Issue Brief

IMPROVING RAIL COMPETITION

ISSUE

Mass consolidation in the freight rail sector and an outdated and regulatory structure have resulted in the nation's Class I railroads operating as virtual monopolies. As a consequence, shippers and their customers have little leverage in transporting materials efficiently and cost effectively.

BACKGROUND

Since 1980, rail freight traffic has nearly doubled, investment in rail infrastructure has increased, and the economic strength of the rail industry is greatly improved. At the same time, the rail industry has consolidated, creating a market for rail services where the majority of ACC member company facilities are "captive shippers," served by single carrier with no competitive transportation alternative.

As railroads have consolidated, competition between these companies has dramatically decreased. For example, nearly two-thirds of rail-served chemical facilities are served by only one railroad. When a single railroad enjoys a monopoly, it does not need to quote reasonable rates to its customer or guarantee its service. The current regulatory structure has provided Class I rail carriers wide ranging and unnecessary protections from competition. This has resulted in poor service and excessive rates for rail customers, for which they have little meaningful recourse.

AMERICAN CHEMISTRY COUNCIL VIEWPOINT

ACC and its members believe the U.S. economy would benefit from improved railroad competition. More competition would ensure that basic commodities, including chemicals, can be shipped efficiently and cost effectively to American manufacturers that depend on them. Real and vigorous competition leads to the highest levels of investment, innovation and service. It also leads to competitive pricing, which ultimately helps consumers and the U.S. economy.

ACC and its members support policies that would improve access to competitive freight rail service, uphold the common carrier obligation, and allow the movement of products wherever they are needed now and in the future.

The Surface Transportation Board (STB) has the authority to enact reforms that can help improve the competitive balance between shippers and railroads. STB should re-evaluate and modernize its regulatory framework in order to meet present and the future challenges.

In particular, the STB should review policy and practice in the following areas:

- Reciprocal Switching: ACC believes a captive rail customer should have the right to obtain competitive service from another railroad through trackage rights or reciprocal switching in a terminal area (an industrial or other area where two or more railroads own and operate track facilities). Existing law says the STB "may require" a railroad serving a terminal area to enter into a reciprocal switching agreement with another railroad. The STB should adopt a policy of requiring reciprocal switching that is in the public interest and necessary to provide competitive rail service, and should establish standards for determining a reasonable rate switch.

- Bottleneck Segments: Under current STB policy, when a railroad controls a bottleneck line segment (a line owned by a single carrier that serves a particular origin or destination), shippers do not have the ability to request quotes from competitors on alternative routes that may prove to be more efficient and economical. A railroad that serves a captive shipper and interconnects near the shipper with a competing railroad is required to offer a rate over the "bottleneck" portion only if the shipper has a signed contract with another carrier for the remainder of the route. In practice, however, ostensibly competing railroads have rarely signed such contracts. The STB should reexamine this policy.

- Rate Bundling: To prevent shippers from challenging rates, rail carriers increasingly "bundle" all lanes under a single contract, and refuse to quote a tariff rate for an individual lane. By bundling rates for all origin-destination lanes in a single contract, a rail carrier can avoid offering a tariff rate on one or more individual lanes that the shipper may wish to challenge as unreasonably high. This unreasonable practice deprives STB of its means to review the reasonableness of rates and unfairly limits shipper decisions.