Mr. Joe Comuzzi, MP
Standing Committee on Transport
House of Commons
350 Confederation Building
Ottawa ON K1A 0A6

Dear Mr. Comuzzi and Members of the Committee:

Please find enclosed a response to Bill C-26 from Alberta Transportation for consideration by the Standing Committee on Transport.

Alberta has a long history of proactive involvement in Canadian transportation policy development. It played a significant role in the review of the *Canada Transportation Act*, its submission, and in the development of the provincial and territorial "Transportation Vision", the Van Horne Institute and Western Transportation Advisory Council Blueprint Workshop, and independent analysis of transportation issues by InterVISTAS Consulting Inc. The enclosed response to Bill C-26 recognizes that effective regulatory reform is important to competition, investment, economic growth and innovation.

While Bill C-26 contains some positive elements, it is not surprising that due to the breadth of issues covered, Alberta has concluded that the draft legislation needs to be strengthened in a number of areas to meet transportation priorities. While our detailed reply contains a number of recommendations, Alberta Transportation wishes to draw the attention of the Committee members to the following areas:

<u>Competition & Investment</u>

Alberta's long-standing interest in transportation policy stems from the importance of effective and efficient movement of people and goods to the economy of Alberta, and western Canada. Transportation legislative reforms must not only address problems, but also help individuals and firms seize new economic opportunities.

In this regard, it is disconcerting to note that *"Straight Ahead – A Vision for Transportation in Canada"* and Bill C-26 do not adequately focus on the needs of customers, passengers and the marketplace. For example, Bill C-26 does little to improve the competitiveness within the air mode. The contents of the draft legislation demonstrate an unwillingness to move towards a greatly liberalized international air policy and to relax current foreign-ownership restrictions that would increase competition in the sector.

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A level and impartial regulatory environment is critical for attracting private sector investment to the transportation sector. Thus, Alberta recommends that the *VIA Rail Canada Act* include a provision that limits the borrowing ability of VIA Rail, as a subsidized Crown corporation. In the event of a transportation merger or acquisition (M&A), the proposed dual process for reviewing the public interest (review by the Canadian Transportation Agency or ministerial appointment) places a significant obstacle to investment because it creates business uncertainty. Our specific recommendation calls for the Canadian Transportation Agency to be the sole entity to review the public interest in the event of a transportation M&A.

Economic Growth & Innovation

Canada needs an effective, efficient, responsive and safe transport system for its continued prosperity. However, legislative instruments can often have the unintended consequences of hindering or stopping the introduction of innovative transport services. For example, Bill C-26's requirement to interline in the airline sector will mean significant costs to airline operators, most importantly, the Calgary-based WestJet, whose success has depended on introducing a new model of low-cost air services to Canadians. Forced interlining will mean added costs that will be passed down to consumers, which is not only counterproductive but sends a signal to other innovators in the airline industry that regulatory intervention will dictate the type of services offered.

The transportation and logistics sector plays an important role in helping Canadian firms and consumers respond strategically to the challenges and opportunities created by our domestic economy and international trade relationships. In the age of global competition and security, federal policies and legislation must keep pace with the changes and heightened pressures confronting the transportation sector. For this reason, it is vital that Bill C-26 be amended to permit an annual industry review and that a mandatory statutory review of Canada's transportation legislation occur within five years.

Alberta looks forward to the results of the review of Bill C-26, and requests your consideration of our suggestions.

Yours truly,

Ed Stelmach
Minister

Enclosure

cc: Georges Etoka, Clerk of the Standing Committee on Transport

ALBERTA'S RESPONSE
TO THE
STANDING COMMITTEE ON TRANSPORT

Bill C-26

An Act to amend the *Canada Transportation Act,* and the *Railway Safety Act,* to enact the *VIA Rail Canada Act* and to make consequential amendments to other Acts.

ALBERTA'S RESPONSE TO BILL C-26

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1. INTRODUCTION

The Government of Alberta's interest in transportation policy stems from the importance of effective and efficient movement of people and goods to the economy of Alberta and western Canada. Canada needs an effective, efficient, responsive and safe transportation system for its continued prosperity.

