

*The past three decades have seen remarkable deregulation of the airline, air freight, trucking, and rail industries.*

# Moving Ahead

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**A** QUARTER OF A CENTURY AGO, THE federal government regulated the U.S. transportation system with a heavy hand. The Civil Aeronautics Board (CAB) controlled the airline industry: It supervised entry (mainly by prohibiting new carriers) and fixed rates (generally at whatever level the industry deemed necessary). Routes were strictly controlled and the CAB rarely permitted airlines to compete in new markets. In similar fashion, the Interstate Commerce Commission (ICC) kept its thumb on the motor carrier industry. As with the CAB and the airlines, the ICC kept trucking rates at levels requested by the industry, placed tight restrictions on routes, and barred new trucking or bus firms.

Today, government control of those sectors and the rail freight industry has been greatly relaxed. An increasing number of Americans are regular fliers, the motor carrier industry has grown at a remarkable rate, and rail freight rates have dropped dramatically. Indeed, it would be difficult to imagine the past two decades of economic growth without the dramatic improvement in transportation rates and service.

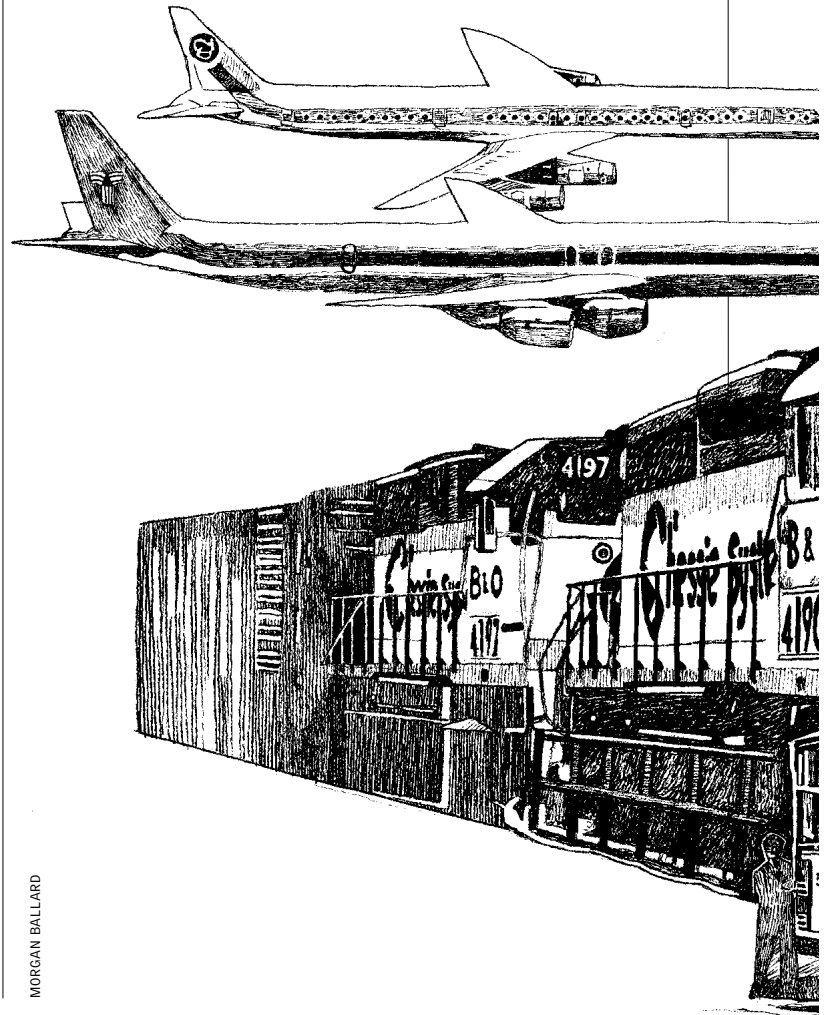
## **SURFACE FREIGHT TRANSPORTATION**

Beginning in the 1950s, a series of academic studies showed that regulation of the transportation industry was not ensuring better rates and service for the public, but instead was providing significant rents to the industry. In light of those studies, President John F. Kennedy in 1962 recommended to Congress that it reduce regulation of surface freight transportation. However, because of the special interest power wielded by the industry, progress toward deregulation would not come for more than a decade, and would proceed very slowly.

**Trucking** In 1971, the Department of Transportation proposed reducing controls over the trucking industry. The idea ran into

Teamster opposition, and the Nixon White House refused to back a deregulatory bill. Nixon's successor, President Gerald Ford, did support the idea and proposed deregulation legislation, but Congress gave no support to the bill.

