

September 13, 2022

Dear Member of Congress:

We, the undersigned individuals and organizations, oppose the inaccurately named Freight Rail Shipping Fair Market Act. It will cause significant harm to our nation's world-class freight railroads, disrupt supply chains, and raise prices for American households.

The bill amounts to a reregulation of freight rail, undoing many of the benefits of the Carter-era Staggers Act (1980) that allowed freight railroads to invest in their businesses and build the excellent network we have today. The bill directs the Surface Transportation Board to micromanage contractual arrangements between railroads and their customers, which will significantly increase bureaucracy and lead to endless rail dispute adjudications by the board, precisely the activity that the Staggers Act was designed to prevent.

As an example, the bill gives the board "emergency powers" aimed at clearing bottlenecks in rail operations. Precisely what the board is supposed to do with these powers is unclear besides being able to "require" such things as additional capacity through building more track. Yet the railroads will still have to go through lengthy permitting processes to do so. In the real world, there is no bureaucratic magic wand that will clear bottlenecks, so involving the board in every such situation is in fact likely to lead to greater inefficiencies and delays (the opposite of the bill's purported intent).

The bill also directs the board to increase competition through increased common carrier obligations. Once again, this is likely to involve the board in settling more disputes through micromanaging industry operations, up to and including deciding how many customer service representatives are appropriate. This is, as the saying goes, no way to run a railroad.

Finally, the bill imposes *de facto* price controls on any contract where prices may rise, preventing railroads from reacting to changed market conditions the way all businesses do, and unfairly directs the board to penalize railroads for attempting to recover costs caused by increased fuel prices. Such practices have always led to degraded service and less investment wherever and whenever they have been applied.

In short, the bill substitutes bureaucratic whim for free market negotiation. That is a recipe for disaster.

On top of all this, the legislation is at odds with the stated goal of the board chairman in that it unnecessarily politicizes negotiations between all parties. As STB Chairman Martin Oberman told a trade association in August, "We don't have, fortunately, on the board the kind of polarization and tribalism that you see too much in Washington. I am determined to keep that from happening on the board."

We encourage all lawmakers to oppose this bill.

1310 L Street, NW, 7th Floor
Washington, DC 20005
cei.org

202 331 1010 *main*
202 331 0640 *fax*



Sincerely,

Iain Murray
Senior Fellow
Competitive Enterprise Institute

Saulius "Saul" Anuzis
President
60 Plus Association

James L. Martin
Founder/Chairman
60 Plus Association

*Ian Adams
Executive Director
International Center for Law & Economics

Steve Pociask
President / CEO
American Consumer Institute

Brent Wm. Gardner
Chief Government Affairs Officer
Americans for Prosperity

Andrew F. Quinlan
President
Center for Freedom and Prosperity

Jeffrey Mazzella
President
Center for Individual Freedom

Ryan Ellis
President
Center for a Free Economy

Roslyn Layton, PhD
China Tech Threat

David McIntosh
President
Club for Growth

Matthew Kandrach
President
Consumer Action for a Strong Economy

Ashley Baker
Director of Public Policy
The Committee for Justice

Adam Brandon
President
FreedomWorks

*David R. Henderson
Hoover Institution, Stanford University

Mario H. Lopez
President
Hispanic Leadership Fund

*Douglas Holtz-Eakin
President
American Action Forum

Andrew Langer
President
Institute for Liberty

Tom Giovanetti
President
Institute for Policy Innovation (IPI)

Alfredo Ortiz
President and CEO
Job Creators Network

Charles Sauer
President
Market Institute

Karen Kerrigan
President & CEO
Small Business & Entrepreneurship Council

* Signing in individual capacity only.