Trucking desq

DATE: December 15, 1993
TO: Carol Rasco
FROM: Mike Schmidt
RE: OMB Request for Views on Economic Deregulation of the Trucking Industry

ACTION FORCING EVENT

On December 8, Chris Edley (OMB) and Joseph Stiglitz (CEA) sent you a Request for Views on Economic Deregulation of the Trucking Industry (see attached). Your views were requested on two issues: whether the Administration should propose legislation to complete economic deregulation of the trucking industry; and whether we should sunset the ~~the~~ Interstate Commerce Commission (ICC) should be ~~sunseted~~ in the FY 1995 Presidential Budget. Given the short time frames involved in the budget process, **OMB needs your views on this subject by COB tomorrow (Thursday).**

BACKGROUND

The trucking industry was partially deregulated in 1980 by the Motor Carrier Act (MCA). This Act reduced ICC control over pricing, entry into the industry by new firms, and operations of interstate trucking. By almost all accounts, this deregulation has been economically successful -- estimates of annual savings to the economy ~~due to trucking deregulation~~ range from $20 to $40 billion dollars.

The ICC continues to have a limited regulatory role in filing shipping rates and granting anti-trust immunity (see the attached Edley/Stiglitz memo for more details). The bulk of the remaining regulations come from the States -- 42 States currently regulate the entry, rates, and routes of motor carriers. <u>Legislation to complete trucking deregulation would have to preempt State regulations</u>. Edley and Stiglitz's proposal would transfer remaining ICC functions to the Departments of Justice and Transportation and to the Federal Trade Commission (for handling consumer complaints).

Sunset the ICC and

It is estimated that additional annual savings to the economy of complete trucking deregulation would range from **$3 billion to $8 billion**. Net Federal budget savings from sunsetting ICC would be **$7 million** in 1995 and **$24 million** thereafter.

ISSUES TO CONSIDER

The Edley/Stiglitz memo list a number of economic advantages that would be gained by further deregulating the trucking industry and sunsetting the ICC. I will not reprint them here, but I do agree with their argument that further deregulation of the trucking industry would be the right thing to do from an economic point of view. However, I would like to flag a few "non-economic" issues/questions for you to consider when making your decision:

- **The Time Factor:** ~~Is~~ there enough time to debate and analyze this proposal properly? It would be a mistake to rush into a decision like this without fully thinking through all of its' consequences. The counter argument here is that by placing a proposal to sunset the ICC in the FY 1995 budget, we would not be deciding anything, but simply forcing discussion/debate within the Administration and on Capitol Hill. However, in the absence any groundswell of popular opinion screaming for deregulation of the trucking industry, do we want to force the issue in this manner?

- **Labor Opposition:** Vehement Labor (Teamster) opposition to this proposal is guaranteed. Complete deregulation will result in a shift from union to non-union trucking jobs, and lower wages for the union drivers that remain. The past round of deregulation (the MCA) cost the Teamsters tens of thousands of jobs (some estimate up to 200,000!), and they will not take this proposal lightly. In addition, state public utility commissioners will also lose their jobs with this proposal.

- **Other Opposition:** It is unclear at this point how the States will react to this proposal. However, ~~I think~~ it would be logical to assume that any proposal that aims at preempting State regulatory power would likely incur some kind of State resistance. Opposition on the Hill is a bit clearer: a variation of this proposal was defeated this year in the House by a vote of 222 to 207, and tabled in the Senate by a vote of 52 to 39.

The most important question to consider is this: **are the relatively minor savings to the economy ($3 billion - $8 billion) and even smaller savings to the Federal Budget ($31 million total) worth the strong opposition from Labor (and possibly the States) that this proposal will provoke , especially as we move into 1994 with Health Care and other initiatives ahead of us?**

I would be happy to discuss this issue in more detail with you at your convenience. I will be touching base with NEC on this tomorrow morning, but initial feedback from NEC staffers suggests that they have some of the same concerns about this proposal from a political point of view (no one has yet raised any economic objections, myself included).