However, Ford was able to push his deregulatory agenda by appointing three new members to the ICC — Betty Jo Christian, Robert Corber, and Charles L. Clapp — who shared his view. Together with Nixon-appointee Daniel O'Neal, the new



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board members changed the ICC's orientation toward a more competitive policy. In June 1975, the commission began modifying its rules to encourage more competitive behavior. Those efforts received a significant boost when Ford's successor, President Jimmy Carter, promoted O'Neal to chairman. Following that move, the ICC began to approve a significant number of applications for new authority.

In 1977, the same year that *Regulation* debuted, Senator Edward Kennedy (D-Mass.), then-chairman of the Senate Judiciary Committee subcommittee on antitrust and monopoly, held hearings on motor carrier regulation. His legislative assistant, Stephen G. Breyer (now a Supreme Court justice) oversaw the hearings, which documented the high cost to consumers of trucking regulation.

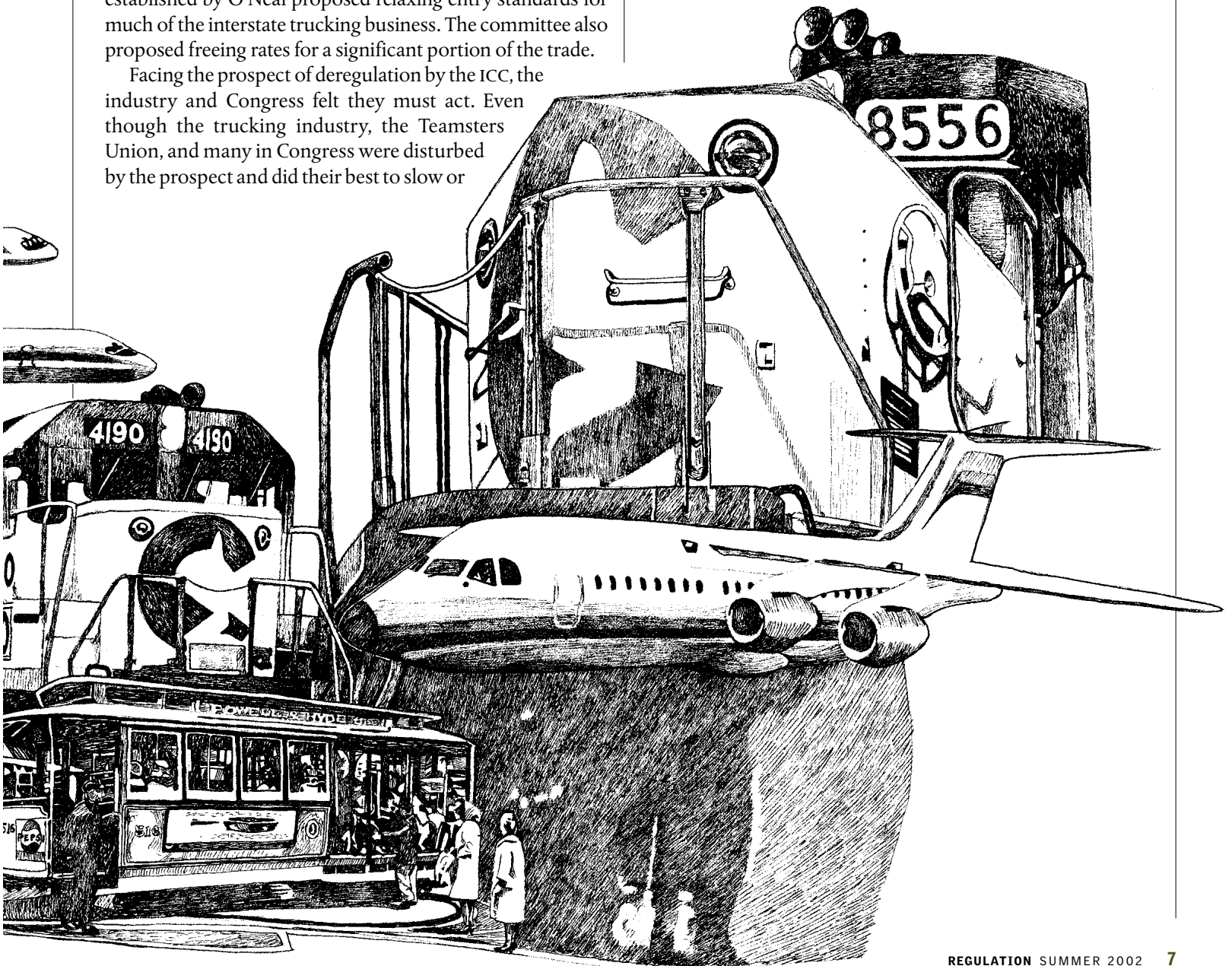
The hearings helped to spur further action by the ICC. In 1979, the commission dropped restrictions on motor contract carriers that prevented them from competing with common carriers, expanded zones that were free of federal controls, and announced that it would take rates into consideration when approving new operating rights. In May, an ICC committee established by O'Neal proposed relaxing entry standards for much of the interstate trucking business. The committee also proposed freeing rates for a significant portion of the trade.

