



# RAC Environment Committee Meeting

October 2, 2024

People. Goods.  
Canada moves by rail.



Railway Association  
of Canada



## **Competition Law Compliance Policy**

### **STATEMENT**

The RAC is committed to compliance with all **competition laws** applicable in Canada, including Canada's *Competition Act*.

Under the leadership of its Board of Directors, the RAC carries out its activities in strict compliance with all **competition laws**, provides guidance to its committees and its employees on how to comply with these laws, and promotes with them the importance and value to the RAC of complying with them.

The RAC Corporate Secretary ensures that RAC, its committees and its staff are familiar and comply with this policy.

### **COMPETITION LAW**

**Competition laws** are designed to maintain and encourage competition in the marketplace. Non-compliance with the **competition laws** relating to improper coordination among competitors could constitute a criminal offence to which significant fines and prison terms can be attached, and for which significant damages can be awarded in private lawsuits, including large class actions.

RAC is a forum for railway members to exchange information and views on the railway sector. Particularly because RAC is an association that represents most of the players in the rail sector in Canada, including many that compete with one another, any activity it conducts must be in strict accordance with the **competition laws**, and avoid even the perception of possible improper conduct.

### **PROHIBITED ACTIVITIES**

Due to the presence of multiple competing entities in RAC, any activity, including discussions or agreements that relate, directly or indirectly, to the following "**Prohibited Topics**" are strictly prohibited:

- ☐ Prices (rates) charged to shippers for services provided by members of the RAC
- ☐ Prices (costs) paid to suppliers for services provided to members of the RAC
- ☐ Any other conditions associated with services provided to shippers or received from suppliers of RAC members, including discounts, rebates, etc. and level of service provisions
- ☐ Customer or territory allocation
- ☐ Limitation of supply of services provided by RAC members to their customers

### **GUIDANCE**

Any activity, including discussions or agreements that could even remotely be construed as relating to the above Prohibited Topics, cannot take place at the RAC or any of its committees or any meeting organized or attended by RAC staff, or otherwise among RAC members.

To ensure compliance with these rules, when meeting, members of a RAC committee or of the Board of Directors must:

- ☐ Have a pre-set agenda and take minutes, recording resolutions adopted and summarizing the essentials of conversations that took place.
- ☐ Limit themselves to issues identified on the agenda, except if circumstances call for other issues to be addressed, in which case careful notes of the additional issues discussed must be recorded.
- ☐ If any participant believes that Prohibited Topics have been raised or discussed, they must advise all participants of their concern and any discussion relating to that issue be ceased immediately pending legal advice.
- ☐ Require legal advice if any issue to be discussed might cause the members to believe that **competition laws** could be infringed.
- ☐ Suspend or even postpone to a later date discussions on such issues if legal advice cannot be sought in a timely manner.

Staff of the RAC shall in their duties ensure the confidentiality of information brought to their attention by members, avoid conflict of interest or situations that would discredit the RAC, unless doing so could violate the **competition laws**.

Updated May 3, 2021

## **RAC Environment Committee Meeting 03-2024**

October 2, 2024

13:00 – 15:00 EST

Items	Lead	Time
<b>Administrative Items</b>		
1. Welcome and Call to Order a) RAC Competition Policy b) Approval of Meeting Minutes c) 2025 Meeting Schedule	Ben	13:00
<b>RAC Updates</b>		
2. President's Report	Marc	13:10
3. Vice-President Public & Government Affairs Update	Lora	13:20
4. Advocacy Update	Katarina	13:30
5. LEM Update	Jonathan	13:35
6. Regulatory Affairs Update	Mike	13:40
7. Dangerous Goods Update	Scott	13:50
<b>Guest Speaker</b>		
8. Canadian Food Inspection Agency - Spotted Lanternfly	Wendy Asbil Diana Mooij	14:00
<b>Environment Committee Initiatives</b>		
9. Year in review	Ben	14:15
10. Project checklist update	Ken	14:25
11. Environmental Legal Updates	Ben/Stella	14:35
12. Written Updates a) Brief to PAC & SOMC b) Storage Tank Systems Regs Submission c) Local Emissions Communication d) Greenwashing Amendments Submission	Ben	14:45
13. Other Business	Ben	14:55
Adjourn		15:00

## **RAC Environment Committee Meeting 2024-02**

**Tuesday, June 11, 2024**

**Virtual**

### **Meeting Minutes**

#### **Attendees**

Stella Karnis, CN (Chair)  
Aaron Stadnyk, CN  
Abbigail Shillinglaw, ONT  
Ben Chursinoff, RAC  
Brett Young, Hudson Bay Railway  
Francois Belanger, CN  
Françoise Granda-Desjardins, VIA Rail  
Joe Visce, ONTC  
Johanne Delaney, RAC

Kristen McDiarmid, CN  
Lora Smith, RAC  
Michael Barfoot, RAC  
Murray Macbeth, GWRR  
Scott Croome, RAC  
Ted Jones, CPKC  
Jonathan Thibault, RAC

#### **Absent**

David Huck (CPKC), Christian Belliveau (NBMR), Benoit Gringas (exo), Joe Van Humbeck (CPKC), André Lapalme (GWRR), Sylvain Rodrigue (exo), Bruno Riendeau (VIA Rail), James Skuza (Metrolinx), Marta Swiercz (Metrolinx), Nirwair Bajwa (CPKC), Luanne Patterson (CN), Vanessa Côté (VIA Rail) Paul Michael Pilkington (ONTC), Emily Mak (SRY), Ken Roberge (TRC Companies), Kevin Houle (CPKC), Arjun Kasturi (Metrolinx)

#### **1. Call to Order & Opening Remarks**

Stella Karnis called the meeting to order at 1 PM ET.

##### **a) Competition Law Compliance Policy – Forward statement**

The Competition Guidelines, as adopted by the RAC Board of Directors, were read to the committee participants. The Guidelines explain that the policy emphasizes our organization's compliance with Canadian Competition Laws in all our meetings and activities.

##### **b) Meeting Minutes**

The meeting minutes of March 19, 2024, were reviewed by the committee and approved by Stella Karnis and seconded by Françoise Granda-Desjardins.

**c) The Fall committee meeting will be October 2 followed by RAC's Annual Conference on October 3.**

Note: the RAC Annual Conference is being rescheduled to late November due to an emergent conflict. More details to follow.

**2. RAC Public & Government Affairs Update**

Lora Smith, VP Public and Government Affairs, delivered the update.

