The Surface Transportation Board (STB) — the agency that oversees freight railroad economic regulations — is considering a bad policy that would slow the freight rail network and create a negative domino effect across our economy.

The forced switching rule (a form of forced access) would force railroads to turn over traffic to competitors at potentially below-market rates. Because switching is complicated, forced switching would slow freight movements. A less efficient rail network would lead to less investments, which would ultimately hurt shippers, consumers, the environment and the economy. Such market intervention is widely opposed and lacks justification.

Backdoor Rate Regulation

Advocates of forced switching seek below-market rate levels for their traffic at the expense of other customers and the fluidity of the network. Forced switching is a form of backdoor rate regulation that would hinder U.S. commerce and increase the costs of consumer goods.

Railroads purposely concentrate and move traffic along certain routes to maximize operational efficiencies and network fluidity. The railroads’ routing practices, honed over decades, consider the health and operation of the entire network, which benefits all customers, not just a few. Because switching operations on a track from one railroad to the next requires extensive work — a switch of one rail car requires many steps to occur — widespread forced switching would significantly compromise the efficiency of the nation’s rail network.

Freight Rail Competition

Railroads face fierce competition from trucks, barges and other market forces. To respond to a changing and competitive marketplace — and better serve emerging customers — railroads continually improve their networks through investments in infrastructure, equipment, training, operations and technology.

Technological, regulatory and structural changes over time have disrupted the freight market, and those disruptions will only increase in the future. Autonomous and/or platooned trucks will reduce costs for rail’s top competitor, which could limit rail’s competitive advantages of scale and distance. Policy should not be made in a vacuum or with the mistaken belief that freight markets are static.
Railroad Consolidation

Railroad consolidation has not limited competition. Consolidation also is not a justification for forced access. Since 1960, shippers served by more than one railroad before a major rail merger are still served by more than one railroad after the merger. Additionally, consolidations brought greater efficiencies and more effective service that benefitted everyone. Most rail customers — including those served by only one railroad — do not need STB regulatory protection because market forces ensure competitive rates and service.

A Negative Domino Effect

- **Reduced Safety**: Railroads’ holistic approach to rail safety focuses on four key areas: infrastructure and equipment investment; training and operational improvement; technology deployment; and community outreach and preparedness.

  The high standard that railroads apply to every aspect of operations underpins this approach and is evidenced by the fact recent years have been among the safest ever for the industry. Because switching operations are relatively riskier than line-haul operations, adding more switching puts workers at greater risk.

- **More Carbon**: Railroads are the most fuel-efficient way to move goods over land. Gumming up rail operations with more switches would not only hurt the many freight customers that depend on rail but also negatively affect the environment. Increased wait times in yards and on the mainline would be a step in the wrong direction of decarbonization for freight rail, which currently accounts for just 0.5% of total greenhouse gas emissions. In addition, if railroads become less efficient, traffic will shift to trucking, a significantly less fuel-efficient mode.

- **Passenger Rail Delays**: 70% of the train miles operated by Amtrak are on tracks owned by freight host railroads. Many passenger railroads depend on fluid freight operations to meet ambitious schedule goals. If freight is slowed because of increased switches and shared tracks are congested with more freight traffic, commuters and intercity passenger rail travelers will be impacted.

- **Supply Chain Snarls**: The Department of Transportation predicts demand for freight will rise 30% by 2040. Railroads — unlike other freight transportation modes — cover most costs required to maintain and modernize their privately owned infrastructure. The viability of the expensive network — railroads have spent an average of well above $23 billion a year over the past five years — depends on a broad base of business, sufficient revenue and an ability for railroads to compete.

  Yet a less efficient railroad is less competitive with other modes of transportation, which would undermine this ability to invest, driving down railroads’ ability to meet future demands. Furthermore, introducing more switching into the network will be felt throughout the supply chain. More switching on the network will introduce more points of failure into already congested supply chains.
• **Consumer Challenges:** Together with trucks and barges, railroads help move around 61 tons of goods per American every year. Under-investments could have cascading impacts on the health of the network and increase shipping costs. By driving railroad rates for certain customers to below-market levels — at the expense of other customers — the STB would ultimately hinder U.S. commerce and increase the costs of consumer goods.

• **Infrastructure Impact:** The American Society of Civil Engineers (ASCE) awarded America’s rail network the highest grade in its last two report cards. Customers dissatisfied with rail service would likely move goods to strained highways. Diversion of traffic from rail to trucks, which are less fuel-efficient, creates congestion and would further damage the nation’s highway system.

**Opposing Voices**

Aside from a small number of powerful shipping groups, many agree that forced switching is simply bad policy — from passenger railroads to environmental advocates and trusted economists.