Facing the prospect of deregulation by the ICC, the industry and Congress felt they must act. Even though the trucking industry, the Teamsters Union, and many in Congress were disturbed by the prospect and did their best to slow or

stop the momentum toward more competition, Congress in 1980 passed the Motor Carrier Act. The legislation did not fully remove federal oversight; for instance, new entrants were still required to secure a license from the ICC. But the licensing requirements were greatly liberalized. Prior to the 1980 Act, an applicant for new authority had to prove the "convenience and necessity" of the new service; the new provisions put the onus on newcomer opponents, requiring them to show that the new service was "inconsistent with the public convenience and necessity."

The trucking industry underwent further deregulation in the mid-1990s, and the ICC was abolished. Under legislation that terminated the agency, intrastate controls were effectively dissolved and the industry became fully competitive.

**Railroads** Similar progress has occurred in rail transportation. In 1976, amidst rising fear that the government would nationalize the railroad industry following the Penn-Central Railroad bankruptcy, Congress passed the Railroad Revitalization and Regulatory Reform Act. The legislation provided railroads with



new, but limited, freedom in pricing. Unlike the motor carrier industry, the railroads welcomed the deregulation. Unfortunately for the industry, the ICC's strict interpretation of the law provided little initial benefit.

That recalcitrance would soften over the next few years as O'Neal and his cohorts increasingly pursued a deregulatory philosophy. In the spring of 1979, the ICC exempted from regulation the rail transport of fresh fruits and vegetables, giving railroads the same freedom that truckers had long enjoyed. The same year, President Carter sent to Congress a bill to deregulate the rails over the next five years. The legislation would have allowed the companies to set their own rates and abandon unprofitable lines. Unfortunately, Congress failed to seize on that opportunity.

Though the Carter bill did not succeed, competitive pressure from the deregulated trucking industry and the ongoing prospect that the railroads would have to be nationalized led to Congress's 1980 passage of the Staggers Rail Act. The legislation gave railroads new freedom to set prices within wide limits: Rail lines could enter into contracts with shippers to carry goods at agreed-upon rates. Tariffs could not be considered unreasonable, even for "captive" shippers, unless they exceeded 180 percent of variable costs. What is more, shippers claiming "captive" status had to prove that there was no effective competition. Railroads were also given new authority to abandon routes.

During the 1980s, there was some talk of removing the remaining rail regulations. However, that did not take place until the Clinton administration's successful push to abolish the ICC. In the legislation that ended the commission, various federal regulatory practices were terminated

**The STB** On January 1, 1996, following the termination of the ICC, Congress established the Surface Transportation Board (STB) as an independent body housed within the Department of Transportation. The STB has jurisdiction over certain surface

transportation economic regulatory matters largely confined to railroad pricing and merger issues. Some former ICC trucking authority — including licensing functions — was transferred to the DOT's Federal Highway Administration.

**Deregulation results** From 1980 to 1995, the ICC continued its efforts to decontrol surface transportation industries with highly successful results. Deregulation of the trucking industry, which was completed in the 1990s, resulted in lower rates and better service to shippers. At the same time, drivers encountered lower wages as the Teamsters Union lost power. Trucking licenses, which had commanded a high price — as much as millions of dollars — declined significantly to a few thousand as the ICC made new licensing relatively simple and easy. Even though bankruptcies increased, the number of licensed trucking firms rose sharply in the first few years of deregulation.

Standard & Poor's found that the cost of shipping by truck had fallen by \$40 billion from the era of regulation to 1988. Improved flexibility enabled business to operate on the basis of "just-in-time delivery," thus reducing inventory costs. The DOT calculated that the outlays necessary to maintain inventories had plummeted in today's dollars by more than \$100 billion.

The Staggers Act that partially freed the railroads was highly beneficial for rail carriers and shippers. The industry withstood the sharp recession of 1981-82, and enjoyed record profit levels in 1983, notwithstanding a sharp drop in revenue per ton-mile. By 1988, railroad rates had fallen from 4.2 cents per ton-mile in the 1970s to 2.6 cents. As Figure 1 shows, rail rates have continued to fall, declining by 45 percent.

Rail competition and the Staggers Act have been a great success. The STB's Office of Economics reported in its 2000 Rail Rate Study that "numerous academic studies have confirmed that rail economic regulatory reform resulted in significant economic efficiency benefits, most notably rapid productivity growth, that enabled railroads to become financially stronger while lowering average rate levels." The study goes on to assert that deregulation produced a \$30 billion savings to shippers in 1999 alone.