The RAC team is actively monitoring the Class 1s labor situation, and the Vancouver Port and Canadian Border Service Agency (CBSA) are expected to be on strike this month as well. The RAC is working with different large industry associations in Ottawa, such as the Business Council of Canada and the Chamber of Commerce to coordinate letters to the Federal Government, mainly to the Labor Minister, but also to the transport minister to express concerns about the impact that this type of strike would have on the economy and many different shippers in different sectors. The understanding is that the message has been well received and understood. The U.S. is very much aware and concerned about the impact as well. The RAC will continue to monitor with the Canadian Industrial Relations Board (CIRB) being called to weigh in on the maintenance of service activities.

The RAC continues to work on the 18-month pilot project on extended interswitching to get it repealed by March 2025. The digital campaign received over 24,000 clicks on the materials.

The RAC continues meeting with MPs before the summer break.

RAC's media strategy will be refreshed over the summer and be ready to start up again in August and September timeframe.

Following the support for shortlines that was indicated in the Ontario budget, the RAC is working with the Ministry of Finance to determine what the tax credit could be and give them examples of how it's done in the U.S. and the positive impacts that it will have. The goal is to be able to use that momentum to bring that type of policy instrument into other provinces across Canada and federally on passenger rail.

The RAC team is having the CPCS freight rate report updated with current data. It maintains that Canadian railroads are virtually the lowest in the world. The updated report will be released later this month.

The RAC team made appearances at the Standing Committee on International Trade (CIIT) to support the HFR on a dedicated track. The RAC also spoke at the Canadian Federation of Agriculture (CFA) and CILTNA Conference in Vancouver.

The RAC had a successful shortline conference in May. A full day of great speakers, and networking opportunities. The RAC gave some informative Lunch

and Learns such as Indigenous Engagement, and climate resiliency with the Canadian Transportation Agency (CTA). RAC's Women in Rail Conference is tomorrow, June 12 on a virtual platform. RAC will have its annual conference in October called RailCan 24 with full-day speakers from Class 1s to government officials.

### **3. RAC Regulatory Affairs Update**

Michael Barfoot, Senior Director Operations and Regulatory Affairs, gave the update.

The RAC continues to work on ETC and consulting with Transport Canada for the last 12 months. TC is reviewing comments and feedback that the RAC provided them over the last year and working on their strategic development for what ETC looks like in Canada. We may see a Canada Gazette Part 1 publication for ETC in both Q1 of 2025 and possibly Canada Gazette Part II in early 2026. Two major outstanding issues remain around consensus on the timeline and implementation.

The RAC received a safety advisory letter from Transportation Safety Board of Canada (TSB) addressed to TC earlier this year regarding operations under restricting signals in centralized train control. It cites four occurrences in the past year in which trains have operated under restricting signals over speed, and these four occurrences have resulted in collisions. Transport Canada is developing an action plan to address the issues. They are receptive to the engagement and want to consult with the RAC to understand more about how restricting signals work.

Another safety advisory letter came out last year regarding the obstructing of inward-facing LVVR cameras. These are new regulations and railways are still working on a phased-in implementation plan for their full fleet. The TSB is observing instances where they're going to take recorder data off locomotives to investigate if the cameras have been blocked by an object. The RAC will work with TC on some oversight requirements about that and see what the railways can do to help minimize those types of obstructions.

Employee impairment was identified as a safety concern in a recent TSB inquiry report. Since the Railway Safety Act offers no solutions, the TSB and the RAC have been in communication over this issue. Drug and alcohol usage policies are often enforced by the railways. We would be looking for something a little bit more solid legislatively to support the railway safety standards on these kinds of things, as there are times when the unions become involved. The Transportation Safety Board (TSB) is monitoring the situation and discussing potential regulatory measures with Transport Canada.

The RAC has a working group formed with TC on wayside inspection systems, a direct result of the Norfolk Southern derailment in East Palestine. The focus is on cold wheel detectors that align with the train break rule amendment.

The RAC will be expecting a publication in the coming months on railway employee qualification standards. Those regulations dictate the training and call requirements for employees in safety-critical positions. These have not been updated since their inception back in the 1980s. The RAC is expected to get into consultation with TC in the next several months to amend and review the regulations to bring them in line with the evolving SMS.

The cardiovascular disorders guidelines have been updated and are published on the RAC website with an update to the vision guidelines to follow. The guidelines on cerebral vascular and neurological disorders will be developed in the coming future. The Railway Safety Act specifically describes that physicians and optometrists are the two medical professionals that if they submit a medical report to a railways chief medical officer (CMO), will be required to consider that when they assess an employee's fitness for duty. The problem is that the state of healthcare in Canada is evolving with different allied healthcare professionals that are providing primary care employees of railways who are in safety-critical positions. The RAC is working with the medical advisory group and reached out to several primary care provider associations to get their support before a formal request to the government is made.

The RAC is updating the transportation of dangerous goods publications.

The RAC is working with the Ministry of Transportation in Ontario to create a safety framework for urban and regional rail transit. A report was done by Ernst and Young, which was the consultant that the MP hired to do initial consultations. The current framework doesn't provide the level of restriction and accuracy.

On November 25 there will be a duty and rest period rule implementation for passenger railways. New grade crossing regulations for non-high-risk private crossings come into force on November 28. New train break rules will come into force on or before December 1, 2025.

#### **4. RAC Dangerous Goods Update**

Scott Croome, Director Dangerous Goods, gave the update.

The Dangerous Goods team met with MACTDG and GPAC groups in Ottawa last month.

The RAC is working on the registration site for the Client Identification Database (CID) which is approaching in October. This is a requirement for all to register on the site should they be importing. Met with CPKC for a trial run of the website, finding issues with the "owners" information that has been brought forward to TC.

The buffer car requirement is in Canada Gazette Part 1 and have requested edits before publication in Canada Gazette Part 2. The goal is to improve safety for train crews. The requirement would be to have the plaque card carriers on the cars themselves which would require cars to be placed in the car shops. It would be

hundreds, if not thousands of placard carriers that would have to be installed across the network.

The RAC is ensuring to stay in touch while staff changes are happening over at Transport Canada. There's a new hydrogen project that's come online, a new directorate at Transport Canada for the transportation of hydrogen by rail. The RAC has asked to be consulted as they move forward.

A new funding system for training in Northern and Indigenous communities and railway response. It will be more of an application for communities who don't have the means to provide training for railway response.

Transport Canada is now adding fees to the auditing of car shops that do qualifications on tanks. Facility charges car owners to ensure that their vessels or MOCs (Means of Containment) are compliant with Transport Canada is required to inspect, to make sure that they're meeting the requirements. Essentially, Transport Canada is going to start charging fees for this auditing process.

Part 6, related to TDG training is going back to white Paper and TC is not anticipating an update until 2025 or 2026. It is a complete rewrite of the requirement for training.