Alberta has a long history of proactive involvement in Canadian transportation policy. It played a significant role in the review of the *Canada Transportation Act* (CTA), and in the development of the provincial and territorial "Transportation Vision" document produced in response to the federal "Transportation Blueprint" initiative. This response to Bill C-26 recognizes that effective regulatory reform is important to economic growth, job creation, innovation, investment and choice. As such, the document addresses specific changes or amendments to Bill C-26 that would help achieve these goals. It also includes some general comments on transportation policy issues that are not specifically included in this draft legislation. However, they do serve to illustrate a number of policy options the Standing Committee on Transport (SCOT) members may wish to consider in their deliberations.

Alberta's comments are offered with a desire to initiate discussions with the federal government, other provinces and stakeholders to develop a truly national, multi-modal transportation system capable of meeting the needs of shippers, passengers, service providers and our economy. Bill C-26 contains some positive elements and Alberta supports many of them. For example, on the positive side, some rail shippers may gain through new amendments to competitive rail access provisions, final offer arbitration, and removing the "substantial commercial harm" provision. However, other shippers are disappointed that running rights were not addressed, as was recommended by the CTA Review Panel. However, the railways are no doubt aggravated with what they perceive to be increases in regulations. Alberta also supports the call to continue efforts to increase access to transportation services for people with disabilities.

Since the SCOT has no doubt received numerous submissions, this document will primarily address Alberta's concerns. This does not mean Alberta Transportation is totally unhappy with the draft legislation. We recognize the tremendous challenges faced by parliamentarians because of the numerous and varied interests of stakeholders.

Before addressing the specific provisions of Bill C-26, Alberta Transportation wishes to briefly comment on Transport Canada's *"Straight Ahead – A Vision for Transportation in Canada"* transportation blueprint document because it served as a catalyst for the existing draft legislation.

Of major concern to Alberta is that *"Straight Ahead"* does not adequately focus on the needs of customers, passengers, and the marketplace. Instead, it is rooted in legislation, regulation, and views the transportation sector as a "cash cow" rather than an essential service requiring investment. In addition, roads are the only infrastructure that directly connects all the transport modes. Any transportation vision must address highways and the need to maintain and expand existing networks to meet the demands of a rapidly growing economy. But the Blueprint barely mentions highways. In addition, taxpayers believe they are paying enough taxes and a greater portion of their fuel taxes should be directed to transportation infrastructure.

With respect to the air transportation mode, the *"Straight Ahead"* document does little to improve the competitiveness of this industry, one of the key principles touted in Bill C-26. There is an unwillingness to move towards a greatly liberalized international air policy and to relax current foreign ownership restrictions that would increase competition in the sector. The introduction of Bill C-27, the *Canada Airports Act*, to reestablish the day-to-day role of the federal government in airport administration contradicts earlier federal deregulation efforts. In particular, Alberta sees no need for such a bill given that it has its own legislation, the *Regional Airports Authorities Act*, which has created a business environment that has contributed to the success of airport authorities operating in the province. (The Government of Alberta will provide a separate submission on Bill C-27, if the bill proceeds to the SCOT for deliberations.)

The federal government has stated in its *"Straight Ahead"* document that it is committed to ensuring any future policy on airport rents will balance the interests of all stakeholders, including the air industry and Canadian taxpayers. There appears to be no consideration given towards reducing or eliminating airport rents and the future ownership of facilities that are characteristics of a truly deregulated industry. Furthermore, while the commitment to conduct a study of the viability of regional and small airports, to be completed in 2003, is welcomed, this review should be completed by an independent body and should include proper involvement of all stakeholders. In addition, it must fully consider the results of the report sponsored by the provinces entitled a "*Study of the Viability of Smaller Canadian Airports*".

The focus of the detailed comments on Bill C-26 are directed towards those involving the CTA and the *VIA Rail Canada Act* (VRCA).