• **Metra Passenger Railroad:** “Metra supports maintaining fluidity and minimizing congestion on the rails within the Chicagoland region. On-time performance in the commuter rail space is measured in minutes, and delays due to freight train interference, especially during peak service periods, can have a cascading effect on commuter operations, and a devastating effect on the daily lives of our customers.”

• **CIRCLE California Passenger Coalition:** “We are concerned that the NPRM would create disincentives for continued investment in our national railroad network. Our agencies require reliable, safe, and maintained freight railroad infrastructure to serve our passengers. Additional uncertainty in railroad infrastructure investment, especially during an unprecedented opportunity and time to expand and enhance passenger railroad infrastructure and connectivity, would risk so much of the progress we as a state and nation have made in recent years.”

• **Brotherhood of Maintenance of Way Employees:** “If the proposed changes are adopted and are actually effective (an outcome the unions doubt...), the result would be lower rates for the proponents of required reciprocal switching, which would mean a reduction of revenue for the railroads, which would ultimately be damaging to rail workers.”

• **The National Association of Counties (NACo):** “Slowdowns in the freight rail sector would hinder passenger rail operations. They would also compel more truck movements that negatively impact roads and bridges. This scenario would not only undermine investments from the IIJA but would place an undue burden on states and localities responsible for maintaining and funding infrastructure systems. As you move forward with your deliberations, we ask that you consider the potential for new regulation to divert freight and hurt passenger railroads.”
• **American Short Line & Regional Railroad Association (ASLRA):** “This significant change in regulatory policy could drive deteriorating service for customers, forcing freight off the rail network and onto the highways, and resulting in negative public impact in the form of increased road congestion, decreased safety, and impact on the environment.”

• **Environmental Advocates:** “While the industry must continue to make progress to decarbonize and lessen its impact on communities, it’s important to recognize the benefits the industry currently provides to U.S. businesses, the environment, and society, as well as its continued infrastructure investments. Thus, we urge caution as [the STB] considers new regulations that will impact how railroads operate…”

• **Patrick McLaughlin of the Mercatus Center at George Mason University:** “The recent proposed regulation from the Surface Transportation Board (STB), which would mandate reciprocal switching on US railroads, raises several concerns. The most urgent issue raised by this proposal, and the focus of this comment, is the loss of safety that would likely occur were reciprocal switching to be mandated.”

• **The Progressive Policy Institute (PPI):** “Railroads would have to give a high priority to moving goods in a way that met the reciprocal switching requirements, rather than lowering costs and speeding goods to their ultimate customers. The result would be more supply chain disruptions, and higher inflation. That’s not an outcome that anyone wants right now.”

• **The International Center for Law and Economics (ICLE):** “Unfortunately, like much of the administration’s broader effort, the regulatory solutions the STB offers are in search of competition problems, evidence of which remains conspicuously absent. Worse, the STB offers these new regulations on the basis of a docket that is now dated and that itself relied on even older data.”

• **Reason Foundation:** “Unfortunately, the STB’s proposed reciprocal switching regulations would add complexity and delay during unprecedented economic uncertainty.”

• **The National Taxpayers Union (NTU):** “As NTU has stated before, taxpayers have a deep and abiding interest in a robust freight rail sector that allows both railroads and their customers to prosper. Railroads must have the resources to continue private investment, and customers must be able to secure affordable, market-based shipping services. Without this synergy, taxpayers will witness another decline in one of the nation’s most vital infrastructure components, and with it, increased pressure for direct federal involvement with loans, subsidies, and other strictures.”

• **Intermodal Association of North America (IANA):** “We believe that the impact of forced switching to intermodal freight transportation would most likely be: a decline in rail infrastructure; decreased network velocity; a deterioration in domestic intermodal service; and an adverse impact on intermodal’s ability to compete with over-the-road trucking. These outcomes are troubling given the supply chain challenges that continue, both domestically and internationally.”
• **The American Consumer Institute (ACI):** “In our view, these regulations would increase the strain placed on the nation’s competing transportation networks, particularly road and bridges, and increase greenhouse gas emissions due to an increased shift to road transportation. Furthermore, the timing of this proposal is troubling considering the current strains facing the nation’s supply chains, which the administration says is of the utmost importance.”

• **The Small Business & Entrepreneurship Council (SBEC):** “Forced switching would undermine the efficiency of the rail system, and raise costs for customers, again, including small businesses, and consumers overall.”

• **Free Market Organizations led by The Competitive Enterprise Institute (CEI):** “We consider reciprocal switching to be forced access. Forced access will needlessly complicate an exchange that is already determined by market negotiation. Railroads’ property rights will be overridden to enforce a regime of below-market rates, which will lead to less investment by railroads, diminished competitive advantage against other modes of transportation, and in the end higher prices for consumers. There will also be more strain placed on the nation’s competing transportation networks, such as the interstate highway network. Second order effects on passenger rail, the environment, and safety will also be costly.”