~~orig: CHP~~ Schmidt-fyi
xc: Hale-fyi DEC 9

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC - 8 1993

MEMORANDUM FOR LEON PANETTA
ROBERT RUBIN
LAURA TYSON

FROM: Chris Edley signed
Joseph Stiglitz signed

SUBJECT: Economic Deregulation of the Trucking Industry -- Request for Views

Issue

This memorandum seeks your views on whether the Administration should propose legislation to complete economic deregulation of the trucking industry and sunset the Interstate Commerce Commission (ICC). The ICC sunset proposal would be included in the 1995 President's Budget.

Background

The Motor Carrier Act of 1980 (MCA) partially deregulated the trucking industry by significantly reducing ICC control over entry, pricing, and operations of interstate trucking. The MCA liberalized entry into trucking markets, removed inefficient operating restrictions, and allowed for ratemaking flexibility. A 1990 Brookings Institution study estimated the annual savings to the economy of this partial deregulation to be $20 billion.[1]

Remaining ICC regulatory functions for motor carriers include the following:

Entry: Motor carriers must obtain ICC operating authority -- fairly easy to do.

Rates: Although the ICC no longer controls rate setting, motor carriers must file rate tariffs with the ICC every time they offer a new rate.

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[1]Clifford Winston, Thomas Corsi, Curtis Grimm, Carol Evans, The Economic Effects of Surface Freight Deregulation, Brookings Institution, 1990. (This estimate includes the effects of rail deregulation. The estimate is characterized by the authors as "understated." Other studies estimate annual benefits as high as $40 billion.)

Antitrust Immunity: The ICC grants antitrust immunity for motor carriers to set rates collectively for "joint-line" shipments (i.e., a shipment carried by two or more carriers).

In addition, 42 States continue to regulate the entry, rates, and routes of motor carriers. These are the most burdensome of remaining regulations of the trucking industry.

Legislation to complete trucking deregulation would preempt State regulations and eliminate all Federal controls. Remaining ICC functions would be transferred to the Departments of Justice and Transportation (for rail activities) and to the Federal Trade Commission (for handling consumer complaints regarding household goods movers).

A variation was proposed in the Penny-Kasich bill, which would have terminated the ICC without deregulating trucking, and transferred its functions to DOT effective January 1, 1994. A similar proposal was attached to the 1994 DOT House Appropriations bill and was defeated by a vote of 222 to 207. In the Senate, the amendment was tabled by a vote of 52 to 39.

Advantages

Benefits from preemption of State regulation include the following:

Annual savings to the economy of $3 billion[2] to $8 billion[3]: State regulation needlessly inflates costs. For example, the American Fire Hydrant Company pays $603 to ship fire hydrants from Beaumont, TX, to Texarkana, TX, which falls under State controls, but only $297 to neighboring Texarkana, AK, which is outside Texas' jurisdiction. Savings from deregulation would be partially passed on to consumers.

International competitiveness: Savings from deregulation would allow U.S. companies to lower costs, thus improving competitiveness abroad.

Reduced congestion: State regulation leads motor carriers to warehouse outside State borders to avoid State controls. This leads to inefficient routing. For example, the State of Virginia does not allow Overnight Transportation to operate

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[2]Bruce Allen, Arayah Preechemetta, Gang Shao, Scott Singer, The Impact of State Economic Regulation of Motor Carriage on Intrastate and Interstate Commerce, University of Pennsylvania, May 1990. (Prepared for the Office of the Secretary of Transportation, U.S. Department of Transportation.)

[3]The Economic Benefits of Eliminating Intrastate Economic Regulation of Trucking, Gellman Research Associates, 1991. (Prepared for Federal Express.)

between Northern Virginia and the Tidewater region. So Overnight services Alexandria, VA, from its warehouse in Landover, MD, which forces its trucks onto Washington's congested Beltway. (Lower trucking rates could produce increased shipments by truck, but this is not likely to counteract fully the effects of more rationalized routing.)