2. *CANADA TRANSPORTATION ACT* AMENDMENTS

2.1 NATIONAL TRANSPORTATION POLICY

Comment: Section 5 of the CTA.

"5. It is declared that an economic and efficient transportation system is safe and secure and respects the environment is essential to serve the needs of users of transportation services and to maintain the well-being of Canadians and that those objectives are most likely to be achieved under conditions ensuring that ....

(d) the price paid by users for transportation services better reflects the full costs of services chosen; ...."

It is premature to include section 5(d) in the legislation. Transportation is vital to Alberta; it is paramount to the creation of wealth in the economy, and is central to the quality of life that Albertans and Canadians enjoy. Transportation enables firms to compete in domestic and international markets. The challenge that lies ahead is to develop a cost approach that acknowledges the Canadian context. It must balance social, economic, and environmental objectives. In fact, the *"Straight Ahead"* document acknowledges this challenge when it indicates that significant research needs to be conducted on the issue of transportation costing.

It is generally acknowledged that the full costing of transportation to include all user impacts, infrastructure requirements, and environmental effects is very complex. It is highly unlikely that a single, definitive approach to pricing/costing across all modes could be achieved in the short run without significant Canadian research being undertaken on the issues. While certainty in the decision making process is indeed advantageous, transportation policy and legislation needs to also foster flexibility and adaptability. The move to more innovative transportation pricing and costing practices will be better served if experimentation is encouraged along with the adoption of best practices. Any discussion of transportation costing must also recognize the fact that a substantial financial contribution by road users to the transportation system already takes place. Provinces and territories have advocated consistently for several years that federal funding for infrastructure and national highways should be more in line with what the federal government collects each in road fuel taxes. The federal government collects about $550 million a year in fuel taxes in Alberta and about $5.5 billion a year nationally.

Section 5(d) only makes mention of the price paid by “users” of transportation service when the issue of the need to reflect the full cost of one's actions is mentioned. Given the mix of private- and public-sector involvement in transportation services, infrastructure, and financing; it is somewhat surprising that only the “users” of the transportation system would be singled out as being the one needing to better reflect the full cost of activities chosen. Improvements in the efficiency of the resources devoted to transportation could be significantly improved if all stakeholders (users and carriers) were to be treated equally in the requirement to pay or incur the full cost of their transportation activities.

Recommendations:

- In Section 5, the words “respects the environment” should be deleted and replaced with language such as the following:

  it is declared that an economic and efficient transportation system that is safe, secure and environmentally sustainable is essential to serve the needs.

- Section 5(d) should be amended and replaced with language such as the following:

  the price paid by users, and expenses incurred by carriers in providing transportation serves, shall reflect the economic costs of such activities.

2.2 MEDIATION

Comment: Section 36.1 - the mediation section of the CTA.

“36.1(2) The Agency may, on its own initiative, refer for mediation a dispute concerning any matter that is before it.”

Section 36.1(1) refers to the fact that parties to the dispute may, *by agreement*, make a request to the Agency for mediation [emphasis added in italics]. However, Section 36.1(2) gives the Agency the unilateral right to refer *any matter* before it to mediation.

While it may be advantageous to provide for mediation in the interpretation of legal language, the unilateral right of the Agency to send something to mediation – even if one, or both parties do not consent – undermines the very purpose for which the Agency was created.

The Agency was created to deal with situations where the parties to a dispute are often expected to disagree with one another. The Agency should not be able to waive away its statutory obligations and the rights of one of the parties to avail themselves to the legislative provision based on a short-term desire to improve efficiency. While not perfect, the strength of the CTA is that it provides for some certainty in the administrative law process. The potential use of compulsory mediation acts to introduce a new set of dynamics that creates uncertainty and costs to participants who already have a disagreement.

The mediation section contains no definition of what constitutes a dispute. In fact, the language in this section of the draft legislation seems to suggest that any matter brought before the Agency constitutes a dispute. The statutory rights offered in the legislation should not be treated as a dispute based on the simple fact that the parties may disagree with one another. The statutory rights are included in the legislation because parliamentarians recognized the need to address imbalances in economic power or provide options where market forces could only provide an incomplete solution.

