

RESPONSE TO REQUEST FOR COMMENTS ON:

Consultation Paper - Pension Innovation for Canadians: The Target Benefit Plan

Note: This response represents the personal views of William R. Price, B.A., M.A., one of two elected representatives of Canada Post Corporation retirees on the Canada Post Pension Plan's Pension Advisory Council (PAC). I have served continuously (13 years) as an elected member of PAC since first organized soon after the creation of the Canada Post Corporation Pension Plan. I retired from Canada Post in 2003 following 30 years of service.

1. I am one of two elected representatives of Canada Post retirees (almost 30,000 retirees) for purposes of the Pension Advisory Council. Your invitation to respond makes reference to desiring comments from retiree groups but I am only the Canada Post Corporation retiree representative in terms of the approved mandate of PAC members. In the absence of specific authority to speak on their behalf in this matter, I will characterise my comments as merely those of a former long-service (30 years) executive retiree of Canada Post who was involved in both the creation of Canada Post Corporation and the Canada Post Corporation Pension Plan and who has served 13 years as an elected representative on the Pension Advisory Council of the Canada Post Pension Plan.
2. It is unclear to me why the proposed framework, if good for everyone else in federally-regulated pension plans, would not also be aimed at all other employee groups in the federal government such as the RCMP, the Military, the public service, and Members of Parliament and Senators. The glib reference that recent changes have been made to these plans to bring them more in line with private sector and other DB plans does not really explain their absence from potential consideration of conversion of these plans to TBP's. Their absence in this discussion will weaken the credibility of this entire consultation exercise. Why would a DB plan for these groups be the best approach when you are strongly suggesting that a TBP would be a sensible option for all other federally-regulated plans?
3. All of us who already are either active members or retirees/beneficiaries of existing DB pension plans are being asked to comment on a proposed legislative framework for a TBP. Had you mentioned up front that you would like comments on a TBP framework that would apply to new pension plans only, or would not open up possible reductions to earned retirement benefits as an employee or retiree, you would probably get appropriate un-biased replies. However, given that most of us are part of legacy DB plans (with or without financial problems) with substantial earned benefits as workers or retirees, how can we reply on any basis other than how conversion to a TBP would impact each of us as individuals and also how it would impact earned pension benefits of our survivors?
4. Moreover, it is unclear in the case of employees/retirees of agent Crown Corporations such as Canada Post Corporation whether there is any financial motivation at all to agree to move to a TBP from the current DB Plan. It is irrational to believe that, if liabilities of all kinds including their DB pensions are ultimately the

responsibility of the Crown, employees/retirees would voluntarily agree to move to a TBP where retiree pensions might be reduced, even temporarily, for fund performance issues. Even within the Canada Post employee and retiree population, there is an existing difference of treatment of years of service prior to the year 2000 (the date CPC created its own pension plan) and years of service thereafter. The plan eventually agreed to in the transition from the PSSA clearly provides that in the case of wind-up of the Plan, payout of liabilities related to years of service prior to 2000 will be given priority. Funds remaining after this distribution would then be allocated proportionately to years of service in and after 2000. Clearly, this provision was intended to encourage long service employees to stay with the Corporation with its new pension plan by promising them a heightened level of pension security as compared to recent or new employees.

5. Be that as it may, the agent Crown status of Canada Post would still mean that any unsatisfied pension liabilities on wind-up would still be owed by the Crown. Added to this is the legislation that requires Crown Corporation on wind-up of a pension plan to top-up any solvency funding shortfall. If the Corporation is bankrupt (a serious risk in the case of Canada Post going forward with its current cost structure in the face of declining traditional markets) and cannot meet this obligation among other obligations, the agent Crown status would oblige that both any unsatisfied pension liabilities or wage liabilities to workers, suppliers, etc. would have to be paid by the Crown.

6. The TBP consultation is unfortunately mixed up with the Corporation's direction from Government to take all necessary action (except for those cost reduction options deemed by Government to not be pursued) to return to sustainable profitability. This appears to not only mean the traditional responses of new business growth, operational cost reductions, efficiency investments, price increases and wage and benefit restraint but also a push to gain concessions with respect to benefits and the existing pension plan to make it "more affordable and sustainable" for the Corporation. While this is to be expected for any corporation in financial trouble, it is extremely complicated for agent Crown corporations as all parties must understand that agent Crown Corporations are not like private sector corporations which have an ultimate end should they not be able to be turned around financially. They go bankrupt and ultimately, secured and unsecured creditors will share the remaining assets of the corporation, most often leading to a "haircut" or "X cents on the dollar" for the unsecured creditors. In the case of an agent Crown, the liabilities of the Corporation are the liabilities of the Crown and the Crown would have to make private-sector creditors, employees and retirees whole with respect to any liabilities owed to them. In the case of earned pension benefits, any solvency shortfall in the Plan at the time of wind-up linked to bankruptcy will have to be made up by the Crown just as it would have to pay off any outstanding commercial accounts payable by the Corporation.