#### AIRLINE DEREGULATION

Airline deregulation followed a pattern similar to the surface transportation sector. In the late 1960s and early 1970s, a number of academics pointed out that the industry was inherently competitive and that regulation, rather than protecting the public, was forcing it to pay excessively high prices. The researchers suggested that deregulation of both the air passenger and airfreight industries would bring significant public benefit.

**Passenger service** Prompted by those claims, the Senate Judiciary Committee held several hearings in the 1970s on airline regulation. Testimony showed that two intrastate air carriers that were free of federal control, Pacific Southwest Airlines (PSA) and Southwest Airlines, provided cheaper and often better service than the carriers regulated by the CAB. At the same time, President Ford attempted to promote deregulation

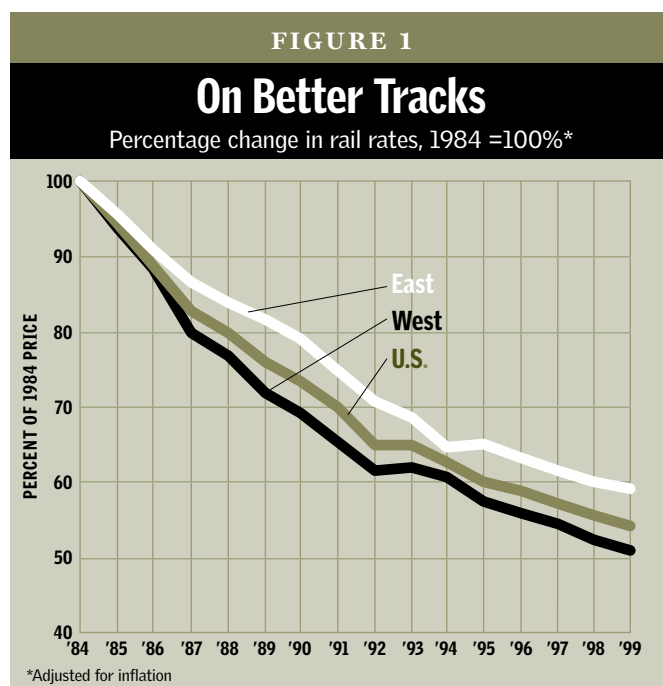


TABLE 1

## The Competitive Skies

Airline market shares in 1978 and 2000

Airline	1978	2000
United	19.6%	12.3%
American	13.9%	12.2%
Delta	11.6%	16.1%
Trans World	9.2%	0%
Continental	5.2%	6.5%
Western	4.7%	0%
Pan American	4.7%	0%
Northwest	4.6%	8.3%
Braniff	3.7%	0%
U.S. Air	2.1%	9.2%
Southwest	~0.5%	11.5%

Sources: CAB and FAA

through the executive branch. Under CAB chairman John Robson — a Ford appointee — the board examined the effects of regulation and concluded that reducing federal oversight would benefit passengers. President Carter continued the emphasis on fewer controls by appointing Alfred Kahn as chairman and Elizabeth Bailey as a new member. The result was a board dedicated to reducing regulation.

In 1976, the CAB relaxed its restrictions on charter carriers, allowing them to sell tickets in advance. Seeing its market from East Coast to West Coast erode to the charters, traditional carrier American Airlines petitioned to reduce its fares sharply for a limited number of seats. The “Super-Saver” fares, approved in the spring of 1977, created a surge of traffic between New York and the West Coast. Given the success in greater pricing flexibility, the CAB continued to approve virtually all requests to offer lower fares. In that same year, the board began to give carriers greater freedom to enter and leave new routes, and looked with favor on proposals to provide new service at lower fares.

The CAB’s obvious intention to deregulate the air passenger market, accompanied by lower fares and increased airline profitability, led Congress to pass the Airline Deregulation Act in October of 1978. The legislation eliminated federal control over routes by December 1981 and over fares by January 1983. The CAB itself was abolished at the end of 1984. The new law authorized airlines to abandon routes but established an Essential Service Air Program to provide subsidies for service to small communities.

**Market share changes** Over the next six years, 17 new carriers entered the market, four intrastate carriers started offering interstate service, and two charter companies switched to scheduled service. At present, 23 years after Congress decontrolled the industry, 32 carriers (some of which are subsidiaries of other airlines) fly scheduled service. That compares to 10 trunk airlines and five local-service airlines in 1978. Of the major carriers today, only America West is a totally new air-

line; but, prior to 1978, two — Southwest and Aloha — were intrastate carriers and one — Alaska — was primarily a charter airline. Of the 10 trunk carriers operating in 1978, Eastern, Trans World, Pan American, Western, and Braniff have either gone out of business or been bought by another carrier. As Table 1 shows, the market share of the major airlines has changed greatly.