Recommendations:

- The use of mediation should be restricted to those instances where all parties consent. Section 36.1(2) should be deleted. A definition of what constitutes a dispute should be provided.

2.3 INDUSTRY & STATUTORY REVIEWS

Comment: Section 52(1) - industry review in the CTA.

The previous legislation required that the industry review be conducted on an annual basis. Given the fact that this legislation does not contemplate a statutory review until the year 2010, there is the potential for significant events to occur and a serious time lag in reporting the results of the effectiveness of the legislative instruments used to govern transportation in Canada. Not only is it important to have an annual report released on the state of the transportation industry, but the type of data provided is also important. The Canada Transportation Act Review (CTAR) final report noted that existing Canadian transportation statistics and data is inadequate. A two-year delay in the reporting of the economic health and status of the transportation industry would seem to be a step backwards in terms of data availability. Data and information is necessary for effective public policy and it is a key to developing a level of trust among transportation system stakeholders.

Recommendations:

- Section 52(1) should be amended to indicate that *every year* "the Minister shall prepare…a report briefly reviewing the state of transportation in Canada...".

- The CTA should be amended to require aviation entities to provide comprehensive data equivalent to that collected in the U.S. and that this information be made publicly available to all stakeholders.

Comment: Section 53(1) - statutory review of the CTA.

The previous legislation required that the statutory review be conducted within five years. The current situation in the airline sector sufficiently demonstrates that policy and economic issues in the transport sector are dynamic and subject to external shocks and events that may not be adequately handled in existing legislation and regulations. Policy issues can also quickly arise in the rail and marine transportation modes as demonstrated by the tragic events of 9/11.

Recent events have also highlighted the need to not only look at issues on a mode-specific basis but also from a horizontal policy perspective. The Organization of Economic Cooperation and Development and others have noted that effective regulatory reform is important to economic growth, job creation, innovation, investment and choice. The legislation should provide a framework for the Government of Canada to make regulations as needed. Delaying the statutory review of the Act does not foster effective and responsive regulatory reform. Likewise, the production of a report 18 months after the appointment of a review process is too long.

Recommendation:

- Section 53(1) should be amended to indicate that a statutory review be completed within five years of the Act coming into force.

- Section 53(5) should be amended to indicate that a report of the review be submitted to the Minister within 12 months after the appointment. The report should be made public immediately instead of waiting until the House is sitting.

2.4 REVIEW OF MERGERS AND ACQUISITIONS

Comment: Section 53 - review of mergers and acquisitions in the CTA.

Section 53.1(2) refers to the fact that any notice to the Minister of Transportation shall contain information with respect to the public interest as it relates to national transportation that is required under any guidelines than may be issued by the Minister.

Given the fact that these guidelines will be of paramount importance in spelling out the federal government's determination of the public interest requirements, there is a need to ensure that a broad cross section of regional interests and factors be considered when developing these guidelines. The rules and processes would be improved if the guidelines for determining the public interest in the event of a merger or acquisition were approved by the Governor-in-Council and not just left to the Transport Minister. In the event of a significant transportation merger or acquisition, the issues related to the public interest could conceivably impact a number of other Ministries such as Industry, Finance, etcetera. Governor-in-Council approval of the public interest guidelines would signal to stakeholders that the government was united in their approach to transportation mergers and acquisitions. Such an approach would help contribute to commercial certainty.

Section 53.1(5) provides for two options if the Minister of Transport decides that a proposed transaction raises issues with respect to the public interest. The Minister can direct the CTA to examine the issues or appoint and direct any persons to examine the issues.

The CTA was created as an independent quasi-judicial, administrative tribunal with responsibility to make decisions on a wide range of transportation matters. Given the CTA's existing mandate and expertise, it is doubtful that there would be a significant benefit to having the Minister appoint a public interest assessor to review a transportation merger or acquisition. In fact, the two possible approaches to determining the public interest creates business uncertainty.

