

The Continued Need for Balanced Railroad Regulation

ASSOCIATION OF AMERICAN RAILROADS

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Summary

Unlike trucks, barges, and airlines, America's privately-owned freight railroads operate almost exclusively on infrastructure that they own, build, maintain, and pay for themselves. They must be able to earn enough to pay for the upkeep and expansion of their networks.

They haven't always been able to do so. In the 1970s, the U.S. freight rail industry was on the brink of ruin, largely because of decades of excessive regulation. Recognizing the status quo was not tenable, Congress passed the Staggers Rail Act of 1980, which put in place a more balanced regulatory system under which railroads could largely decide for themselves (rather than have Washington decide for them) what routes to use, what services to offer, and what prices to charge. Importantly, the Staggers Act kept in place protections for rail customers.

The reforms have done exactly what they were supposed to. Railroads today are much more affordable, safer, reliable, and financially secure than they were back then, while rail customers continue to have regulatory protections against unreasonable railroad behavior and rates. Unfortunately, some rail industry critics want the government to re-impose excessive regulations and price controls on railroads. That would be like a nutritionist telling a patient who's finally fit thanks to a long period of healthy eating and exercise that it's now OK to start eating junk food and watching TV all day. America's freight railroads today are the best in the world. A return to unbalanced regulation would put that global superiority at serious risk and threaten the tremendous economic, social, and environmental benefits railroads provide.

Balanced Regulation Was Needed to Save the Rail Industry

Largely because of decades of excessive regulation, by the 1970s the U.S. freight rail industry was in terrible shape. Bankruptcies were common, and tens of thousands of rail miles had to be operated at reduced speeds because of unsafe conditions railroads couldn't afford to fix. The economy suffered greatly because railroads couldn't provide quality service.

Recognizing the status quo was untenable, Congress essentially had two options: nationalize the railroads, at a continuing cost of untold billions of dollars; or replace the excessive regulation of the past with a more balanced regulatory system.

By passing the Staggers Rail Act of 1980, Congress chose balanced regulation. By passing Staggers, Congress ushered in **a new era in which railroads could largely decide for themselves — rather than have Washington decide for them — what routes to use, what services to offer, and what prices to charge.** For the first time in decades, railroads could act like most other businesses in terms of managing their assets and pricing their services.

Importantly, the Staggers Act retained effective regulatory safeguards to protect rail customers against abusive or anticompetitive railroad behavior. **Those safeguards remain in place today** under the auspices of the Surface Transportation Board (STB), the government agency responsible for regulating railroad rates and service.

Balanced Regulation Has Led to a Railroad Transformation

Fast forward to today and it's clear that the benefits of balanced regulation to rail customers and the nation at large have been immense:

- **The U.S. freight rail industry today is widely considered to be the best in the world.** It is at or near the top globally in terms of mileage, freight carried, the condition of its infrastructure and equipment, productivity, and affordability to customers.
- By serving nearly every industrial, wholesale, retail, and resource-based sector of the economy and by linking firms to each other domestically and abroad, **freight railroads are the economy's circulatory system.** They are indispensable to economic growth.
- Thanks to huge railroad productivity gains, the average rail shipper today can move nearly twice as much freight for about the same price it paid in 1980. How many other industries can say something similar?
- Railroads have become much safer — in fact, recent years have been the safest in history.
- Unlike America's trucks, barges, and airlines, America's freight railroads operate overwhelmingly on infrastructure that they own, build, maintain, and pay for themselves. Balanced regulation has given railroads the opportunity to become stronger financially, allowing them to earn enough to plow back more than \$660 billion — their own funds, not taxpayer funds — into improving their infrastructure and equipment. "Crumbling" might describe some U.S. infrastructure, but not freight rail. Freight rail infrastructure today is in better overall shape than ever before.
- Every firm experiences ups and downs in terms of customer service, but rail service in general today is reliable and efficient, far better than it once was.
- Railroads have become much more competitive vis-à-vis trucks. Since one train can carry the freight of several hundred trucks and since railroads are four times more fuel efficient than trucks, that means less congested highways and a cleaner environment.

