



# Freight Rail Customer Alliance

## Railroad Anti-Trust Exemption

### FRCA Position

FRCA continues to support legislation that would remove antitrust exemptions shielding freight railroads from the rules of fair competition that govern almost all other U.S. industries, including all other modes of transportation.

### Issue Background

The *Staggers Rail Act of 1980*, which de-regulated the railroad industry, has resulted in improved financial health of the railroads, in part, because carriers have become more efficient, eliminating excess capacity and redundancy, and streamlining operations. However, the opposite of competition has occurred.

In 1980 there were over 40 railroads. Today there are only seven Class I railroads. Four of those have essentially divided the country into four regional monopolies. At best, in some regions, one could argue that there is a duopoly. Moreover, four of these Class I railroads are responsible for transporting 90% of our nation's traffic.

More than 78% of our nation's rail stations are served by only one major railroad. Moreover, due in large part geography, rail-dependent shippers have only a 22% chance of having access to just two major rail systems.

During the last 114<sup>th</sup> Congress, and similar to actions taken in previous years, the *Railroad Antitrust Enforcement Act of 2015* was introduced by Senator Amy Klobuchar (D-MN). It would have amended Federal antitrust laws to provide expanded coverage to several industries, including the railroads, and eliminate exemptions from such laws that are contrary to the public interest with respect to railroads.

### CP Proposal for NS

In 2016, Canadian Pacific Railway Limited (CP) attempted to acquire Norfolk Southern Corporation (NS). In an attempt to win support from U.S. shippers for the merger, CP proposed to improve operations by addressing the issues paper barriers switching. FRCA has long supported those two issues to help provide reliable access and fair pricing.

While FRCA was intrigued with CP's policy proposals, it remained concern about railroad consolidation. With history as a guide, further industry consolidation more than likely would lead to even less competition resulting in increased costs and service glitches which can reverberate throughout the entire system.

On March 23, 2016, FRCA stated its concerns to the STB when submitting a brief reply to CP's Petition for an Expedited Declaratory Order (STB Docket No. FD 36004) regarding some aspects of CP's structure of a hypothetical voting trust. On April 11, 2016 CP withdrew its request for an Expedited Declaratory Order.

### Status

At the current time, no legislation has been introduced that would remove the railroad's anti-trust exemptions.