The new 116 railcar, the replacement for the 111 car, is back on the forefront – RAC is on the committee and should learn more this year.

The Class 1s have been hosting schools across Canada and in the United States, with more coming in 2025. Some training on water response and red card training, typically a forestry firefight training for contractors and employees to understand the risk of forest fires and in preparation for fire season. Two schools have been completed in Canada, and more are planned.

Currently training at the JIBC for RAC week with 32 students and 10 instructors.

## **5. Federal Regulatory & Initiatives Updates**

### **a) Environmental Project Checklist Update**

Ken Roberge (TRC Companies) was scheduled to provide an update to the committee, but an emergent conflict came up. This update has been postponed to a later date.

### **b) Storage Tank Systems for Petroleum Products & Allied Petroleum Products Regulations**

Ken Roberge was scheduled to provide an update to the committee, but an emergent conflict came up. Ken provided a written update below.



This regulation amendment focuses solely on updating the technical standard referenced in section 14 which covers the installation of a new component or storage tank system (new in this case means installed on or after June 12, 2008). While they reference the 2022 consultation, they are only dealing with this one issue in this amendment.

In addition to updating the technical standards they also mention options to simplify the incorporations by reference. Interestingly their approach appears to include a new Schedule 4 which provides the name of the technical standards and the corresponding CCME reference. When there is one standard listed you follow that one and when there is more than one you can choose based on what is in effect when the tank/component is manufactured.

There does not appear to have been an attempt to update the technical standards in Schedule 1, many of which have been withdrawn. The impact here would be minimal however as I can't imagine the railways have many, if any, systems that are covered by those parts.

Ken noticed a slight change in the wording 14(2)(b) where they added "the tank is equipped with a spill containment device" which was a bit of a loophole in the past for certain tanks not having a spill containment device. If companies were taking advantage of that loophole, they would need to reevaluate any tanks installed after 2008 to ensure they have a spill containment device.

They did not add a technical standard possibility for stainless steel piping such as ASTM A312/A312M for new piping. I know this has been a concern in the industry previously.

Wording problematic: "whichever is in effect at the time the storage tank system is manufactured". A storage tank system isn't typically manufactured. All components are manufactured individually and then assembled as a system in the field. If they are looking to ensure that new installations meet the latest standard they need to deal with this kind of wording. Even wording that the component meets the standard that was in effect when it was manufactured can allow for old equipment to be re-used.

**RAC will organize a separate call to further discuss commenting opportunity.**

#### **c) Emissions Inquiries**

The City of Saskatoon approached CPKC seeking detailed information on railway Scope 1 emissions within the City of Saskatchewan, specifically at a local level. Unfortunately, this granular data is not readily available. However, CPKC collaborated with the City of Saskatoon to develop a methodology to estimate these emissions. Here's an overview of their approach:

**Province-wide Emissions:** CPKC reported the total locomotive Scope 1 emissions for Saskatchewan were 360,798 tonnes of CO<sub>2</sub>e from all locomotive use.

**Yard-level Operations:** Emissions from switching or yard-level operations represent approximately 2% of CPKC's national emissions. Since detailed province-level data for yard-level operations is not available, this 2% figure was applied to the provincial total. Saskatoon's proportion was then approximated at 50% of this province-level data.

**Calculation:**

- Total locomotive emissions in Saskatchewan: 360,798 tonnes CO<sub>2</sub>e.
- Yard-level emissions for Canada: 2% of total emissions.
- Yard-level emissions for Saskatchewan: 360,798 tonnes CO<sub>2</sub>e × 2% = 7,215.96 tonnes CO<sub>2</sub>e.
- Saskatoon's yard-level emissions: 7,216 tonnes CO<sub>2</sub>e × 50% = 3,608 tonnes CO<sub>2</sub>e.
- We are now looking to understand if other railways have faced similar inquiries and what methodologies they may have employed.
- This situation presents an opportunity for industry-wide alignment by adopting a consistent methodology.

**RAC will organize a call with interested members to discuss a consistent approach.**

**d) Bill C-59**

Bill C-59, introduces amendments to the Competition Act in Canada to address greenwashing, aiming to enhance the accountability of businesses making environmental and social claims.

One of the main features of the bill relates to anti-greenwashing provisions prohibiting claims about the environmental benefits of specific products which could include low-carbon fuels.

This bill increases the scope of potential greenwashing offenses to include environmental claims made “to promote, directly or indirectly, any business interest such as carbon neutral or net-zero claims.

Social claims are also included in this Bill such as those related to Indigenous reconciliation and DEI.

A challenge with this is that claims must be proven, and the burden of proof is on those businesses making the claims. However, the challenge is that how to do this is not defined but claims must use “an internationally recognized methodology.” Offenders could be subject to administrative monetary policies. Up to \$10 million.

**We may wish to consider providing comments suggesting that this is unworkable and that there needs to be a clear definition of what constitutes proof and what is an internationally recognized methodology.**

Kevin Mason at CPKC indicated that they don't have concern at this time given their well-established public reporting mechanisms.

Members will review the bill and get back to RAC if there are concerns.

**e) Benchmarking Exercise**

At the last committee meeting, it was discussed that a benchmarking initiative could be actioned to develop guidance or best practices in an area of interest for the Environment Committee. At the time no specific areas were identified.

However, since then members have raised a few areas of interest which may lend themselves well to a benchmarking exercise with this committee. They are in attendance today to provide some context on what they are looking for.

The process could mirror what has been done at the AAR, which is to schedule a separate call with those interested in participating. A discussion questionnaire could be developed to help guide the conversation. These would be sent in advance so members can prepare accordingly. By the end of the meeting, there should be answers available for the interested member. RAC would take notes and formulate a summary document which could be made available to members.

**Water Management – Brett Young, HBR**

Since the 2017 washouts, water management has been an issue, and following the 2018 derailment, it became a pest control issue. Hudson Bay Railway contracted a place to manage things such as beavers and water in the area to ensure that the water continues to flow.

Ontario Northland brought in a consultant who does beaver management training and has a crew that traps beavers by permits in their north and south districts about 700 miles a track following their 2021 south of Kirkland Lake, Ontario. The inspections are done with drones.

CN and CPKC have a team of engineers that evaluate these situations.

VIA Rail worked with the NRC in terms of research and emerging technology.

**Sustainable / Indigenous Procurement Policy – Joe Viscek, ONTC**

ONTC is bound to the province of Ontario procurement rules which bring considerations for local content and services. ONTC is seeking guidance on best practices for sustainable procurement policy.

CN to connect with ONTC on procurement and Indigenous affairs group. CN to also keep RAC informed.

VIA Rail also has a policy on procurement and will connect with ONTC.

