

## **The Truth about Claims by Go21 – the Railroad Front Group – on the Railroad Antitrust Enforcement Act**

**Railroad Industry Claim:** The railroads' performance since the passage of the Staggers Rail Act in 1980, which deregulated competitive rail traffic, proves that rail deregulation works – railroads are more productive with lower average rates than before Staggers.

**The Truth:** *Deregulation of the railroads has worked only where there is competition. Sadly, where there is no competition, shippers have not been protected against railroad monopoly abuse as intended by the Staggers Rail Act. S.772 and H.R.1650 will ensure, through the antitrust laws, that rail customers have the best possible access to the free market. Today, because of the railroads' antitrust exemptions, many shippers can be forced to accept the least access to competition possible.*

**Railroad Industry Claim:** Freight railroads are already subject to most antitrust laws, and only have a few narrow antitrust exemptions.

**The Truth:** *Railroads are not subject to the antitrust laws where the Surface Transportation Board has jurisdiction over the activity in question. The railroads are the only American industry that is exempt from the antitrust laws for activities that are subject to the jurisdiction of a federal regulatory agency. The result: some rulings by the Surface Transportation Board actually have helped the railroads maintain their monopoly power over customers. Testimony before the Senate and House Judiciary Committees showed that the railroad industry is neither subject to “comprehensive government antitrust oversight,” nor “comprehensive government regulatory oversight.” These committees reported S. 772 and H.R. 1650, respectively, on bipartisan voice votes without objections. S. 772 and H.R. 1650 will close the gap left by the railroads' current antitrust exemptions.*

**Railroad Industry Claim:** S.772/H.R. 1650 would subject railroads to dual and potentially inconsistent oversight by the STB and the courts. No industry can operate at optimal effectiveness with this kind of uncertainty and inconsistency.

**The Truth:** *Every other industry subject to federal economic regulation must also comply with both the federal regulatory program and antitrust laws. This has not led to inconsistent regulation or other problems in other American industries, and it won't for railroads.*

**Rail Industry Claim:** S. 772/H.R 1650 would allow retroactive challenges to rail mergers that were approved long ago.

**The Truth:** *S.772 and H.R.1650 specifically do not apply retroactively to mergers that are approved by the STB before the date of enactment.*