The most striking change has been the growth of Southwest, which was a minor Texas intrastate carrier in 1978 but now is the nation’s fourth largest airline. United Airline’s decline is almost as striking; prior to deregulation it was the industry leader with almost 20 percent of the market, but now it holds just over 12 percent and is fighting with American and Southwest for second place among air carriers.

As Figure 2 shows, the effect on the market value of the various airlines has been remarkable. Southwest has gone from virtually nothing to a market capitalization of over \$14 billion. On the other hand, United’s market value has declined in real terms to less than \$750 million at the end of 2001. However, the total valuation of the major airlines today is more than double that of all the trunk and regional carriers together in 1976, before any deregulation. It is even 45 percent more than in 1983. Although some of the carriers, such as United, Northwest, TWA, and Pam Am, have suffered or even gone out of business, the industry has done well.

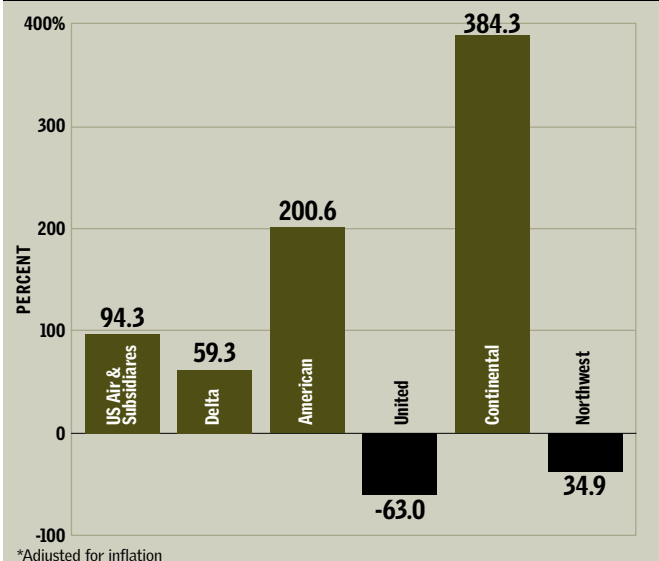
**Customers** As for passengers, the percentage traveling on discount fares has increased dramatically. In 1976, on long flights, only 27 percent of those flying in coach between major metropolitan areas managed to get a discount ticket. By 1983, 73 percent were getting special fares. Virtually all passengers today, except for a handful of business travelers, are paying less than the full coach rate.

From 1977 to 1996, after adjusting for inflation, airfares have

FIGURE 2

## Soaring and Plummeting

Percent change in market capitalization, 1976-2001\*



fallen some 40 percent. Figure 3 shows how the average fare has declined since the early 1970s. The Federal Trade Commission estimated in 1988 that, after adjusting for fuel costs, the flying public was paying 25 percent less because of deregulation. Stephen Morrison, a professor of economics at Northeastern University, calculated that deregulation produced a net benefit, in 2001 dollars, of about \$15 billion, most of which was in the form of lower prices for consumers.

On the other hand, the lower fares have boosted load factors from 49 percent in 1976 to 58 percent in 2000. As a result, travelers are finding planes and airports far more crowded. On the plus side, higher load factors make it possible for the airlines to make money at lower prices. In the 25 years since deregulation, the number of passengers flying has roughly doubled while passenger-miles have nearly tripled, proving the success of deregulation.

**Airfreight** While passenger airlines were receiving greater authority to compete in the mid-1970s, parcel carrier Federal Express was lobbying to open up freight air traffic. The CAB had granted FedEx only a commuter license that limited the firm to small aircraft, which restricted its ability to compete. The firm wanted authorization to fly large aircraft to and from any state or city in the country. In 1976, the CAB under Robson recommended that airfreight transportation be largely deregulated. With support for less federal control from other freight carriers and no visible opposition, President Carter, in November of 1977, signed H.R. 6010, which deregulated airfreight transportation.

Although little attention has been paid to the abolition of airfreight regulation, it has been very successful. Prior to deregulation, airfreight had been growing around 11 percent per year. In the first year of decontrol, 1978, revenue ton-miles jumped by 26 percent.

