Board investigations - Section 7

Context

As set out in section 7(1)(b)(i) and (i.1) of the Act the Board may, on its own motion, conduct an investigation into any general matter relating to the passenger transportation industry. However, the investigation must be relevant to the Board's overarching jurisdiction and authority.

The Board has the power to control its own investigation processes. The Board will typically follow the procedures outlined below.

Policy

Initiating an investigation

To commence a section 7 investigation, the Board will typically pass a motion at a Board meeting.

Choosing whether to conduct stakeholder engagement

The Board may choose to conduct an investigation on its own initiative and has discretion to undertake stakeholder engagement when practically necessary to fulfill the purpose of the investigation. In that case, the Board may notify relevant persons, obtain information from stakeholders, or undertake consultations.

Seeking assistance with investigation

The Board has the authority to seek assistance as necessary:

- The Board may retain consultants, investigators, expert witnesses, or other persons to assist the Board in conducting its investigatory function under section 7(4) of the Act and/or,
- The Board may seek assistance from Board staff when conducting a section 7 investigation.

Uses of investigation report

The Board may rely on the investigation report, if produced during the course of a section 7 investigation, to:

- Decide on an Application for a new licence (sections 7(1)(f) and 28);
- Decide on an Application to amend a licence (sections 31 and 35);
- Make a Systemic Decision; or,
- Create rules, policies, guidelines, procedures, or other informational or consultation documents.

Disclosure of investigation report

If the Board chooses to release an investigation report, the mode of disclosure is discretionary; however, investigation reports will typically be released by posting it on the Board's website.

Consideration of investigation report in proceedings

If the Board intends to rely upon a section 7 investigation report when making a decision that will affect the rights, privileges, or interests of an individual (e.g., deciding a new or amended licence Application), the Board will:

- Provide a copy of the section 7 investigation report to the individual and give them the opportunity to provide submissions in response; or,

- Ensure that the section 7 investigation report is available to applicants prior to their applications being submitted whenever possible, for example, by posting the report on the Board's website and informing applicants that the report can be considered by the Board in determining future applications.

Legislation

7 (1) Without limiting section 6 (4), the Board may do any or all of the following:

(b) conduct investigations into

(i) any matter related to the operation or licensing of inter-city buses or passenger directed vehicles,

(i.1) any matter related to the provision of transportation network services….

7 (4) The Board may retain consultants, investigators, expert witnesses, or other persons as may be necessary for the board to discharge its functions under this Act…

11 In this Division, "proceeding" means an investigation conducted under section 7(1)(b), any application made or forwarded to the board, any hearing conducted by the board or any appeal heard by the board.

12 (1) The Board has the power to control its own process.

(2) At any time during a proceeding, but before its decision, the board may make an order requiring a person

(a) to attend… a hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in a proceeding, or

(b) to produce for the board a document or other thing in the person's possession or control, as specified by the board, that is admissible and relevant to an issue in a proceeding

13 The Board may adjourn any proceeding

(a) on its own motion, or

(b) if it is shown to the satisfaction of the board that an adjournment is required

14 If 2 or more proceedings involve the same or similar questions of fact, law or policy, the board may

(a) combine those proceedings or any part of them,

(b) conduct those proceedings at the same time,

(c) conduct those proceedings one immediately after the other, or

(d) stay one or more of those proceedings…