CPKC and GWWR will reach out internally for the policy contact person.

Hudson Bay Railway (HBR) has a group called One North which is northern and indigenous communities. HBR will reach out internally and connect with ONTC.

**f) Natural Environment Subcommittee**

The committee met with the Canadian Wildlife Federation (CWF) in April to discuss their desktop research into railway infrastructure impacts on salmon in BC. Essentially what the CWF is seeking is to advance that desktop research into actual field assessments of infrastructure. They want to work with the railways on accessing the sites, sharing information, and ultimately in the long term to assist with infrastructure updates that support the passage of salmon. Members are currently waiting for CWF to submit their plan, proposal, and procedures.

Members of the committee will meet with the Canadian Food Inspection Agency (CFIA) on Thursday, June 13 to discuss Spotted Lanternfly. This is an invasive species not yet found in Canada. It is indigenous to parts of China and Vietnam. It has spread to Japan, South Korea, and the US. This species poses a significant threat to the grape, tree fruit, wine, and ornamental nursery industries. CFIA reached out to discuss monitoring and surveillance opportunities with the rail industry as transportation can be a mechanism for these things to spread. The committee will be updated following a discussion with CFIA.

**g) Climate Resilience Subcommittee**

No updates from this subcommittee.

However, the RAC held a Lunch and Learn with the Canadian Transportation Agency in May. The session was focused on climate resilience in the Canadian rail sector. The genesis for this event was that the CTA reached out to RAC wanting to learn more about this topic. The objective was very much about education. Francois from CN, David from CPKC, and Derek from VIA formed a panel discussion that Ben moderated. It was well received by the CTA and RAC staff. It successfully demonstrated to the CTA what the risks and opportunities are, and what the industry is doing about climate resilience. The RAC may continue to do so in the future.

**h) Navius Research Climate Modelling**

Transport Canada contracted Navius Research to conduct climate modeling for the Canadian rail sector. The purpose was to forecast how a range of policy approaches impact GHG emission reductions up to 2050. 15 different policy scenarios were included for analysis that can be categorized into the following three groups

- i. GHG pathways to net-zero by 2050



- ii. Fleet Renewal Scenarios to 2050
- iii. Incentive Scenarios to 2050

The information presented indicates varying levels of emissions reduction through the different policy scenarios.

Their results suggest that regulations are needed to constrain sector GHGs and advance the uptake of Tier 4s and ZELs. Fleet renewal would need to be 1.7 to 2.8 times as high as current policies to achieve Canada's climate commitments. One positive result is that the analysis supports government incentives specifically for the shortline sector which demonstrates substantial decreases. The RAC expects to hear additional thoughts from the government at the upcoming MOU Management Committee meeting on June 17.

The concern is that this report will embolden policy decisions favoring intrusive regulations. The industry needs to develop an appropriate response to this analysis. What is missing from the analysis and much of the ongoing conversations with the government is the potential impacts on Canada's supply chain efficiency and the overall business environment. There is an opportunity to question assumptions used in the climate modelling exercise. Stringent regulations have costs that need to be highlighted as the focus can't solely be on emission reductions.

CN and VIA Rail agree with the approach of holding an industry call to develop a response to TC and the Navius report.

**RAC to organize a separate call to further discuss.**

## **6. Committee Members Roundtable**

### **a) How can we formalize this format to increase engagement?**

Ben and the Chair have been discussing how to increase engagement during these sessions. This is intended to provide a roundtable opportunity for members to learn from each other, share information, and identify solutions to ongoing environmental issues. Themed sessions for each meeting could be communicated in advance. This could also include opportunities for suggestions from the members if there are topics they want to learn about. Hearing perspectives from members on how best to leverage this opportunity for industry engagement. VIA Rail to reach out in advance for subject matters. Committee members support.

### **b) Wildfire Communications**

Ben canvassed the committee regarding the possible role of the RAC in communicating publicly about what members are doing to combat wildfires in Canada, especially when meeting with Government officials. HBR had a fire in Northern Manitoba, however, rain quickly fell, and no wildfires since. They ran an exercise in March for a wildfire situation and coordinated with the RCMP. CN

tries to mitigate this through their programs of fire prevention. The RAC put a collection of social media posts together to raise awareness.

#### c) Member Issues

ONTC is trying to include research elements into their work such as high-water studies working on baseline studies for the last several years as they're pushing for sustainability efforts. CPKC changed their hazmat officers into heroes' hazmat and emergency response officers who respond to emergencies that now include wildfires.

HBR received a noise complaint within the last year and wondered about guidance documents on that process. Ben to discuss offline with HBR on proximity guidelines. HBR will have representatives at the 12<sup>th</sup> International Conference on Permafrost (ICOP 2024) June 16-20 in Whitehorse, Yukon.

### 7. Written Updates

The written updates section was approved by Françoise Granda-Desjardins.

- a) University of Lakehead
- b) VOC Consultation
- c) Right to a Healthy Environment
- d) Rail Electrification Coalition

### 8. Other Business

The next committee meeting will be held in Ottawa on October 2, 2024, in conjunction with RAC's annual conference. **\*This needs to be rescheduled\***

### 9. Adjournment

The meeting adjourned at 2:45 PM

Action Items	Lead	Status
1. Minutes: The meeting minutes are to be circulated within 21 calendar days	Johanne	Complete
2. RAC to schedule a call with members on Emission Inquiries	Ben	Complete
3. RAC to organize call to discuss Storage Tank Regs.	Ben	Complete
4. HBR and ONTC to discuss water management.	Brett & Joe	Ongoing
5. CN and ONTC to discuss sustainable procurement.	Joe & CN	Complete
6. Update committee members on the CFIA discussion	Ben	Ongoing
7. RAC to schedule a members call to discuss a response to the Navius Report.	Ben	Ongoing



Railway Association  
of Canada

# ***PEOPLE. GOODS. CANADA MOVES BY RAIL.***

President's Report  
Marc Brazeau, President & CEO



# SITUATIONAL CONTEXT



Federal advocacy remains the top priority in light of political uncertainty and ongoing economic threats to railways



Focussed on providing political parties with policy recommendations that directly benefit Canadians and railways



Provincial and municipal outreach on timely issues/opportunities in particular support for shortline railways



New Transport Minister will be challenged in balancing responsibilities for two important ministerial portfolios



Rail Safety Week generates active support and engagement of railways across the country



# CURRENT LANDSCAPE

## Wins

- Effective collaboration and alignment with business and shipper associations during rail work stoppage created significant pressure on Federal gov't
- TC renews funding agreement with Operation Lifesaver Canada
- Senator Dagenais continues to push for second reading of Public Bill S-287 to repeal extended interswitching
- Extended interswitching communications campaign timed with return of Parliament
- Ontario exploring funding structure model to support shortline investments
- Detailed submission on TC freight rail review