The government would still maintain the right to determine that the public interest was satisfied as section 53.2(7) permits the Minister to approve a transaction and specify any terms and conditions that the Governor-in-Council considers appropriate.

The new process is certain to add considerable challenges to parties attempting to conclude a transaction. The timing alone may constitute a bit of a barrier to entry, and having the Transport Minister appoint someone to review a merger or acquisition ultimately makes such determinations essentially a political decision rather than a quasi-judicial or administrative one.

Recommendations:

- The public interest guidelines referred to in section 53.1(2) should be approved by the Governor-in-Council.

- The Canadian Transportation Agency should handle section 53.1(5)(b) rather than having the Minister appoint or direct any person(s) to examine a transportation merger or acquisition from a public interest perspective.

2.5 AIR ISSUES

Comment:

The proposed amendments to the CTA, as it pertains to the air transportation mode, ignores many of the major concerns and issues raised by the Government of Alberta in its paper, *Canadian Transportation Act Review – Overall Position Paper for consideration by the CTA Review Panel* (November 17, 2000).

Through extensive consultation with provincial stakeholders, the following Government of Alberta positions were developed, and unfortunately, have not been reflected in the proposed amendments to the CTA:

- *to ensure that, where the dominant carrier (or regional affiliates) serve low-volume, regional air routes, the same range of fares is available as is provided on high-volume routes, and that these fares are proportional to those available on the high-volume routes; and to remove outmoded provisions from the CTA, such as that requiring hard-copy versions of tariffs to be available in all ticket outlets;*

- *to remove current CTA restrictions on foreign ownership of airlines operating within Canada; to remove existing constraint on ownership of Air Canada shares by single investors; and to remove any inconsistencies between the powers of the Canadian Transportation Agency and Competition Bureau;* and

- *to greatly liberalize the current approach to international air policy by aggressively moving to expand open-skies agreements with other countries, beginning with a push to include air-cargo traffic rights under the General Agreement on Trade in Services; to ensure that no co-terminalization restrictions on cargo services exist in such agreements; and to remove unnecessary restrictions on prior sale of tickets on a new route and the occasional use of foreign airlines' aircraft and flight crew.*

Recommendation:

- The Government of Alberta strongly recommends that the CTA be amended to include the removal of current restrictions on foreign ownership of airlines operating within Canada and to liberalize the current approach to international air policy by aggressively moving to expand open-skies agreements with other countries and open up air cargo.

2.5.1 ADVERTISING

Comment: Sections 60.1 to 60.4 – covering advertising in the CTA.

Alberta supports the recommendations made by Debra Ward, the Independent Transition Observer on Airline Restructuring, in her final report, *"Airline Restructuring in Canada"*, that there should be more clarity in the advertisement of air fares and in the airline's terms and conditions. However, the proposed amendments to specifically regulate air travel advertising are an anomaly. Other transportation modes do not have their advertising practices legislated under the CTA.

Recommendation:

- Amend sections 60.1 to 60.4 to allow the air transportation industry to develop their own voluntary code for advertising clarity, as has been the case in other modes, including the intercity bus industry, where a successful voluntary code of practice has been in place for some years now.

2.5.2 UNREASONABLE RATES & FARES

Comment: Section 66 – unreasonable rates and fares in the CTA.

This proposed amendment in the CTA will allow the Canadian Transportation Agency, on its own motion, to bring forward what it may consider to be an unreasonable rate or fare of a domestic service provider. Understandably, there are concerns in the air transportation mode given that Canada has only one dominant carrier. However, permitting the Agency to have the power to investigate situations they deem to be unreasonable and where there has not been a valid complaint filed by the public, is a concern.

Recommendation:

- Given the precarious state of the aviation industry today, it is recommended that section 66 be amended so only those issues that have been brought forward by complainants who have followed the required filing procedures be heard by the Agency. Amending section 66 would effectively reduce the cost and time burden for transportation service providers who must provide responses to filed complaints.

