industries that the words “for export” (underlined) be removed from this section of the Act. Applying the revenue cap only to export grain has added to the competitiveness problems of the BC livestock and poultry sectors.

In recent correspondence to the BC Agriculture Council (Appendix B), the federal minister of Agriculture and Agri-Food has suggested that not including domestically destined grain in the revenue cap is justified because the actual transportation costs are significantly higher. This suggestion has never been supported by facts. The estimated differential of \$10.00 per

tonne simply cannot be justified by actual transportation costs incurred by the railways, a fact that has been supported by both Actran Consultants and by a study conducted by the Research and Traffic Group⁷ in 1996.

Assuming that the provisions of the *Canada Transportation Act* are successful in reducing the railways' revenue over the long term, it is clear that the new policy will have significant repercussions with respect to freight rates. Because the needs of BC grain users have once again been totally ignored in the revamping of the CTA, it is the position of BC's livestock and feed sectors that a similar mechanism must be implemented for feed grains used domestically, as is the case for grain moving to Thunder Bay.

It should be noted that the revenue cap creates a disincentive for the railways to reduce feed grain rates into British Columbia. Because the revenue cap imposes a net reduction on freight rates of the regulated grains, it is obvious that any priority for reduction will go to those regulated rates. Reduction of rates outside the regulated system will only cost the railway company money, and does not help the railway achieve the regulatory requirement. It is therefore quite possible that we will see the differential between export and domestic rates grow even wider under the new regulatory framework.

The Legislated Revenue Cap and Canadian Trade Policy

We would also point out to the Panel that the recent legislative changes run totally contrary to stated federal government policy. This is most notable with respect to Canada's position on international trade in the current World Trade Organization (WTO) negotiations, as well as with respect to its commitments under the Agreement on Internal Trade (AIT).

The Question of Export Subsidies: A respected trade policy analyst from British Columbia, Don Knoerr, undertook an examination of the trade policy implications of changing the former freight rate cap to a revenue cap⁸ (Appendix C). As indicated above, the stated Government objective of establishing a revenue cap was to reduce the average freight rates for regulated grains. The paper notes that export shipments to west coast ports are included in the revenue cap but that rates for domestic shipments are excluded. Because the net effect of this Government policy is therefore to mandate more favourable terms for export shipments, the policy inadvertently creates an export subsidy.

It is noted by Knoerr that the subsidy created would still be well within Canada's export subsidy outlay commitments for wheat and coarse grains under the WTO agreement. However, given Canada's repeated strong international advocacy for the elimination of all export subsidies, it would clearly be in our best interest to include domestic grains under the revenue cap.

The Principles of the Agreement on Internal Trade: The Agreement on Internal Trade (AIT) is an intergovernmental agreement signed by the provincial, territorial and federal governments in 1995. The AIT was intended to address obstacles to

interprovincial trade, and is guided by a number of key principles, including the following:

Parties will treat persons, goods, services and investments equally, irrespective of where they originate in Canada.

It is clear to us that providing a legislative mechanism to prevent high freight rates for all grain moving east, but only for export grain moving west, runs contrary to this stated principle. This was true for the former rate cap and it is true for the current revenue cap. The net effect of the revenue cap is to impose a levy on domestic grain, restricting the inter-provincial trade of feed grains for use in British Columbia. All grain movement to BC ports should, therefore, be treated equally under the *Canada Transportation Act* in order for the proposed revenue cap to be consistent with the terms and intent of the Agreement on Internal Trade.

We would note that our position on this issue is supported by the Government of British Columbia, both in correspondence to federal ministers⁹ (Appendix D) as well as in the BC Ministry of Transportation and Highway's submission to the CTA Review Panel¹⁰.

Final Offer Arbitration Provisions

It is encouraging that the new Act has modified the Final Offer Arbitration provisions. It appears that the provisions provide grain users with a better opportunity to settle disputes with the railways on freight rates, particularly where disputes are under the \$750,000 level.

BC grain users do not accept the argument, however, that this provision should serve as the only means of providing protection against high freight rates. Unlike the previous rate cap, the railways are being given sweeping flexibility in setting freight rates within the proposed revenue cap. The final offer arbitration process is therefore a reasonable means of settling freight rate disputes for regulated grains. It is not reasonable, however, to force BC grain users to rely solely on this process because domestic grains fall outside of the revenue cap.

Concluding Comments and Recommendations

As stated initially, the British Columbia poultry and livestock sectors are caught in an extremely competitive situation with the prairie provinces, making it difficult or impossible to pass on any higher production costs that have come about as a result of excessive feed grain transportation costs

Based on the information provided in this brief and the referred to studies, we would like to ask the members of the Review Panel this question: *Why should BC feed grain users have to rely solely on an arbitration process, when both export customers and feed grain users in eastern Canada have a legislated mechanism*

in place to curtail the monopolistic price setting ability of the railways? After several years of asking this one very basic question, we have yet to receive a rational or reasonable response.

The BC Agriculture Council and Animal Nutrition Association of Canada (BC Division) would therefore offer the following recommendations:

1. The Final Offer Arbitration process should not serve as the only means of providing protection against high freight rates for domestic grains moving west of the prairies.
2. The revenue cap should be applied to all westward rail movement of grain, as is currently the case for eastward movement. This is the only way to ensure equity for BC users of prairie feed grains, and to end the longstanding discrimination against value added agri-food production in the province of British Columbia.

We sincerely thank the CTA Review Panel for the opportunity to make input on this most important issue.

Respectfully submitted,

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Notes:

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2. Livestock Feed Board of Canada. *Annual Reports*. 1986-87, 1987-88, 1988-89, 1989-90, and 1990-91.
3. The Honourable Lyle Vanclief. *Correspondence to Bruce Bakker, Chair, BC Agriculture Council*. January, 2001.
4. Actran Consultants. *Grain Transportation Reforms and their Implications for Agriculture and Other Interests in British Columbia*. March, 2000.
5. The Honourable Willard Estey. *Grain Handling and Transportation Review: Final Report*. December, 1998.
6. Actran Consultants. *Offsetting the Loss of Feed Freight Assistance*. November, 1995
7. Charles Schwier, Gordon English, Richard Lake, Ross Jacobs and David Hackson. *Estimates of the Costs of Moving Barley by Rail from Alberta Origins to Vancouver and the Fraser Valley*. March, 1996.
8. Don Knoerr. *Trade Policy Implications of Federal Regulation of Freight Rates for the Movement of Western Grains*. March, 2000.
9. The Honourable Corky Evans. *Correspondence to the Honourable Lyle Vanclief and the Honourable David Collenette*. June, 2000.
10. BC Ministry of Transportation and Highways. *Position on Rail Competition: Canada Transportation Act Review*. December, 2000.