Just-in-time inventory: Deregulation allows carriers to offer more flexible service, which allows producers to minimize inventory costs by bringing in raw materials and components just in time for production.

Benefits from eliminating Federal controls include:

Tariff filing costs: Filing rates with the ICC imposes needless costs on the industry. In addition, motor carriers' failure to comply with the requirement has led to the "undercharge crisis." Namely, over the last several years, creditors of bankrupt motor carriers have been holding shippers liable for the difference between the rates shippers paid, and the rates on file with the ICC. (Non-bankrupt motor carriers do not do this because they want to maintain the shippers' business.) The estimated outstanding liability is $27 billion. Congress recently passed a 2-year fix to this problem, but it is likely to resurface after 2 years. Eliminating the tariff filing requirement is one way permanently to solve the problem.

Budget savings: Net Federal budget savings from sunset of the ICC would be $7 million in 1995, and $24 million thereafter.

Disadvantages

Opposition from the Teamsters and State public utility commissions that regulate trucking. Complete deregulation is likely to result in a shift from union jobs to non-union jobs and lower wages for the union drivers that remain (the savings from which would be partially passed on to the consumer). Also, State public utility commissions have raised the issue of States' rights to defend current State regulatory practices.

The trucking industry is divided on the issue, and the ATA has remained ambivalent.[4]

Possible increased wear and tear on the highways due to increased trucking. It's possible that lower trucking rates would divert traffic from other modes, thus increasing wear and tear on the highways.

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[4]Tom Donahue, Chairman of the ATA, has been known to describe the ATA's official policy on deregulation this way: "I have friends who are for it, and I have friends who are against it. I side with my friends."

Most other arguments against deregulation are not credible. For example, it has been argued that deregulation will lead both to destructive competition in the industry (as a consequence of many new entrants), and to market dominance by a few carriers. Neither result is plausible, and at any rate, the latter would be counteracted by antitrust laws.

It is also argued that deregulation will lead to a reduction in safety as struggling motor carriers defer maintenance to cut costs. However, this has not occurred in States that have deregulated on their own (e.g., New Jersey, Florida, California). Also, economic deregulation would not alter the Federal Government's regulation of motor carrier safety.

Recommendation

We recommend proposing legislation to eliminate Federal controls in the trucking industry, preempt State regulation, and sunset the ICC. Remaining functions would be transferred to DOT, DOJ, and the FTC.

Views

________ Propose legislation to complete trucking deregulation, sunset the ICC, and transfer remaining functions to DOT, DOJ and FTC.

________ Do not propose legislation. Submit a 1995 budget request to continue the ICC at the 1994 level of operations.

cc: LLOYD BENSTEN
FEDERICO PEÑA
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GREG SIMON

Lift the Roadblocks to Intrastate Trucking

By Cassandra Chrones Moore

If the Clinton administration really is serious about spurring economic growth, it should throw its support behind the bill introduced by Rep. Bill Emerson (R., Mo.) to demolish the remaining barriers in the trucking industry. In 1980, when Congress deregulated interstate trucking, the economy benefited tremendously. The Department of Transportation estimates the gain to U.S. industry in shipping, merchandising and inventories at $38 billion to $56 billion a year. But regulation at the state level—on trucking within each state—remains in place, costing American businesses and consumers $5 billion to $12 billion a year.

The current welter of state regulations defies all logic. The California Public Utilities Commission, for example, has discontinued rate regulation of hay and grain haulers but continues to regulate haulers of livestock. Since 1980, rates have risen about 30%. Under controls, moving 2,000 pounds of goods from Oakland to San Francisco (15 miles) can cost nearly twice as much as shipping the same amount from Reno (200 miles) to San Francisco, so shippers have begun warehousing inventories out of state, exacerbating California's budget problems and eating up fuel.