#### **FUTURE REFORM**

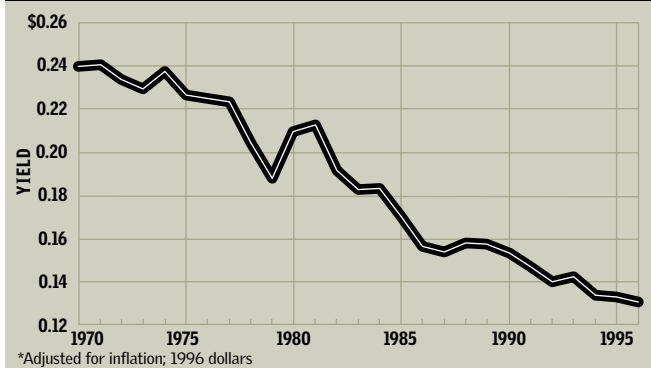
Although great progress has been made in reducing the regulation of transportation, further steps would improve the U.S. system. Currently, the motor carrier industry is not subject to economic controls, so there is no need for policy change. The restrictions on Mexican truckers should be lifted, but that is mainly a trade issue. On the other hand, railroads are still subject to some price controls, limits on abandonment, and control over mergers. Rail passenger service, particularly Amtrak, has been a problem ever since it was established in the 1970s. Government limits on air passenger transportation continue through cabotage restrictions, Federal Aviation Administration control of air traffic controllers, and government ownership of airports. Finally, as a result of September 11, security considerations have burgeoned, making air travel more expensive and time consuming.

**Railroad freight** Today, the rail industry remains the most closely supervised mode of transportation, with limits on abandonment, mergers, labor usage, ownership of other modes, and (in certain situations) pricing. What is more, the STB continues to oversee the rates charged to “captive shippers” to ensure that they are “fair.”

FIGURE 3

## Flying the Cheaper Skies

Average fare per mile, 1970-1996\*



Under federal law, the STB can exempt railroad traffic from rate regulation whenever it finds such control unnecessary to protect shippers from monopoly power or wherever the service is limited. Congress has legalized individual contracts between shippers and rail carriers, allowing competitive pricing. The Staggers Act authorizes railroads to price their services freely, unless a railroad possesses “market dominance.”

All rail mergers, for example, require STB approval. Once given the green light, however, those mergers are relieved from challenge under the antitrust laws or from state and local legal barriers. But, to get that approval, railroads face a stringent review by the board that, in addition to general antitrust considerations, examines the effect on other carriers, the fixed charges that would arise, and the effect on employees. In particular, the STB must provide protection for employees who might be adversely affected by consolidation. The latter provision is very popular with rail labor unions; the industry views it as employment protection that makes achieving significant savings from mergers difficult.

Under current law, railroads must seek STB permission to abandon lines, build new track, or sell any service. Because users and other interested parties employ the law to slow or block change (thus adding to costs), those rules should be repealed. Federal law also enjoins the board to regulate rates charged to “captive shippers”—those that can ship by only one line and enjoy no satisfactory alternative. Coal and grain companies have exploited that provision to gain lower rates. The markets for coal and grain are highly competitive, so the producers cannot sell their output at more than the market price. Consequently, a railroad that drives up shipping costs will find that it has no traffic because its shippers cannot compete in their markets. In other words, although the railroad has no direct competition, it is constrained by market forces.

Congress should also do away with the ban on railroads’ owning trucking companies or certain water carriers. Federal regulations proscribe railroads from owning trucking firms, although the STB (and, in earlier decades, the ICC) has granted many exceptions. Since the Panama Canal’s construction, the Interstate Commerce Act has prohibited railroads from possessing water carriers that ply that waterway. Early in the

twentieth century, the public believed that those huge companies needed the competition of water carriers to keep down transcontinental rates. Like the prohibition on ownership of water carriers, the ban on owning trucking firms stems from the same unwarranted fear of railroad power. With the plethora of options available to shippers today, such rules are unnecessary. The restrictions simply limit the ability of railroads, trucking firms, and water carriers to offer the most efficient multimodal services.

The Staggers Act authorized railroads to negotiate contracts with shippers, but only with government approval. In addition, all rates must be filed with the STB, and tariffs that are judged to be “too high” or “too low” can be disallowed. Congress should repeal those vestigial regulatory powers. At best, they add to paperwork and the cost of operation; at worst, they slow innovation and reduce competition.

**Amtrak** The STB also retains jurisdiction over passenger rail transportation. In particular, it arbitrates between Amtrak and freight railroads, which own most of the track used by the government-owned passenger railroad. Ideally, Congress should privatize Amtrak and let it negotiate with freight railroads over its use of trackage. Assuming that a mutually profitable arrangement exists, private arrangements would develop.

In 1997, given the dismal financial performance of Amtrak, Congress gave the railroad \$2.2 billion to modernize its system under the stipulation that it would be operating without federal aid in five years. Congress established the Amtrak Reform Council (ARC) to draw up a plan to reconstitute rail passenger transportation if the government railroad was unable to eliminate its constant deficits. In November 2001, the ARC determined unanimously that, in the words of chairman Carmichael Friday, the passenger train company had “failed terribly. It hasn’t produced a modern system, it’s done a lousy job of raising money, and the Northeast Corridor — the one corridor it controls — is far behind on maintenance and improvements.”

