

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

May 5, 2009

Dear Colleague:

I urge you to support S. 146, the Railroad Antitrust Enforcement Act of 2009, which may be considered by the full Senate sometime in the next several weeks. On March 5, 2009, the Judiciary Committee ordered S.146 reported by a bipartisan vote of 14 – 0.

The freight railroad industry today is exempt from the antitrust laws of the nation in those areas that are subject to regulation by the Surface Transportation Board. This exemption is wholly unwarranted. Every other industry that is subject to federal regulation, such as the electric utility industry, the interstate natural gas pipeline industry and the telecommunications industry, is also fully subject to the antitrust laws. This ensures that the federal regulatory programs for these industries are pro-competitive. In 2004, the Department of Justice wrote the Chairman of the House Judiciary Committee stating the Department's concerns regarding the antitrust exemptions held by the freight rail industry and providing specific examples of ongoing anticompetitive actions that would not be allowed if the antitrust laws applied.

The lack of competition in the railroad industry is causing significant problems and higher rail shipping rates for a wide variety of rail customers that must ship their goods by freight rail, including public utilities, rural electric co-ops, investor-owned utilities; farmers; chemical, ethanol, agriculture, cement and other manufacturers; forest and paper companies; and the customers of these industries. These rate increases are passed along to consumers. For this reason, a large coalition of interests supports enactment of S.146, including 20 state Attorneys General, the American Bar Association Section on Antitrust Law, the trade associations of each affected industry, and Consumers Union and Consumers Federation of America.

S.146 will ensure that the railroad industry operates under the full terms of the nation's antitrust laws just like virtually all other American private sector industries. This will result in more competition in the rail industry and will insure that any future rail mergers and acquisitions comply with the nation's antitrust laws, to the benefit of our nation's manufacturers, agricultural producers, electricity consumers and our national economy.

It is long past time for Congress to act to ensure that the nation's freight railroads operate in the same competitive environment as their customers and all other American industries. I urge each of you to support the Railroad Antitrust Enforcement Act when it is considered on the Senate floor.

Sincerely,



HERB KOHL
U.S. Senator



DAVID VITTER
U.S. Senator