## Risks

- Continuation and/or expansion of extended interswitching beyond March 2025
- Ongoing risks related to supply chain labour disruptions
- Spreading of misinformation by shipper lobbyist leads to negative public policy or regulatory outcomes
- TSB consultations could result in new rail related watchlist items in 2025
- Supply Chain Office role/purpose continues to be put into question

## Opportunities

- Expand parliamentary opposition to extended interswitching with focus on need to protect Canadian unionized jobs
- Advocate the need for the Federal government to swiftly equip itself with more tools to address labour stability
- Continue to advocate for accelerated depreciation for all supply chain partners that invest to improve safety or expand capacity
- Continue to promote modal shift for passenger and freight railways by highlighting strong environmental performance
- Promote passenger railways and secure desired policy outcomes



# TOP PRIORITIES IN Q4

## ADVOCACY

- Submit rail policy recommendations to political parties to enhance economic prosperity for Canadians
- Obtain broad Parliamentary support to repeal EIS by March 2025
- Continue to collaborate with Senator Dagenais on Public Bill S-287
- Work with Ontario government to finalize proposed funding structure for Shortlines
- Maintain high level of engagement with government officials and public office holders leading up to Fall Economic Statement

## COMMUNICATIONS

- Focused communications and media campaign to repeal EIS
- RailCAN24 to serve as an important platform to communicate industry needs, challenges and successes to decision-makers in Ottawa
- Ensure ongoing updates to keep Board and Committees, members, and key stakeholders engaged and informed

## HUMAN CAPITAL

- Extensive Board feedback provides opportunities for maximum input and engagement of all Directors
- Held a highly practical and engaging planning session with staff at CN training facility in Winnipeg
- Onboarding of new employee to support advocacy team
- Continue to drive strong employee engagement and culture with focus on delivering tangible member value

**12.a) BRIEF TO PAC & SOMC****ENVIRONMENT****Memorandum of Understanding with Transport Canada to Reduce Locomotive Emissions**

The MOU Management Committee has held two meetings to date (April and June). Discussion topics have been focused on renewable fuels, climate modelling, reducing Criteria Air Contaminants, selection of the eNGO representative (committee agreed to continue working with Pollution Probe), and work planning.

The next meeting is being planned for early November which will focus on prioritizing elements of the work plan and discussing research proposals presented by Pollution Probe (i.e., low-carbon fuels and fueling infrastructure, and modal shift).

**2018-2022 MOU Audit**

As per the 2018-2022 MOU between RAC and TC, a 3<sup>rd</sup> party audit is required to verify the credibility of the data and reporting processes. The MOU Management Committee has agreed to advance the audit with Niewe Consulting. TC will be the project authority with RAC providing support throughout the process.

Interviews and data analysis will be undertaken by Niewe Consulting from September through October. The first draft report is anticipated by November 1 while the final report will be expected to be delivered to the Management Committee by December 13.

**Locomotive Emissions Monitoring**

The 2022 LEM report was published on September 18 which demonstrates that Canada's rail industry continues to be a leader in environmental sustainability.

Since 2005:

- Freight railways' GHG emissions intensity has reduced by 26.7%.
- Intercity passenger railways' GHG emissions intensity has reduced by 28.1%.
- Total rail industry's criteria air contaminant emissions have decreased, including carbon monoxide (9% reduction), nitrogen oxides (48%), hydrocarbons (55%), particulate matter (61%), and sulphur dioxide (99%).

**Environment and Climate Change Canada – National Inventory Report**

The GHG emissions trend in the LEM reports differed from the trend shown in ECCC's National Inventory Reports (NIR). RAC, TC, and ECCC held discussions at the staff level to determine the cause of the discrepancy.

ECCC had been relying on rail industry fuel demand as reported through the Report on Energy Supply and Demand (RESO), which is based on information from fuel suppliers, rather than on actual fuel used in locomotives as reported by Canada's railways in RAC's Rail Trends and Statistics Canada's Annual Survey on Rail Transportation.

Following the discussions, ECCC has confirmed that their proposed methodology for the 2025 NIR will be to adhere to the fuel volumes reported in RAC's Rail Trends reports, rather than the RESD.

This is good for two reasons.

- 1) RAC is recognized as an authority on rail data and;
- 2) There will be an improvement to the railways' emissions trend in NIR reports moving forward (starting April 2025). The RAC trend showed an 8% decrease in GHG emissions from 2005 to 2022 using RAC data (as shown in the LEM report), whereas the ECCC reports showed a 4% increase.

### **Bill C-59 – Greenwashing Amendments to Canada's Competition Act**

RAC has provided detailed comments to the Competition Bureau on the recent greenwashing-related amendments to the Competition Act. These provisions require companies to substantiate environmental claims using "adequate and proper substantiation in accordance with an internationally recognized methodology." RAC's submission highlights the need for clear guidance on what constitutes proper substantiation and recognized methodologies, particularly to ensure all organizations can comply, regardless of size or resources. RAC also commented on the need to maintain Canada's global competitiveness, while emphasizing the need for flexibility for environmental initiatives and consideration of good faith efforts when assessing compliance.

### **BC Carbon Tax**

RAC worked with Advanced Biofuels Canada to support an advocacy campaign to change how the provincial carbon tax is applied to biofuels in British Columbia. Currently the policy treats renewable fuel content the same as traditional diesel from a carbon tax perspective. Advocacy focused on seeking carbon tax reform to remove the application of the carbon tax on renewable fuels as this acts as a barrier to decarbonization.

BC Budget 2024 failed to include any carbon tax reform. As the 2024 BC general election will be held on or before October 19, 2024, opportunities for advocacy on this policy are becoming limited.

### **Standard Industry Response for Local Emissions Inquiries**

The RAC Environment Committee has developed a draft written response for railways to use when fielding inquiries from stakeholders seeking local emissions data. The genesis for this was that the City of Saskatoon was seeking local emissions data from CPKC.

After having industry discussions, it was decided to not provide this granular of data as it requires use of estimates to calculate and we don't want to give any potentially misleading information, and it is not a regulatory requirement. The committee agreed that railways could use a standard response to direct inquiries on local level emissions to the RAC's LEM Report for information on industry emissions and trends.

### **Spotted Lanternfly**

The Canadian Food Inspection Agency (CFIA) approached RAC in the springtime to discuss monitoring and surveillance for the invasive Spotted Lanternfly. This pest is now located in several Northeastern US states (e.g., Michigan, New York, Pennsylvania, Vermont). These pests are known to travel on railways.