The ARC has recommended to Congress that Amtrak be broken up and competition be introduced. A new company would own the Northeast Corridor infrastructure and other Amtrak properties while a second company would operate the trains. Amtrak itself would manage

rail passenger franchise rights, secure funding from Congress, and oversee performance. Eventually, certain corridors would be franchised to private companies or the states.

Under the ARC proposal, there would be no expectation that passenger transportation could be made profitable. In fact, the ARC’s plan would simply waste more of the taxpayers’ money. Over 30 years, Amtrak has already spent some \$25 billion in federal funds in an effort to turn itself into a self-sustaining enterprise. Last year, Amtrak asked for \$3.2 billion in additional funds to cope with new business in the wake of September 11. Even with all that money, the ARC believes Amtrak will not be able to pay its bills without government subsidy. The council’s report to Congress finds that, rather than moving towards self-sufficiency, Amtrak is financially weaker today than it was in 1997. The ARC singles out long-haul trains as inherent money losers that, under any circumstances, would have to be subsidized or abandoned.

Congress should face the facts: Passenger rail transportation cannot be made profitable, except in a few corridors such as the D.C.-New York-Boston run. That portion of the system can probably cover its operating costs but most likely will be unable to cover its capital costs. With a few minor exceptions, passenger rail is not profitable anywhere in the world; there is no reason to believe it can be made profitable here. The appropriate policy would be to auction off the assets of the current system, favoring investors who would attempt to continue some passenger service. It seems likely that the East Coast corridor between Washington and points north would survive, albeit with a lower-paid workforce. If all union contracts and employees are kept, as the ARC recommends, the system can only survive with taxpayers’ funds.

The infrastructure of the Northeast Corridor, which

FROM THE PAGES OF REGULATION

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GENE BASSET/UNITED MEDIA

Amtrak currently owns, has been allowed to deteriorate. According to the ARC's Action Plan, the Northeast corridor's infrastructure is in need of about \$1 billion annually in capital funds. The council's solution is to set up another government-owned corporation to manage it and make the needed investments. The ARC recognizes that such an entity would be unable to fund its capital needs, hence large federal or state subsidies would be required. Government corporations, such as Amtrak and the Postal Service, are notoriously poor at keeping costs down and operating efficiently. The corridor's tracks and infrastructure should either be sold to the private sector or sold back to the freight railroads, which are its main users. If any states want to buy parts of the existing system, the federal government should gladly sell.

**Air travel** Although airline deregulation has been a great success, the industry has been plagued with crowding, delays, and (on some routes) dominance by a single carrier. The causes lie in the failure to deregulate other essential features of the industry. The Air Traffic Control system, in particular, remains a ward of the FAA. Government entities own virtually all airports. The recent move to federalize airport security will add more government bureaucracy without improving security.

**Air traffic control** The FAA runs the current air traffic control system (ATC). Because it is a government agency, annual congressional appropriations control its finances. FAA rules follow normal bureaucratic practices, with congressional committees looking over its actions. Moreover, the FAA must regulate itself, which is a major conflict of interest.

As a government agency, the FAA has been unable to bring on line quickly new technologies that would improve safety and reduce delays. While computer technology changes every year or two, the FAA's procurement policies require five to seven years to complete. It still relies on 1960s-era mainframe computers, vacuum tube-dependent equipment, and obsolete radars. As a consequence, equipment breaks down frequently and planes must be spaced farther apart than would be necessary with up-to-date computers and radars.

Congress has held numerous hearings and put great pressure on the FAA to modernize, but lawmakers have been unable to improve matters significantly. To create and maintain a modern system, air traffic controls must be separated from the FAA. The Clinton administration recommended a government corporation to run the ATC system, but another government corporation is not the solution.

A growing number of countries — Canada, the Czech Republic, Germany, Latvia, New Zealand, South Africa, Switzerland, Thailand, and the United Kingdom — have wrestled with this problem and have found that separating the ATC system from government oversight, while maintaining government safety regulations, works well. Although no country has fully privatized its ATC system, Canada has created a private, non-profit corporation owned by the users. Its system has successfully reduced delays. The other freestanding ATC systems are at least partially government-

owned. Given the restrictions that the federal government puts on government-owned corporations, it would be preferable to follow Canada's example by establishing a non-profit corporation owned and controlled by airlines and other users of the ATC system.