The Benefits of Balanced Rail Regulation to the Economy Have Been Tremendous

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| <ul style="list-style-type: none">✓ <i>Freight railroads operate nationwide. Our economy could not function without reliable, financially healthy freight railroads.</i>✓ <i>Since 1980, railroads have poured more than \$660 billion — their own funds, not taxpayer money — back into their networks, creating a rail system that is the envy of the world.</i>✓ <i>Around one-third of U.S. exports move by rail. Without rail, U.S. firms and consumers would be unable to participate fully in the global economy.</i>✓ <i>In 2014 alone, America's major freight railroads supported 1.5 million jobs, nearly \$274 billion in output, and \$88 billion in wages across the U.S. economy.</i> | <ul style="list-style-type: none">✓ <i>Railroads have become much safer. Recent years have been the safest in rail history.</i>✓ <i>Railroads are more cost-effective. Average rail rates in 2017 were 46% lower than in 1981. Millions of Americans work at firms that are more competitive in the tough global marketplace thanks to the affordability of freight railroads.</i>✓ <i>Freight railroad compensation per employee is approximately 60 percent higher than the U.S. average.</i>✓ <i>Since one train can carry the freight of several hundred trucks and railroads on average are four times more fuel efficient than trucks, freight rail is better for the environment.</i> |
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Balanced Regulation Continues to Be Needed Today

When the Staggers Act was passed, a move to a system of balanced regulation was necessary for railroads' very survival. Today, railroads' survival is not in doubt — railroads are financially healthy. **But that doesn't mean the need for balanced regulation has gone away.** America's ability to compete in a tough global economy requires vibrant, effective freight railroads. That's why it's crucial that the balanced railroad regulatory framework that has worked so well for nearly 40 years be retained: you can't have one without the other.

Unfortunately, some special interest groups are trying to tilt today's regulatory scales in their favor. These groups claim to have only the best intentions. They don't want to "reregulate" railroads, they say; they only want more "common sense reforms" that will lead to more "competition" that will make railroads stronger. They insist they "don't want to undermine the ability of railroads to function and make needed investments." They just want to update "outdated regulations" that are "not equipped to handle today's challenges."

Don't let them fool you. Their innocuous-sounding claims are misrepresentations, belied by the fact that when one looks at the actual policy changes that proponents of this view are urging upon Congress and the STB, it's clear that "reform" is a euphemism for "force railroads to subsidize us through additional government control."

- At their most basic level, proponents of so-called railroad "reform" think railroads charge too much and so the government should step in and institute price controls in one way or another. Proponents of these actions against railroads would never agree to have the same thing happen to their businesses. Put another way, **they're like a football team that wants the referee to call penalties only against the other team.**
- Rail industry critics often claim that service to a rail customer by a single railroad is equivalent to monopoly power and that all rail customers therefore have a right to service by more than one railroad. That's wrong. Claiming every market can sustain two railroads just because some markets can is like saying every city can support two major league baseball teams just because New York and Chicago can.
- Railroads know their customers aren't always completely happy with the prices they're able to negotiate with railroads. Virtually every purchaser of goods or services, including railroads, would like to pay less to their suppliers. But there's no question that **the vast majority of railroad rates are driven by market competition** — just as they should be. When that's not the case, the STB can step in.

Why should anyone who is not a railroad or a rail customer care about this? History shows that the level of government control over railroads has a tremendous impact on how well railroads are able to transport goods throughout the economy. A return to unbalanced regulation would mean the efficiency and quality of rail service would fall sharply. Some proposals would force a railroad to use its own assets on behalf of another railroad — like forcing UPS to use its local delivery trucks to deliver packages for Federal Express. Why would a railroad invest in new assets if it had to let someone else reap the benefits of those investments? It wouldn't. Finally, a return to unbalanced regulation would mean that rail revenue could fall sharply — potentially by billions of dollars per year — not because of fair competition but because the government put its thumb on the scales. Unless taxpayers stepped in to make up the shortfall, inadequate earnings could put America's best-in-the-world freight rail network at serious risk — all because a group of rail customers want Washington to provide what the free market won't. That's cronyism our economy doesn't need or deserve.