RAC and members will work with CFIA to raise awareness and perform surveillance activities at rail yards in high-risk areas.

**Ministry of Natural Resources and Forestry's Initiative to Modernize Wildland Fire Management in Ontario**

RAC Regulatory Affairs, with support from the Environment Committee, led the development of comments in response to Ontario's initiative to modernize wildland fire management. RAC comments focused on:

- acknowledging that any provincial changes would not apply to federally regulated railways
- the opportunity to modernize and enhance timeliness of fire communications
- ensuring flexibility for railways to access communities to provide assistance and to ensure the safe placement of dangerous goods
- comments raising concerns about the use of administrative monetary penalties.

RAC will continue to monitor this provincial initiative to modernize wildfire management in Ontario.

**Regulations Amending the Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations**

The RAC Environment Committee provided comments to Environment and Climate Change Canada in August in response to this consultation. Industry comments focused on:

- incorporating technical standards into the regulations to improve readability
- recommended engagement with storage tank and component manufacturers
- identification of some problematic language; and
- requested updates on the regulatory stock plan.

Next steps are to organize a call with ECCC and members to discuss the comments.

August 7, 2024

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Dear Mr. Watkinson, Ms. Télasco,

Thank you for the opportunity to provide comments on the Regulations Amending the Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations (the proposed amendments) as published in *Canada Gazette, Part I, Volume 158, Number 23* on June 8, 2024.

The aim of the proposed amendments is to update the existing references to technical standards incorporated by reference in the regulations, ensuring the inclusion of the most up-to-date technical standard titles. The railway industry is in support of ensuring that the referenced technical standards in the *Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations* (the regulations) are updated and appropriate considering current practices with respect to storage tank systems.

On behalf of Canada's railway industry, the Railway Association of Canada (RAC) is pleased to provide the following comments.

#### Incorporation by Reference

It is the railway industry's opinion that the proposed approach of using an additional schedule (Schedule 4) to clarify the technical standards but still refer to the Canadian Council of Ministers of the Environment Environmental Code of Practice for Aboveground and Underground Storage Tank Systems Containing Petroleum and Allied Petroleum Products (Code) in Section 14 does not improve the readability of the regulations. The

Code is now 21-years old. As such, it seems prudent to incorporate the requirements and technical standards from the Code directly into the regulations instead of continuing to incorporate them by reference. This would help with future updates of the regulations to adopt new standards as they arise rather than having to continue referring to the outdated Code.

There may be other new technical standards that are commonly being used in new storage tank or associated components. For instance, the railway industry specifically requests the incorporation of stainless-steel piping (ASTM 312/312M) into the regulations which is currently not one of the permitted options in Code section 5.2.1(1) as referenced in 14(1)(c) of the proposed amendments. Additionally, the railway industry recommends that Environment and Climate Change Canada consult with storage tank and component manufacturers to understand whether incorporation of other technical standards would make sense.

#### Application of Technical Standards

The regulations, and the proposed amendments, commonly use the phrase “at the time the storage tank system is manufactured” when referring to when a particular technical standard is used. This language is problematic. While components of a storage tank system (e.g. storage tanks, pumps, overfill protection devices, oil water separators, etc.) are manufactured, the system itself is more appropriately described as assembled, installed or possibly erected. This language should be reconsidered to improve understanding and standardize interpretation. There is a significant difference between using the year that a system is installed (or changed) compared to when the individual components were manufactured, particularly when components may be re-used in new systems.

#### Need for Further Action

The regulations are now 16 years old and have not had a significant update. During the 2020-2022 consultation and engagement with stakeholders and as summarized in the [“What we heard”](#) document published in August 2023, major amendments are needed to modernize the regulations and improve on their application. While the need for addressing the concerns was mentioned in the [2021-2029 and Beyond Regulatory Stock Plan](#), there have been no communicated timelines for addressing concerns raised as part of these consultations. The railway industry would like to specifically request an update on the plan to address the concerns raised with concrete timelines for any further engagement opportunities and timelines for adoption.

Thank you for consideration of our perspectives. The RAC and its members remain available to further discuss.

Sincerely,



Lora Smith  
Vice-President, Public and Government Affairs  
Railway Association of Canada



Thank you for your inquiry regarding local locomotive emissions data. We appreciate your interest in understanding the emissions associated with rail operations.

Unfortunately, location-specific emissions data for railway operations are not readily available. Our current data collection processes do not support the granular level of detail required to provide local emissions figures. Additionally, providing estimates without adequate data could result in misleading information, which we are keen to avoid.

For a comprehensive overview of the rail industry's emissions performance, we recommend consulting the Railway Association of Canada's (RAC) annual [Locomotive Emissions Monitoring Report](#). This report offers valuable insights into overall trends and emissions performance of Canada's rail sector.

We are committed to transparency and continuous improvement in our environmental reporting practices. If you have any further questions or require additional information, please do not hesitate to reach out.

September 27, 2024

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The Railway Association of Canada (RAC) appreciates the opportunity to provide input to the public consultation on the *Competition Act*'s new greenwashing provisions. RAC represents Canada's rail sector which spans coast to coast to coast. Our membership consists of nearly 60 railway companies including freight, intercity, commuter, and tourism operators. RAC members transport millions of passengers and approximately \$380 billion worth of goods across the country each year.

The rail industry has demonstrated robust environmental performance and remains committed to ongoing innovation, which includes taking steps to reduce emissions. Between 2018 and 2022, railways invested over \$12 billion into their Canadian networks, including on initiatives driving emissions reductions. These initiatives encompass investments in fleet renewal and modernization, fuel-saving technologies, operational efficiencies, and the use of low-carbon fuels. For example, from 2005 to 2022, the GHG emissions intensity of freight railways improved by 26.7%, while intercity passenger railways saw a 28.1% improvement. These efforts underscore the industry's commitment to environmental stewardship and its critical role in Canada's decarbonization efforts.

With the introduction of new provisions in the Competition Act requiring entities to substantiate environmental benefit claims based on "adequate and proper substantiation in accordance with an internationally recognized methodology," the RAC emphasizes the importance of clear guidance. The Competition Bureau should align what constitutes adequate and proper substantiation, as well as what qualifies as an internationally recognized methodology, with other bodies with widely recognized expertise in these matters, in line with materiality definition by securities law. Providing businesses with clear expectations is essential for ensuring certainty around environmental communications. In this context, the RAC offers the following comments for consideration.

