Freight Railroads Under Balanced Economic Regulation

By the 1970s, decades of increasingly stringent government regulation — together with intense competition from other modes of transportation — had brought the U.S. freight railroad industry to near ruin. Today is a very different story. America's freight technology-fueled railroads are the envy of the world, providing an enormous competitive advantage for U.S. businesses, huge savings for consumers and strong support for our nation's economy. What brought about this change? Congress passed the Staggers Rail Act in 1980, which instituted a system of balanced regulation in the rail industry.

Key Takeaway

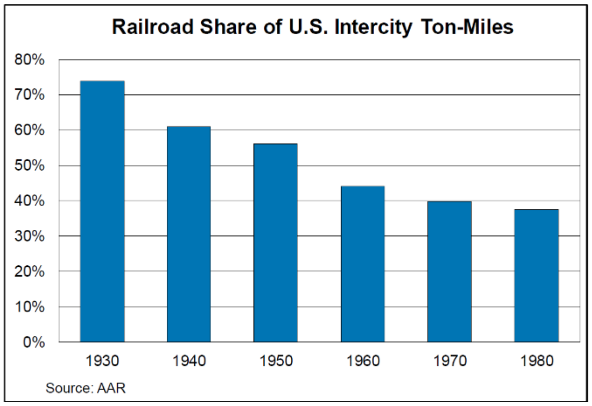
Today's economic regulatory framework is based on sound economics and market-based competition, allowing private railroads to make the investments needed to remain the world's safest and most efficient freight rail system.

Staggers 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 rates to charge. Since the Staggers Act was passed, average rail rates have fallen 43%, safety has dramatically improved, rail traffic volume is up 90%, and railroads have poured more than $710 billion — their own funds, not taxpayer funds — back into their systems. Balanced, reasonable regulation works for rail customers, railroads and America at large.

The 1970s: Railroads at the Brink of Ruin

- During the 1970s, most major railroads in the Northeast (including the giant Penn Central) and several major Midwestern railroads went bankrupt. More than 21% of the nation's rail mileage was accounted for by bankrupt railroads.

- Between 1970 and 1979, the rail industry's return on investment never exceeded 2.9% and averaged 2% — well below what a child could earn on a savings account. Railroads' average rate of return had been falling for decades: it was 4.1% in the 1940s, 3.7% in the 1950s and 2.8% in the 1960s.



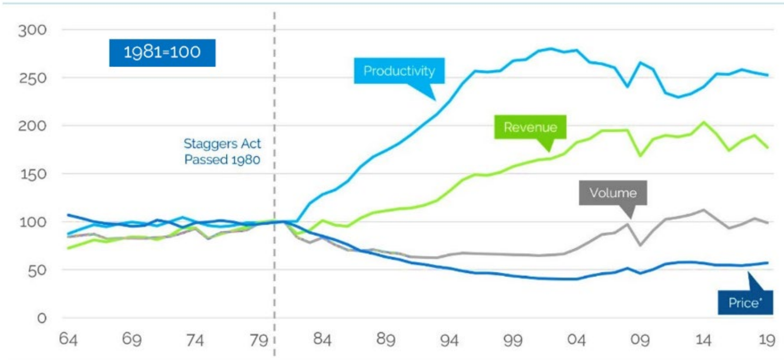
- By 1978, the railroad share of intercity freight had fallen to 35%, down from 75% in the 1920s.

- Railroads lacked the funds to properly maintain their tracks. By 1976, more than 47,000 miles of track had to be operated at reduced speeds because of unsafe conditions. Deferred maintenance — maintenance that needed to be done but railroads could not afford — was in the billions of dollars. The term "standing derailment" — when stationary railcars simply fell off poorly maintained track — was often heard.

The status quo was untenable, so Congress essentially had two options: nationalization, at a continuing cost of untold billions of dollars to taxpayers, or a move toward more reasonable, balanced regulation to replace the excessive regulation of the past. Congress wisely chose balanced regulation and passed the Staggers Rail Act of 1980.

By passing Staggers, Congress recognized that America's freight railroads — the vast majority of which are private companies that operate on infrastructure that they own, build, maintain and pay for themselves — faced intense competition for most of their traffic, but excessive regulation prevented them from competing effectively. To survive, railroads needed a common-sense regulatory system that allowed them to act like most other businesses in terms of managing their assets and pricing their services.

What Did the Staggers Act Do?



*Based on average revenue per ton-mile in 2019 dollars. Source: AAR

The Staggers Act eliminated many of the most damaging regulations that hindered efficient, cost-effective freight rail service. Under Staggers, regulators retained authority to protect shippers and consumers against unreasonable railroad conduct and unreasonable railroad pricing. Regulators still have this authority today. Among other things, Staggers:

- Allowed railroads to price competing routes and services differently. Railroads could now price according to market demand and operate over their most efficient routes.
- Allowed railroads and shippers to enter into confidential contracts. Such contracts were virtually unknown prior to Staggers because of regulatory restrictions.
- Streamlined procedures for the sale of rail lines to new short line railroads.
- Explicitly recognized railroads' need to earn adequate revenues.
- Expanded regulators' authority to exempt categories of rail traffic from regulation if regulation was not needed to protect shippers from an abuse of rail market power. For example, freight that could easily be carried by railroads' trucking competitors could be exempted from regulation.

Since Staggers, America's Railroads Have Transformed

By permitting a more customer-focused, market-based approach to railroading, the Staggers Act has greatly benefited railroads, their customers and our economy at large. Sustained investment in technology and infrastructure along with modernized operations has allowed railroads to create a smarter, safer and more responsive network that meets evolving customer needs while delivering a more prosperous future for America.

- **Increased Productivity & Market Share**: Since Staggers, railroads have increased their productivity far more quickly than most other industries. Overall rail industry productivity was flat for many years prior to Staggers but is up more than 150% since then.
- **Customer Savings**: Since 1980, average rail rates (measured by inflation-adjusted revenue per ton-mile) are 43% lower today than in 1981. This means the average rail shipper can move much more freight for around the same price it paid more than 35 years ago.
- **New Technologies**: From drones to artificial intelligence, railroads are constantly developing and implementing new technologies to improve safety and efficiency.
- **Massive Investments**: Since 1980, freight railroads have poured more than $710 billion of their own funds back into their operations.
- **Increased Safety**: Since 2000, train accident and hazmat accident rates are down 30% and 64%, respectively, while rail employee fatalities in 2019 matched an all-time low.
- **Better Financial Health**: Return on net investment, which had been falling for decades, was 4.4% in the 1980s, 7% in the 1990s, 8% from 2000 to 2009 and 11.8% from 2010 to 2017.
- **Strong Short lines**: Short line and regional railroads, most of which are new since Staggers, operate approximately 50,000 miles in 49 states, preserving rail service and rail jobs that otherwise would have been lost if not for the Staggers Act.