Most of those systems are funded through user fees. The problem that arises is what to charge general aviation. Because the FAA currently subsidizes general aviation, its owners and pilots oppose any notion of a freestanding corporation dependent on user fees. Nevertheless, client pay is a good rule. Noncommercial general aviation pilots, who typically fly single-engine planes, should be charged only when they file a flight plan or land at an airport with a control tower. Commercial general aviation planes, such as corporate jets, should pay their share of the costs of the system.

The government should maintain its oversight of a non-profit ATC system, if for no other reason than to reassure the public of its safety. By having a private company operating the system under the supervision of the FAA or some other agency, the existing conflict of interest between the mandate of the FAA to promote air travel and to ensure the safety of the system will no longer exist.

**Airline cabotage** If public policy is based on a competitive market in air transportation, it is time for the United States to drop its restrictions on foreign ownership and operation of air carriers. Under current law, non-Americans can own no more than 25 percent of the voting stock of U.S. airlines. Other private carriers should be free to invest in U.S. airlines, especially now when several U.S. carriers are in financial difficulty. Purchase by a healthy foreign airline would make great sense, bringing new capital and competition to the American market. Virgin Atlantic Airways, for example, is interested in building a low-cost U.S. carrier to feed its international service.

At the same time, the longstanding policy of negotiating "open skies" agreements with other governments should not be based on what U.S. carriers get from the agreement, as is current practice, but on the benefits to American travelers. Hong Kong-based Cathay Pacific, for example, could offer improved service and competition both in the domestic market and internationally. British Air might invest in US Air to provide nationwide service connecting to Europe. The introduction of such foreign carriers would strengthen competition in the American market, thus bringing additional benefits to travelers.

**Airport privatization** Airport and Airways Trust Fund money, which is raised from taxes on fuel and passengers, is available only to government-owned airports; hence, there is little incentive for investors to finance the construction and expansion of private airports that would reduce the high traffic at current facilities. The federal money, itself, is subject to the whims of the federal appropriations process, so state and local airports that are eligible for the funds cannot adequately plan for and count on the money they need for projects that would relax overcrowding. Those features make the trust

fund an ineffective way to support the air transportation system's growth. Rep. James L. Oberstar (D-Minn.), ranking member of the House Transportation and Infrastructure Committee, highlighted the overcrowding problem recently when he said:

*Fifty-five percent of the daily flight operations in the world take place in the United States, yet we are not improving and expanding our airports fast enough to meet the growing demand for air travel. In 1987, 20 airports in this country reported delays totaling 20,000 hours or more. Ten years later, that number grew to 27. Unless we address the capacity problem at our airports, the number is projected to reach 31 by 2007.*

Federal authorities should give serious consideration to repealing the federal taxes on aviation. Instead, airports should be free to impose their own fees, which could vary by time of day to reflect peak use, would give airports incentive to expand their capacity, and would lead to the introduction of technologies that would reduce delays.

**Airport security** September 11 sharply increased the public's demand for greater airport security. The federal government responded, after considerable wrangling in Congress, by federalizing the security personnel at all major airports. (See "A Crisis of Security and Economics," *Regulation*, Winter 2001.) The resulting legislation requires all airports (except five that are under a pilot program) to use federal employees, who must be American citizens, to screen passengers and luggage. The security personnel would be employed by the DOT but, presumably, would not enjoy the security of civil service workers. One airport from each of five size categories will experiment with private screeners supervised by federal employees. After three years, all airports could opt out of the federal employee program and use private screeners overseen by federal agents.

Ironically, the federal government — not airport screeners — should shoulder the blame for allowing the September 11 hijackers to board their planes. The hijackers' box-cutter knives were legal under federal rules, and the Immigration and Naturalization Service allowed the terrorists into the United States and failed to expel them when their visas expired. Hence, we have little reason to believe that turning airport security over to the federal government will solve the security woes.

Indeed, federalizing the screeners may produce less security than we enjoyed before September 11. Although the legislation specified that the new federal employees would not have the same civil service protections as other DOT employees, there will be a tendency over time to give them more employment security. Firing incompetent workers will be much more difficult. The legislation did not change the nature of the security personnel, but only the identity of their employer.

### **CONCLUSION**

Transportation is inherently competitive. Following the elimination of most of the economic controls on trucking, railroads, and airlines, those industries have flourished. Decon-

trol of the transportation industries has demonstrated that the market works much better free from government controls than with government oversight. We need to apply that lesson to the remaining problems, and remove federal ownership and control from administration of air traffic control, airports, and security. The government should free freight railroads from the remaining constraints on that industry. Finally, we should recognize that passenger rail transport is never going to be profitable, especially when run by the government. Only the private sector can possibly run a profitable passenger train system, and then only if free from government controls on labor and pricing. **R**

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