## Consultation Questions

- 1. What kinds of claims about environmental benefits are commonly made about products or services in the marketplace? Why are these claims more common than others?**

A relevant example of environmental claims in the marketplace is the Railway Association of Canada's (RAC) communications about the rail sector's emissions and its environmental benefits, as highlighted in the annual Locomotive Emissions Monitoring (LEM) report<sup>1</sup>. This report, a product of RAC's voluntary collaboration with Transport Canada, provides detailed information on the rail industry's emissions of greenhouse gases and criteria air contaminants. The LEM report is publicly accessible and serves as a key resource for governments and Canadians to assess the environmental performance of rail.

One common claim made by the RAC, supported by the LEM report, is that rail is on average 3 to 4 times more fuel-efficient than trucking. For example, a single locomotive can transport the equivalent of goods carried by approximately 300 trucks and can move freight 220 kilometers or more on just one litre of fuel. These features of rail underscore its role as the most fuel-efficient form of ground transportation, positioning it as a critical part of Canada's climate strategy.

These environmental claims are grounded in factual evidence and are further validated by endorsements from recognized organizations, such as Transport Canada<sup>2</sup> and the International Energy Agency<sup>3</sup>, which highlight rail's potential to reduce national emissions.

Given the new provisions in the Competition Act, the RAC and its members seek clarification from the Competition Bureau on what constitutes "adequate and proper substantiation" and what qualifies as an "internationally recognized methodology" concerning environmental claims. Ensuring clarity about which standards these claims should meet is crucial for maintaining transparency and credibility.

**2. Are there certain types of claims about the environmental benefits of businesses or business activities that are less likely to be based on “adequate and proper substantiation in accordance with internationally recognized methodology”? Is there something about those types of claims that makes them harder to substantiate?**

Certain types of environmental claims may be more difficult to substantiate using “adequate and proper” methodologies, especially when there are multiple methodologies available to support similar claims. For instance, when comparing passenger rail travel's greenhouse gas (GHG) impact to other modes of

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<sup>1</sup> [Locomotive Emissions Monitoring](#)

<sup>2</sup> [Transportation 2030: A Strategic Plan for the Future of Transportation in Canada](#)

<sup>3</sup> [The Future of Rail \(jea.blob.core.windows.net\)](#)

transportation such as air travel, different methodologies can be used, each of which may yield varying results. This can lead to discrepancies in claims about GHG emissions reductions. In such cases, it is crucial to understand how the Competition Bureau will assess the validity of claims, especially when multiple, potentially conflicting methodologies are in play. The Bureau should consider providing guidance on how to manage situations where different recognized methodologies generate diverging outcomes.

Additionally, the Bureau should consider claims of “environmental leadership” or being a “sustainability leader.” These generalized claims are often based on legitimate achievements, such as high CDP scores, sustainability awards, or recognition for innovation. However, such claims do not necessarily rely on quantifiable evidence like those listed in the third discussion question but can still be valid. This is similar to claims made in other areas, such as “leaders in customer service” or “best employers in Canada.” The Bureau should provide guidance on how to assess these broader leadership claims to ensure they are not misleading but also recognize their value when based on legitimate credentials.

Furthermore, the new greenwashing provisions appear to extend beyond product claims and into public targets and objectives set by companies. In the current context, where climate action is important, both governments and businesses are expected to commit to ambitious GHG reduction targets. However, the inherent uncertainties associated with climate change make these commitments challenging. For example, unforeseen technological or regulatory changes could impact a company’s ability to achieve bold targets. Without further clarification from the Competition Bureau, these greenwashing provisions could inadvertently discourage organizations from setting aggressive climate goals out of fear that they might not be able to meet them and could face scrutiny under the new regulations. This could result in organizations scaling back on setting high-impact climate targets, slowing progress toward achieving meaningful emissions reductions.

To avoid this, the Bureau should strike a distinct balance between encouraging ambition in climate targets while ensuring that all service or product performance claims remain transparent, supported by sound methodologies, and realistic based on the best available information at the time the targets are set. Providing clear guidance on how to address uncertainty in climate-related targets could help prevent this unintended consequence.

**3. What internationally recognized methodologies should the Bureau consider when evaluating whether claims about the environmental benefits of the business or business activities have been “adequately and properly**



**substantiated”? Are there limitations to these methodologies that the Bureau should be aware of?**

When evaluating environmental claims made by businesses, it is important to apply a materiality test to determine which claims require detailed substantiation. Materiality testing can help identify the environmental claims that are most relevant and impactful, both for stakeholders and the business itself. By assessing the materiality of a claim, the Competition Bureau can focus on the claims that have a significant influence on consumer decision-making, business operations, or market outcomes. Once the materiality of a claim is established, the appropriate methodology can then be considered.

The rail sector relies on numerous internationally recognized methodologies, frameworks, and institutions when substantiating claims about the environmental benefits of rail business or operational activities. These include, but are not limited to, the following:

- CDP (formerly Carbon Disclosure Project)
- Global Reporting Initiative (GRI) Standards
- ISO Standards
- Science Based Targets initiative (SBTi)
- S&P Global
- Sustainability Accounting Standards Board (SASB)
- Task Force on Climate Related Financial Disclosures (TCFD)

These frameworks and standards are widely respected for their rigorous criteria and comprehensive approaches to sustainability reporting and environmental impact assessment. Companies that report and communicate in alignment with these standards should be deemed compliant with the new provisions, as these methodologies ensure that environmental claims are grounded in scientific evidence and aligned with global best practices.

However, it is also important to acknowledge the limitations of solely relying on international standards. A focus solely on international frameworks discounts several national, provincial, and industry specific methodologies that can be equally robust and better suited to local contexts. For instance, when conducting waste audits on railway operations in Ontario, the Ontario Circular Innovation Council certification is used by auditors to ensure compliance with local regulations. Similarly, the Locomotive Emissions Monitoring (LEM) report produced by the Railway Association of Canada (RAC) relies on emissions factors developed by Environment and Climate Change Canada (ECCC) to calculate rail sector emissions, which aligns with national regulatory expectations. While rail industry specific standards from organizations such as the International Union of Railways

or the American Railway Engineering and Maintenance-of-Way Association develop and provide standards specific to the railway industry including in environmental matters.

Additionally, the Bureau should be aware that many international standards are continuously evolving, regularly revised based on new information and may not be fully developed for all sectors or regions. Other subjects such as biodiversity and waste management are areas lacking widely adopted international standards which makes it more difficult to corroborate the environmental claims made in these areas. Furthermore, certain international metrics, such as global load or passenger load factors, may not accurately reflect the Canadian context, potentially leading to discrepancies between international and national reporting. Indeed, subjects like Scope 3 GHG emissions are based on frameworks that can be, at times, subject to interpretation. Given this shifting landscape, the Competition Bureau should avoid being overly prescriptive in its approach to specifying certain frameworks and rather focus on guidance that articulates the merits or features that constitute an acceptable standard or methodology to support business environmental or climate related claims.