7. Given that the Government has provided regulations that have permitted the Corporation to defer significant amounts of special solvency payments to the Plan over the last several years, and, more recently, to permit relief from any special solvency payments until 2017, it is clear that Government is implicitly requiring the pension plan to fund without interest (interest that would compensate for foregone earnings that the Plan could have made if the special payments had been made into the Plan) the cash requirements for the Corporation's restructuring efforts to return to financial self-sufficiency. Clearly, at first glance, the Plan risk has been increased significantly as a result of this move. Alternatives were available, the Government could have lent the Corporation the funds to make the special payments to the Plan or, at least provide a letter of credit to the Plan assuring that these amounts owing to the Plan would be paid when due. It may be that this was not done because the Government knows that it would ultimately have to cover any outstanding liability of the Corporation anyway due to its agent Crown corporation status and has merely avoided artificial paperwork. It is worth pointing out that in 2014, had the outstanding special payments been inside the Plan and earning merely the target return, the Plan would have earned around \$250 million (less in earlier years due to smaller total deferred payments) on the roughly \$3.6 Billion of deferred special

payments. The Plan does not have either the missing payments or the money it should have earned on those funds. These decisions were made unilaterally by the Government and this makes sense if the pension liabilities will ultimately be paid if necessary by the Crown. If anyone believes that such ultimate responsibility of the Crown does not apply here, then the decisions to permit the massive build-up of unsecured deferred special payments and foregone earnings is unconscionable.

8. It is also important to point out the Superintendent of Financial Institutions has instructed the creation of a group composed of representatives of the Corporation, unionized employees, nonunionized employees and retirees to develop a Framework for communications and consultations on possible pension plan restructuring and a similar group of representatives to actually be part of the consultation process on an ongoing basis re: the Corporation and Government's stated intent to restructure the Canada Post Pension Plan. I see this as a helpful intervention, especially in that the Superintendent provide a list of critical issues to be the subject of consultation. However, I find it impossible to believe that these discussion can take place without a totally honest and open professional documentation by the Government of the Canada of the legislative and judicial foundation underlying the desired restructuring of the Plan giving full regard to the matters discussed in the above paragraphs such as the implications of Canada Post agent Crown status, the large and growing amount of deferred special payments to the Plan, the rights of employees and pensioners with respect to acquired/earned pension benefits and their payment on an indexed basis during retirement and eventually to survivors. How can the Corporation and, more importantly the retirees and employees with acquired/earned pension benefits under today's Plan, consult appropriately on possible Plan restructuring without having a well-documented, well-explained and independent analysis of their legal rights with respect to the promised pension benefits under the current Plan. In the absence of this, how can the retirees and employees provide meaningful informed responses to various Plan restructuring proposals?

9. I do not see how any discussions regarding restructuring of the Canada Post Pension Plan, including movement to a TBP, can commence without credible independent legal, financial and actuarial professional being made available to the employee and retiree groups so that they will clearly understand the impact on them of any proposed Plan restructuring and the legal authority under which the various groups could be compelled to accept any aspect of the desired Plan restructuring. If there is a clear understanding among the Government and federal officials that the desired changes are not aimed at already acquired or earned pension benefits, it is an understanding that has not been communicated to those who have such earned benefits. The absence of such assurances is creating needless and harmful anxieties among Canada Post retirees, survivors and long-service employees. These acquired benefits are seen by those who have earned them as inviolable and that perceived characteristic was a reason for their choosing to stay with the Corporation when it was created and when the Plan was created rather than shifting to the public service or private sector employment. Retirees and long-service employees are beyond the age at which a return to work or a new career is an option should any reduction by whatever means (reduced pension payments or loss of indexing or reduced survivor benefits) of the existing pension liabilities of the Corporation be forced upon them. I do not believe that the legal foundation is there that would support such reductions in the case of Canada Post Corporation and its agent Crown status.

10. I do understand the need to create a new model (perhaps the TBP) for new federally-regulated pension plans and perhaps for careful conversion of existing federally regulated DB and DC plans as long as the acquired/earned pension benefits are protected and honoured in an appropriate manner. I am certain that legally and ethically this will be the eventual outcome of this initiative. It would be better for all of us, other than the legal and actuarial professions, if this reality was recognized now and that we jump to the end point without wasting millions in consulting and legal fees.

Sincerely,

William R. Price
Retiree Representative
Pension Advisory Council
Canada Post Pension Plan