2.5.3 AGREEMENTS - INTERLINING

Comment: Section 85.2 – agreements in the CTA.

Of concern to the Government of Alberta is the ambiguous new requirement that domestic carriers must provide other requesting carriers with access to their loyalty marketing plans, interlining, joint fares and pro-rates, if needed, to enhance competition. This proposed amendment is a clear move towards reregulation of the air transportation industry rather than allowing the marketplace to determine its own course without government intervention. In particular, the requirement to interline will mean significant costs to airline operators, most importantly, the Calgary-based WestJet, whose success has depended on providing air services at the lowest cost possible.

Forced interlining will mean added costs that will be passed down to consumers that is counterproductive and further reduces the competitiveness of this industry.

Recommendation:

- It is recommended that section 85.2 on interlining be deleted.

2.6 RAIL ISSUES

Comment:

Alberta does see positive amendments related to various shipper relief mechanisms. Removal of the requirement for a shipper to demonstrate they would suffer “substantial commercial harm” before the Canadian Transportation Agency would grant relief is appropriate by taking the focus away from what the shipper is doing and placing it on railway actions.

2.6.1 COMPETITIVE CONNECTION RATES

Comment: Subsections 129(1) to 136.1 – competitive connection rates (CLR) in the CTA.

Bill C-26 proposes to replace the existing CLR provision with a "competitive connection rate" (CCR). The combination of removing the need to demonstrate "substantial commercial harm" by the shipper and the removal of the requirement that the shipper have an agreed to rate with a connecting carrier before applying for a CCR, are appropriate for shippers. However, the new CCR process with its definitional requirement that a shipper demonstrate that they do not have access to competitive transportation alternatives, and the requirement that a rate exceed a specified level amounts to a captivity test that will discourage use of this mechanism. In fact, shippers at the Van Horne Institute/WESTAC Transportation Blueprint Workshop were critical of the new CCR remedy because it imposes too many tests and standards and because the description of the CCR in *"Straight Ahead"* is different from the legislative provisions in Bill C-26.

Recommendation:

- Retain the existing CLR provision combined with the proposed Bill C-26 amendments of eliminating the "substantial commercial harm" test, and the requirement that a shipper have an agreed rate with a connecting carrier would be the preferred approach of many shippers.

2.6.2 FINAL OFFER ARBITRATION

Comment: Sections 161.1, 164.1 & 169.1(1) – final offer arbitration (FOA), summary process and joint offer of several shippers.

Alberta supports most of the proposed amendments to the FOA process. The proposed provisions to allow a group of shippers to join in one proceeding and submit one offer for arbitration, to allow application on issues involving incidental services such as car cleaning, and to allow organizations other than shippers who are subject to railway charges to make arbitration application, are all positive. These provisions better recognize the reality of the broader range of issues and stakeholders involved with railway rates and charges.

At the same time, however, the proposed amendment to require applicants in cases involving less than $750,000 be required to demonstrate lack of access to alternative, effective, adequate and competitive transportation is unnecessary.

Recommendation:

- The summary FOA process for cases involving less than $750,000 was only recently introduced through amendments in 2000 and was intended to provide a more expeditious process. To revise the process now by requiring applicants to meet the definitional requirements would be counter to this intent. It is recommended that the proposed wording of clause 164.1 in Bill C-26 be deleted.

2.6.3 PUBLIC PASSENGER SERVICE PROVIDERS

Comment: Section 152 – public passenger service providers in the CTA.

This provision allows VIA Rail, as a publicly funded passenger rail service provider, to seek adjudication from the CTA regarding fees/charges by the host railway. Other passenger rail service providers, particularly those that are funded by the private sector, have not been equally afforded with this same opportunity under the CTA. It is the position of Alberta that rail lines should be open to use by commuter and intercity passenger carriers, including VIA Rail, for reasonable compensation. VIA Rail should not be provided with preferential rates given its standing as a Crown corporation.

Recommendation:

- Privately funded passenger rail providers should be able to seek adjudication from the CTA regarding fees/charges by the host railway.

