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News

Railways fume over coming rule changes

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CNR \$72.56  \$0.60	CP \$63.82  \$0.37	
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Data delayed at least 15 min

Scott Deveau, Financial Post · Mar. 21, 2011 | Last Updated: Mar. 21, 2011 4:06 AM ET

Canada's largest railways say they are disappointed in Ottawa's conclusion that further legislation may be needed to improve the quality of service they provide their customers, arguing it runs the risk of stifling innovation in the rail sector.

The federal government announced Friday it would be implementing the final recommendations of the Rail Freight Service Review, which was launched in 2008 to address systemic concerns about poor service from customers of Canadian National Railway Co. and Canadian Pacific Railway Ltd.

Throughout the review, numerous service deficiencies were identified at both railways. For example, one of the consulting papers found that two-thirds of shippers surveyed said they had suffered significant financial losses as a result of poor rail service, sometimes costing them millions of dollars.

Despite both CN and CP implementing numerous solutions on their own since the review was launched, the panel concluded additional measures were needed.

"Although the railways have taken steps to address service issues, problems still remain," the panel said in its final report, which was made public Friday.

Among the measures the federal government has agreed to implement is the appointment of a facilitator to work with the railways and their stakeholders to develop within six months a better balanced, and low-cost dispute resolution mechanism, and to establish a framework for additional public reporting from both railways relating to the service they provide.

These metrics should include publishing how many cars were ordered by shippers sector-wide, how many were actually delivered, as well as other measures, such as dwell times in railyards and ports, in order to develop a public record against which shippers can compare their own service metrics, the report says.

The federal government also said it would table a bill to give shippers the right to a standardized service agreement, allowing for a dispute mechanism and possible remedies for failure of service.

Bob Ballantyne, Coalition of Rail Shippers chairman, said the measures should provide a better balance in the negotiations between shippers and the railways, which he said is currently weighted in the favour of the latter.

"The panel really listened to what the shipper group was saying, and clearly the government did as well," he said.

He did, however, express concerns that the possibility of an election being called this week would delay its implementation.

The Freight Service Review panel had recommended in an interim report last October that Ottawa let the railways address the service deficiencies themselves, but also draft some legislation that would force them to fix the problems if a review in 2013 found that they were still falling short.

But the final report outlines the specific commercial measures it wants the railways to implement. It recommends as well that a review of the new measures be conducted in 2015 in conjunction with a five-year review of other amendments made to the transportation act.

The panel did not, however, rule out the possibility of further legislation being needed if any of the commercial measures it recommended were not implemented, and that irked the railways.

Claude Mongeau, CN chief executive, said he was concerned by Ottawa was "drifting backward toward more regulation instead of encouraging the current momentum for positive change."

He said he was also concerned the review focused too much on the railways, ignored improvements that had been made and did not sufficiently explore the impact other stakeholders in the supply chain had on service problems.

"CN is pleased that the government on its part recognizes the positive momentum in the railway industry, is anchoring its preference on commercial solutions and is focusing on the end-to-end supply chain. This is the only way in our view to achieve lasting service improvements," he said.

"We are, however, disappointed that the government considers legislation may still be needed."

His concerns were echoed by Fred Green, CP chief executive: "While the report suggests negotiated commercial principles are preferred, I am concerned about the application of some of the recommendations involving regulation," Mr. Green said.

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