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At a Crossroads

WHY REDUCING THE NUMBER OF RAILWAY CROSSINGS IS CRITICAL TO PUBLIC SAFETY AND THE ECONOMY

Michael Bourque

Railway crossings are a part of Canadian life that generally don't garner much attention until things go wrong. But Canada's railways have been pushing for ways in which safety can be upgraded to protect both the lives of Canadians and the smooth operation of our economic supply chains. Michael Bourque explains where the issue stands as our railways work with Ottawa for change.

When the *Canada Transportation Act* became law in 1996, it gave the Canadian Transportation Agency the authority to order a railway to build a suitable private crossing if the Agency "considers it necessary for the owner's enjoyment of the land."

At the time, no one foresaw a significant increase in new crossings, nor did they consider the severe impact of these crossings on public safety. But communities have since grown around railway operations, traffic has increased, and additional crossings have been built to relieve road congestion in many munic-

ipalities. There are tens of thousands of federally regulated grade crossings in Canada, and crossing accidents account for nearly 20 per cent of all rail incidents in our country. Sadly, a third of those incidents result in death or serious injury.

This raises a serious public policy issue relating to the approval of new railway-roadway crossings. Under the existing regime, Transport Canada has the authority to close a grade crossing after completing a risk analysis. However, the Canadian Transportation Agency has the authority to open new crossings without having to assess public safety. This dichotomy of authority has jeopardized safety, and has led to some counterproductive outcomes. In one case, for example, the agency ordered a railway to open a crossing after Transport Canada had ordered it permanently closed for safety reasons.

The Railway Association of Canada believes that Transport Canada should maintain its authority to close all unsafe crossings. The department regulates the overall safety of crossings in Canada, understands their associated dangers, and has developed regulations and grade crossing closure and upgrade programs to deal with this issue. However, Transport Canada should also have the sole authority for opening new public crossings, so that safety is always considered in the crossing approval-process. New crossings should only be approved as a last resort, if no other alternatives exist. In the event of a new crossing

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opening, an existing one should be closed so that there is no net increase in the number of crossings.

Despite some progress over the past decade, we have stopped seeing year-over-year improvements in the number of crossing accidents. In 2014, there were 180 of these accidents in Canada, a total similar to the previous year, and to the five-year average (see Table 1). This total is not surprising, given the current levels of road and rail traffic. But the trend is concerning, and will not improve unless action is taken. Recent government efforts to improve safety at grade crossings will help, but the best way to reduce accidents is to decrease the overall number of crossings in Canada.

Communities, railways and city planners need to develop alternatives to creating new grade crossings. The Railway Association of Canada and its members have made some progress in getting this message across, through our joint Proximity initiative with the Federation of Canadian Municipalities. We recently saw Montreal adopt our *Guidelines for New Developments in Proximity to Railway Operations* as part its long-

term development plan. Montreal was the first major urban centre to adopt the guidelines, and we're hopeful that other cities will follow suit. But other barriers are preventing us from making more progress on this critical issue.

Currently, railways are required by law to notify municipalities of any proposed work on their lines or property. But municipalities and developers have no such requirement where railways are concerned. Canada's railways would like to see the Railway Safety Act amended to require developers and municipalities to consult with railway companies prior to making decisions about land use that could affect railway safety. This was one of the recommendations made by the Railway Safety Act Review Panel in its 2007 report *Stronger Ties: A Shared Commitment to Railway Safety*.

There is also the issue of private crossings. Canada's railways sometimes encounter instances where private roads that cross over rail lines are used by landowners, but there is no crossing agreement in place between the railway and the landowner. In these situations, railways advise land-

Table 1: Railway Crossing Accidents in Canada

Accidents	2010	2011	2012	2013	2014	Average
Rail Volumes	77.6	78.4	80.1	78.1	81.2	79.1
Crossing Accidents	180	171	190	188	180	181.8
Per MMTM*	2.32	2.18	2.37	2.41	2.22	2.30
Crossing Injuries	28	22	32	27	25	26.8
% of total	15.6%	12.9%	16.8%	14.4%	13.9%	14.7%
Crossing Fatalities	24	25	30	31	21	26.2
% of total	13.3%	14.6%	15.8%	16.5%	11.7%	14.4%

* Million Main-Track Train-Miles

Source: Transportation Safety Board of Canada

owners of the need for an agreement on crossing construction and maintenance. But in many cases, users are unwilling to enter into these agreements, especially when crossing upgrades are necessary.

Section 103 of the *Canada Transportation Act* deals with the situation where a railway company and a landowner disagree on the suitability or maintenance of a private crossing. However, the Act only permits the landowner to apply to the agency for dispute resolution. There is no comparable right given to a railway company. The Railway Association of Canada believes that, in the interest of safety, railways should have an equal right to apply to the agency under Section 103 of the Act.

More funding is also needed to make crossing upgrades in communities across Canada. Transport Canada's *Grade Crossings Regulations* came into effect last December, which outline a series of improvements to be made to all public and private grade crossings. These upgrades are projected to cost railways and communities tens of thousands of dollars per crossing; shortline railways alone expect to invest close to \$85 million to meet the regulatory requirements.

At the same time, the federal government made changes to its Grade Crossing Im-

provement Program (GCIP), and has considerably reduced the amount that it will contribute towards grade-crossing upgrades. Transport Canada used to cover 80 per cent of the costs, and now it will only cover 50 per cent. Funds are also not available to provincially regulated railways, which must nevertheless comply with the regulations.

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The Railway Association of Canada would like to see more funding allocated for grade crossing improvements, and a better funding formula applied. This is particularly urgent for shortline railways, which typically run their operations on thin margins, and lack the ability to generate or access the capital needed to make such expensive upgrades.

While public safety should be the main motivation for closing crossings, there is also an economic argument to be made. Crossing accidents hurt citizens, railway employees, communities, and the environment, but they also have a negative impact on businesses.

Our economy depends on railways to move 75 million people and more than \$280 billion worth of goods in Canada each year. Railways need to maintain fluidity on their mainline tracks in order to deliver high levels of service to their customers. Their stretches of track are like highways; when an accident occurs, there are reverberations across the entire network, resulting in negative economic outcomes for both customers and the public.

Former Industry Minister David Emerson and his team of advisers should consider how to reduce the number of railway crossings in Canada, and how to improve the safety of those that remain, as part of their ongoing review of the *Canada Transportation Act*. We need railways to move the Canadian economy in a safe and efficient way; reducing the number of crossings will improve public safety, and the competitiveness of Canadian businesses in this global economy. **P**

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