Another consideration is the risk of inadvertently disadvantaging smaller businesses by over-relying on international standards that may require significant financial resources, including subscription fees, and are often designed with large organizations in mind. For instance, smaller-scale companies might struggle with the complexity or resource demands of adhering to such standards. This can create a barrier to compliance, indirectly leaving smaller organizations behind while disproportionately benefiting larger ones with more capacity.

**4. What other factors should the Bureau take into consideration when it evaluates whether claims about the environmental benefits of businesses or business activities are based on “adequate and proper substantiation in accordance with internationally recognized methodology”?**

When evaluating claims about the environmental benefits of businesses or business activities, the Competition Bureau should consider factors beyond strict adherence to internationally recognized methodologies. Section 74.1(3) of the Competition Act allows for the defence of due diligence, and the Bureau should take the principle of good faith into account when assessing claims under the new provisions.

Moreover, the Bureau should differentiate between environmental claims focused on specific business performance (e.g., claims of a product or service being carbon neutral) and long-term environmental commitments or targets. While performance-

related claims must be substantiated with current data, long-term objectives are integral to corporate governance and strategic planning. They provide stakeholders with insight into a company's strategic direction and risk mitigation efforts.

Environmental targets and objectives are essential components of corporate governance, driving internal alignment across business processes, including resource allocation, training, and investment planning. These commitments often influence long-term business strategies and decisions throughout the value chain, where the returns and environmental benefits may not materialize in the immediate term. The Bureau should consider these aspects when evaluating environmental communications and recognize that targets, unlike specific claims, may involve a degree of uncertainty due to the evolving nature of environmental challenges.

Targets provide companies with flexibility to make strategic investments and adjustments as needed to meet long-term environmental goals. The Bureau should be mindful of the role these targets play in sustainable business operations and assess them in the context in which they were set, rather than as absolute obligations. For example, if a company sets ambitious decarbonization targets but faces unforeseen obstacles, the claim should be evaluated based on the reasonable efforts made. Unless there is clear evidence of negligence or misrepresentation, the inability to meet a target should not result in sanctions. Progress against climate and other environmental related targets and objectives will be incremental, characterized by periods of innovation, research, development and ultimately potential wide scale deployment. Not all technologies or solutions to decarbonization are in development or accessible for deployment today. Businesses need the space to create, fail and succeed to achieve stated long-term climate and environmental objectives.

Moreover, the Bureau should adapt its evaluation criteria depending on the nature of the environmental initiative. Not all actions, such as tree planting or wetland protection, have standardized methods of validation and substantiation will vary significantly between different fields of activity. Therefore, the concept of "adequate and proper substantiation" should be flexible, recognizing that different initiatives may require different types of corroborative evidence. In some cases, this evidence may not align with internationally recognized standards but could still be valid based on the initiative's unique context.

Additionally, the Bureau should clarify whether the new provisions apply to social commitments often associated with sustainability, such as community impact initiatives. If these are covered, the Bureau's guidelines should provide clear criteria for evaluating the evidence accompanying such claims.

Lastly, when evaluating environmental claims under the new provisions, the Bureau should also consider the need for commercial sensitivity. Some claims may rely on proprietary or commercially sensitive data and information, such as unique technologies, processes, or intellectual property. Requiring full disclosure of this information could place businesses at a competitive disadvantage. The Bureau should ensure that, while claims are adequately substantiated, there is a mechanism to protect confidential business information, allowing companies to provide necessary evidence without exposing commercially sensitive details.

In summary, the Bureau should:

- Consider the good faith efforts of companies when assessing their environmental declarations.
- The Bureau should differentiate between environmental claims focused on specific business performance (e.g., claims of a product or service being carbon neutral) and long-term environmental commitments or targets.
- Adapt evaluation criteria based on the specific nature of the environmental initiative.
- Clarify whether social sustainability commitments are included in the provisions, and if so, provide guidance on how they will be evaluated.
- Maintain flexibility in assessing initiatives that may not be supported by recognized methods, to encourage transparency and continued communication from companies.
- Ensure that confidential business information remains protected.

## **5. What challenges may businesses and advertisers face when complying with this new provision of the law?**

When the Competition Bureau evaluates whether environmental claims are based on “adequate and proper substantiation,” it is important to consider a minimum standard that all organizations can reasonably meet, regardless of their size or resources. While larger organizations may have more resources to allocate towards environmental reporting and validation, smaller organizations should still be able to substantiate their claims using appropriate methodologies that align with their capacities and stakeholder expectations.

It would be helpful for the Competition Bureau to recognize that organizations have varying resources however all businesses should meet a baseline of transparency and accountability in their claims. This can be achieved with scalable and accessible methods that reflect the size, sector, and resources of the business while still adhering to sound scientific principles and industry best practices.



In setting these standards, it is also crucial to consider Canada's competitive advantage globally. As the country pursues decarbonization efforts, the Competition Bureau should ensure that its approach does not inadvertently create barriers that make it more difficult for businesses, especially smaller organizations, to attract investment. By maintaining a balance between rigorous substantiation of environmental claims and ensuring that the regulatory framework remains accessible, Canada can continue to be a leader in sustainability while fostering an attractive investment climate.

By establishing this baseline, the Competition Bureau can ensure that environmental claims are both credible and achievable for all organizations, while encouraging continuous improvement and the adoption of higher standards as capacities grow.

**6. What other information should the Bureau be aware of when thinking about how and when to enforce this new provision of the law?**

When evaluating environmental claims, the Competition Bureau should specify how and to what extent changes in recognized methods will affect previously made declarations. It is important that companies are assessed based on the standards that were in force at the time the initial declaration was made, provided these practices complied with the regulatory requirements at that time. This approach would ensure a level of stability and predictability for businesses, allowing them to make claims with confidence that their efforts will not be retroactively penalized due to future changes in methodologies.

Additionally, the Bureau should focus on providing clarity around key points of ambiguity in the new provisions, ensuring businesses can confidently navigate the rules and avoid inadvertent non-compliance. Rather than emphasizing broad education efforts, the Bureau should prioritize offering clear and specific guidance on the most complex and uncertain aspects of substantiating environmental claims. This would help to minimize confusion and ensure that companies can meet the substantiation requirements effectively without unnecessary complications.

Ensuring proportionality between the claim, the impacts, and the enforcement action is necessary rather than taking a purely punitive stance. The potential for precedent setting must also be considered as the first instances of application and interpretation may influence future cases.

Thank you for consideration of the RAC's comments. RAC and its members look forward to reviewing future guidance materials published by the Competition Bureau.

Sincerely,



Lora Smith  
Vice-President, Public and Government Affairs  
Railway Association of Canada