



Rail Antitrust Act Prodded

By Ari Natter
February 18, 2008

After stalling in the Senate, legislation to create stronger antitrust standards for railroads is getting a push. A bipartisan group of seven senators is requesting Senate Majority Leader Harry Reid, D-Nev., bring the Railroad Antitrust Enforcement Act to the Senate floor.

"These rail customers across the country have suffered from increased prices and decreased quality of service caused in large part by lack of competition among freight railroads," the group wrote in a Feb. 8 letter.

According to the bill's backers, the legislation, sponsored by Sen. Herbert H. Kohl, D-Wis., would subject railroads to antitrust laws, from which they are broadly exempted.

The legislation would also allow railroad customers and state attorneys general the right to contest anticompetitive or predatory practices in federal courts, and allow the Department of Justice to challenge future mergers and acquisitions.

"While there may have been a need for such exemptions when the federal government played an outsized role in the regulation and management of railroad operations, that is no longer the case," the senators wrote.

The legislation was approved by the Senate Judiciary Committee last September, but since then has languished in the Senate.

The legislation also lost a major proponent in the United Transportation Union, when the rail workers' union reached a tentative agreement with major U.S. carriers, and stopped actively supporting the bill.

Tom White, a spokesman for the Association of American Railroads, which opposes the legislation, said he doubts the bill will go to the Senate floor anytime soon, because the jurisdictional issue with the Senate Commerce, Science and Transportation Committee.

The committee's chair, Daniel K. Inouye, D-Hawaii, and ranking member, John McCain, R-Ariz., sent a letter Oct. 4 to Reid and Senate Minority Leader Mitch McConnell, R-Ky., asking them to hold off on sending the bill to the floor because the "economic and competitive environment" of railroads, as well as the workings of the Surface Transportation Board, fall under their jurisdiction.

Senators urge antitrust vote

February 18, 2008

Sen. Herb Kohl, D-Wisc., and six other senator have sent a letter to Senate Majority Leader Harry Reid, D-Nev., urging him to bring the Railroad Antitrust Enforcement Act of 2007 to the Senate floor for full consideration. The bill would remove the railroad industry's antitrust exemptions. It has been awaiting full Senate consideration since the Senate Judiciary Committee passed it unanimously late last year.

Other senators who signed the letter to Reid were John D. Rockefeller, D-W.Va., Tom Harkin, D-Iowa, David Vitter, R-La., Norm Coleman, R-Minn., Russ Feingold, D-Wisc., and Byron Dorgan, D-N.D.



Senators push for rail antitrust legislation

February 12, 2008

A coalition of US senators have renewed efforts to build support for legislation that would remove some antitrust exemptions protecting the major freight railroads from potential shipper and state attorney general lawsuits.

The senators said that removing the remaining antitrust exemptions would allow railroad customers and state attorneys general the right to sue over what they see as “anti-competitive or predatory practices by the railroads in federal courts.”

The railroads oppose the legislation because it would impose “dual and potentially conflicting oversight” on them. The Surface Transportation Board now oversees railroads.

The railroads are also challenging statements that they enjoy “broad exemptions” from US antitrust laws.

In a February 8 letter to Senate majority leader Harry Reid, seven senators urged “full Senate consideration early” during the current session for the Railroad Antitrust Enforcement Act, S. 772, which is stalled in the Senate. The Senate Judiciary Committee approved the legislation last fall by a “bipartisan voice vote,” the letter said. But it didn’t move to the full Senate until December 19.

The senators said the legislation would give the Department of Justice the right to challenge any future rail mergers and acquisitions that “the department finds might be likely to cause a substantial injury to competition.”

“The basic premise of [S. 772] — that freight railroads enjoy wide-ranging immunity from our antitrust laws, giving them freedom from government oversight — is wrong,” the Association of American Railroads said in a note. AAR spokesman Tom White did not return calls seeking comment on Monday.

AAR said that freight railroads are subject to most antitrust laws, including those that prohibit agreements among railroads to set rates, allocate markets and “unreasonably restrain trade.”

Reached on Monday, National Association of Regulatory Utility Commissioners spokesman Rob Thormeyer said the group is supporting the antitrust exemption because it would give utilities and state officials the tools they need to challenge railroad practices they consider unfair.

“Our position on the legislation has not changed and we are giving it full support,” he said.

In the letter, the senators underscored complaints from utilities and others about rising rates and service cutbacks and blamed it on railroad consolidation. The senators said they are not seeking to impose unfair regulations on the railroads, but rather bring them under antitrust laws “like virtually every other industry in our economy, including both those that operate in deregulated as well as regulated markets.”

The seven senators who wrote the letter are: Herb Kohl, Wisconsin-Democrat; John Rockefeller, West Virginia- Democrat; Tom Harkin, Iowa-Democrat; David Vitter, Louisiana-Republican; Norm Coleman, Minnesota-Republican; Russell Feingold, Wisconsin-Democrat; and Byron Dorgan, North Dakota-Democrat.



Seven senators urge majority leader to bring antitrust enforcement bill to Senate floor

February 11, 2008

Seven U.S. senators last week sent a letter to Senate Majority Leader Harry Reid (D-Nev.) urging him to bring the Railroad Antitrust Enforcement Act of 2007 (S. 772) to the Senate floor for full consideration.

The letter was signed by Sens. Norm Coleman (R-Minn.), Byron Dorgan (D-N.D.), Russ Feingold (D-Wis.), Tom Harkin (D-Iowa), Herb Kohl (D-Wis.), John D. Rockefeller (D-W.Va.) and David Vitter (R-La.).

The bill, which proposes to remove railroads' antitrust exemptions, passed the Senate Judiciary Committee late last year by a bipartisan unanimous vote and has been awaiting Senate consideration. The House is considering a companion bill (H.R. 1650).

Currently, railroad mergers and acquisitions are exempt from antitrust law and reviewed by the Surface Transportation Board. In addition, railroads engaging in collective ratemaking are exempt from antitrust review. S. 772 would eliminate those exemptions by allowing the federal government, state attorneys general and private parties to file suit to enjoin anti-competitive mergers and acquisitions.

"The nation's freight railroads today enjoy broad exemptions from U.S. antitrust laws," the letter states. "While there may have been a need for such exemptions when the federal government played an outsized role in the regulation and management of railroad operations, that is no longer the case. Enactment of the [bill] would simply subject the railroads to the nation's antitrust laws like virtually every other industry in our economy, including both those that operate in deregulated as well as regulated markets."