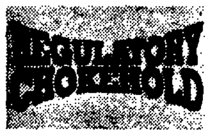
In Colorado, shipping 3,000 pounds of goods over 80 miles within the state can cost nearly $300; for less than $600 you can ship three times that weight over 1,000 miles interstate. On the international front, shipping blue jeans within Texas from El Paso to Dallas costs about 40% more than shipping the identical jeans from Taiwan to Dallas.

Although dismantling state controls would seem the next logical step after deregulating interstate trucking, efforts to do so elicit vehement protests from the Teamsters, the National Association of Regulated Utility Commissioners (Naruc), and the "protected franchisees," those relatively few firms whose exclusive niche is intrastate trucking. Each of these groups has a vested interest in preserving its power, resources and prestige. Each camouflages its more pedestrian concerns with high-flown rhetoric. Politically active, well organized, and well financed, they hold intrastate shippers and American consumers hostage.

The union opposition is not hard to understand. Under federal deregulation, eased entry led to an explosion in the number of carriers, and lower rates increased competition. Both new and established firms found unionization an expensive option. Nonunion drivers and assistants replaced union workers. The Teamsters sustained heavy losses—perhaps as high as 200,000 members—and the hemorrhage drained union coffers.

State public utility commissioners, who oversee intrastate highway freight movements, faced an indirect threat. Should the contagion of deregulation spread, they might lose their jobs. To protect them, Naruc intensified its lobbying efforts.

Clearly narrow self-interest is at work here. But of course the Teamsters, Naruc and the intrastate firms clustering in their shadow prefer more respectable arguments against decontrol: the abandonment of service to small communities; the menace to public safety from a proliferation of unsupervised carriers. Both arguments were used to oppose deregulation in the late 1970s. They are as specious now as they were then.



The experience of the eight states that do allow intrastate trucking to operate freely—Delaware, New Jersey, Florida, Arizona, Alaska, Maine, Wisconsin and Vermont—demonstrates that such contentions are red herrings. Not only does service to rural communities continue; it often improves. In some rural areas, the total number of competing interstate carriers has actually increased. Shippers in small towns generally report a high level of service and satisfaction.

Safety is the second ploy. Increased competition, opponents argue, will force operators to lower costs by keeping older vehicles on the road, cutting maintenance, reducing wages, and forcing drivers to extend working hours. The data fail to substantiate those fears. They indicate that federal deregulation has had little or no effect on safety.

First, trucking firms themselves have strong motives to operate safely. They trade on their reputations for reliability. Accidents are an unacceptable excuse for failure to deliver. Insurance claims do little to further profitability or to encourage shippers to try them again.

Second, legislation has helped. In the 1980s, the passage of three important bills furthered the cause of safer highways. In 1982 Congress enacted the Motor Carrier Safety Assistance Program to enhance state safety programs with more inspections. Road safety inspections jumped almost tenfold in three years, from 160,000 in 1984 to 1.2 million in 1987.

The Motor Carrier Safety Act of 1984 provided a specific link between deregulated trucking and safety by aiming to develop a centralized, uniform set of safety controls and increased enforcement efforts. Finally, in 1986, the Commercial Motor Vehicle Safety Act set in motion a process leading to a single commercial vehicle driver's license with penalties for drug abuse while driving. No longer would unsafe drivers be able to continue working by jumping from one state to the next.

Taken as a whole the safety measures help to explain the declining trend of truck accidents per ton-mile over the past 12 years. There has been no upsurge of trucking accidents in the eight deregulated states.

What are the options for change? Battling legislators state by state will be long and costly. Maintaining the status quo perpetuates the economic drag. To encourage the states to seek uniformity between state and federal regulations voluntarily appears fruitless. There remains the possibility of pre-empting state jurisdiction in whole or in part, as Rep. Emerson's bill would do, given an assist from the administration. The prospect of broadened federal power inspires caution, but the country can no longer afford the regulatory chokehold that slows all 50 states and impedes U.S. ability to compete in the global economy.

Ms. Moore, of Palo Alto, Calif., is an adjunct scholar of the Competitive Enterprise Institute.

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