

Citation: Chaykowski, Richard, “Time to Tweak or Re-Boot? Assessing the Interest Arbitration Process in Canadian Industrial Relations”, Comment, (Toronto: Institute C.D. Howe, 2019)

Abstract: Interest arbitration, or third-party arbitration, is an essential element of the Canadian industrial relations system, with considerable impact on the public interest, particularly in relation to public-sector industries. As an instrument of labour relations policy, interest arbitration has become the primary alternative to costly work stoppages. By and large, most stakeholders appear to hold the view that the arbitration system functions fairly well, judged at least by the overall satisfaction of unions and employers.

As arbitration’s significance in terms of usage and potential economic effect increases, however, several aspects are of concern. In particular, there are questions about (i) whether the design of the interest arbitration model – and, indeed, the broader system of interest arbitration – yields sufficient and equitable labour relations and economic outcomes, (ii) whether the use of interest arbitration leads to higher wage outcomes than governments would otherwise pay, and (iii) whether in crafting decisions, interest arbitrators apply criteria that serve the public interest.

This *Commentary* assesses the current state of the interest arbitration system, and shows that, regarding the overall question of what model and what features might best serve interest arbitration in Canada, there are four areas in which governments should undertake reviews and steps to strengthen the system and its outcomes:

- Introduce certain criteria that arbitrators should consider as serving the best interests of the public;
- Identify the skills that mediators and interest arbitrators need, set competency standards and develop training to enhance skills;
- Establish an independent roster of mediators and arbitrators; and
- Assess the need to further strengthen the role of mediation and/or, more formally, follow a two-stage mediation-arbitration process

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