3. VIA RAIL CANADA ACT

Comment: Part 3 of Bill C-26 – *VIA Rail Canada Act.*

Part 3 allows for the creation of a new *VIA Rail Canada Act* to put VIA Rail on the same legislative footing as most other Crown corporations. Alberta is particularly concerned about how VIA Rail will borrow funds in the future under this new legislation. Alberta would not be supportive of any move that would see a subsidized Crown corporation competing with private sector companies on routes previously vacated by VIA Rail. Furthermore, given that 13 of 15 VIA Rail board members are chosen by the Transport Canada Minister, there are concerns regarding how arm's length VIA Rail will be.

Recommendation:

- It is recommended that the *VIA Rail Canada Act* include an amendment that limits the borrowing ability of VIA Rail, as a subsidized Crown corporation.

4. LIST OF RECOMMENDATIONS

The following list of recommendation summarizes Alberta Transportation's response to Bill C-26:

National Transportation Policy

- In Section 5, the words "respects the environment" should be deleted and replaced with language such as the following:

  it is declared that an economic and efficient transportation system that is safe, secure, and environmentally sustainable is essential to serve the needs.

- Section 5(d) should be amended and replaced with language such as the following:

  the price paid by users, and expenses incurred by carriers in providing transportation services, shall reflect the economic costs of such activities.

Mediation

- The use of mediation should be restricted to those instances where all parties consent. Section 36.1(2) should be deleted. A definition of what constitutes a dispute should be provided.

Industry & Statutory Review

- Section 52(1) should be amended to indicate that *every year* "the Minister shall prepare…a report briefly reviewing the state of transportation in Canada...".

- The CTA should be amended to require aviation entities to provide comprehensive data equivalent to that collected in the U.S. and that this information be made publicly available to all stakeholders.

- Section 53(1) should be amended to indicate that a statutory review be completed within five years of the Act coming into force.

- Section 53(5) should be amended to indicate that a report of the review be submitted to the Minister within 12 months after the appointment. The report should be made public immediately instead of waiting until the House is sitting.

Mergers & Acquisitions

- The public interest guidelines referred to in section 53.1(2) should be approved by the Governor-in-Council.

- The Canadian Transportation Agency should handle section 53.1(5)(b) rather than having the Minister appoint or direct any person(s) to examine a transportation merger or acquisition from a public interest perspective.

Air Issues

- The Government of Alberta strongly recommends that the CTA be amended to include the removal of current restrictions on foreign ownership of airlines operating within Canada, and to liberalize the current approach to international air policy by aggressively moving to expand open-skies agreements with other countries.

- Amend sections 60.1 to 60.4 to allow the air transportation industry to develop their own voluntary code for advertising clarity, as has been the case in other modes, including the intercity bus industry, where a successful voluntary code of practice has been in place for some years now.

- Given the precarious state of the aviation industry today, it is recommended that section 66 be amended so only those issues that have been brought forward by complainants who have followed the required filing procedures be heard by the Agency. Amending section 66 would effectively reduce the cost and time burden for transportation service providers who must provide responses to filed complaints.

- It is recommended that the requirement that section 85.2 on interlining be deleted.

Rail Issues

- Retain the existing CLR provision combined with the proposed Bill C-26 amendments of eliminating the “substantial commercial harm” test, and the requirement that a shipper have an agreed rate with a connecting carrier would be the preferred approach of most shippers.

- The summary FOA process for cases involving less than $750,000 was only recently introduced through amendments in 2000 and was intended to provide a more expeditious process. To revise the process now by requiring applicants to meet the definitional requirements would be counter to this intent. Delete the proposed wording of clause 164.1 in Bill C-26.

- Privately funded passenger rail providers should be able to seek adjudication from the CTA regarding fees/charges by the host railway.

VIA Rail Canada Act

- It is recommended that the *VIA Rail Canada Act* include an amendment that limits the borrowing ability of VIA Rail, as a subsidized Crown corporation.

Attachment