

STATEMENT FOR THE RECORD OF
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OF THE
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
REGARDING FREIGHT TRANSPORTATION BROKERS
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Mr. Chairman and Members of the Committee, thank you for the opportunity to present our views on the economic regulation of freight transportation brokers. Although we did not present testimony at your Committee's hearing, we wanted the chance to make our views known and, therefore, offer this statement for the record.

Brokers are sometimes referred to as middlemen, third parties, intermediaries or facilitators. Brokers are licensed by the Interstate Commerce Commission (ICC) and arrange for the transportation of a shipper's cargo. They take a shipper's freight, find a motor carrier to haul it, and are paid a fee for their services by either the shipper, the carrier, or both. Brokers are not carriers and thus are not required to take responsibility for loss and damage or publish tariff rates.

Before discussing brokers further, we should distinguish them from other transportation intermediaries.

Surface freight forwarders of general commodities were recently deregulated. Surface freight forwarders, unlike brokers, are carriers; consequently, forwarders are required to take legal liability for cargo loss and damage. The forwarder gathers together small shipments and consolidates them into large shipments, which are tendered to a rail or motor carrier for over-

the-road carriage to destination. At the destination, the shipment is separated into small shipments and delivered to the respective final consignees.

Shipper associations are another group of transportation intermediaries. They are non-regulated, non-profit organizations established by shippers who join together for the purpose of buying larger volumes of transportation (at lower rates than they could obtain individually), thus reducing members' transportation costs. They are not common carriers and are exempt from ICC regulation.

The shippers' agent is yet another form of transportation intermediary. Shippers' agents are exempt from ICC regulation. They are retailers placing themselves between the shipper and the railroad. Shippers' agents are not carriers, have no liability, and are not required to publish tariffs. They receive a commission from the shipper for arranging for transportation service, usually by TOFC/COFC.

It should be noted that many of the distinctions between the various types of intermediaries are largely a function of the strict regulation to which they were subjected over the years. Since deregulation, these differences have blurred a great deal and, in fact, some brokers also operate as shippers' agents and freight forwarders.

Brokers are fast making their mark on the transportation industry. Since partial deregulation of the motor carrier industry in 1980, the number of brokers has grown from about 100 to approximately 6,000. Between October 1986 and March 1987, the ICC issued almost 850 grants of new broker authority.

Why the significant growth rate and burgeoning demand for broker services? With the doubling of the number of ICC certificated motor carriers, many shippers found themselves confused by the myriad rates and services that suddenly became available. Small shippers, in particular, often lack the transportation management staff and expertise required to stay abreast of the many changes occurring in the transportation environment. Many shippers, large and small, have turned to brokers in lieu of creating or expanding their own traffic departments. Some brokers, working on behalf of a shipper, do a job similar to that of a traffic manager -- selecting modes and carriers, negotiating rates, finding owner-operators, checking a carrier's insurance and operating authority, and so forth. Furthermore, brokers today serve far more than just the smaller shippers. A look at the client list of some of the larger brokerage companies shows a fair representation of the Fortune 500.

Similarly, some brokers act as a supplement to the motor carrier's sales force or marketing department. In the case of many small carriers and independent owner-operators, the broker is the marketing department. Brokers consolidate an increasing number of less-than-truckload (LTL) shipments (often by "topping off" loads), arrange to fill otherwise empty backhauls, and help the trucking industry to operate more efficiently. Brokers and other third parties are providing important services to small shippers and carriers in today's less regulated environment.

Although the traditional transportation matchmaking service of putting carriers and shippers together to make the process of moving freight more efficient forms the basis of most brokers'

business, it is no longer the only service offered. The majority of brokers today provide a wide variety of transportation and distribution services in addition to arranging the linehaul movement. These other services can include arranging LTL transportation to a wide geographical area, providing warehousing and local distribution services, consolidating freight, tracing shipments, auditing waybills, and assisting shippers with claim filing.

Yet, despite the growing popularity of brokers with large and small companies alike, allegations have surfaced indicating that some brokers have engaged in unethical and disreputable practices. Analogously, we also hear of abuses by motor carriers against owner-operators and shippers. However, we do not believe the abuses of a few should tarnish the record of an entire industry.

Shippers planning to use a property broker, especially for the first time, may be understandably apprehensive because of these allegations. However, certain criteria can be applied to aid the selection process. Carriers and shippers should exercise care in selecting a broker -- just as they do regarding the purchase of any other important product or service. We believe the marketplace, including comparison shopping and the word-of-mouth sharing of customers' experiences, punishes "bad actors" far more effectively than strict regulation.

In addition, the Transportation Brokers Conference of America (TBCA or Association), with about 1,400 members, is a group strongly dedicated to enhancing the performance and reputation of the brokerage industry. For the TBCA, "image enhancement" means much more than "public relations" in its narrow sense. All TBCA members must subscribe to a strict code of ethics, and the

Association maintains a variety of on-going efforts to maintain high standards of broker service and deal with problems as they arise.

As part of this program, TBCA has launched a broker certification program setting standards of conduct, knowledge, and ethics for brokers to improve trade practices on a voluntary, but organized basis. In addition, the Association maintains a data base containing pertinent business information about its members. Use of this data base is available at no cost to the general transportation public, and it should be a valuable tool for shippers and carriers to use in evaluating brokers.

Moreover, the TBCA Ethics Committee has developed procedures for handling complaints and mediating disputes. Finally, if a pattern of violations develops and cannot be addressed by less severe actions, the Association will remove the "bad apple" from its membership. A TBCA spokesman reports that the association has already ejected about 25 firms after complaints concerning inappropriate behavior.

As in any industry, dealing with members of a leading trade association does not necessarily guarantee customer satisfaction. Conversely, brokers who are not TBCA members are not necessarily unethical or disreputable. However, as noted above, dealing with a TBCA member can provide a shipper or carrier with significant benefits.

The Small Business Administration (SBA) will be doing a study of the broker industry to determine the number of brokers and their size distribution, volume of business, geographical regions served, and so forth. As a part of the study, SBA will be surveying a sample of shippers and carriers to determine to what

extent they find broker services advantageous or disadvantageous. We believe that we will know significantly more about this industry and its practices upon the completion of the SBA study.

Furthermore, since freight forwarders were deregulated last year, we believe that brokers, too, should be completely deregulated. While there are relatively few remaining regulatory restrictions on brokers, we believe that they should be afforded the same opportunities as freight forwarders and should be able to thrive on their own merits -- on the basis of what service they do offer, not what service they are allowed to offer. Consequently, deregulation of freight brokers is included in the ICC Sunset bill included as title IV-C of the Administration's "Trade, Employment, and Productivity Act of 1987" (S. 539, H.R. 1155).

In short, we believe the rapid growth of the broker industry has been a healthy development which has increased the efficiency of freight transportation.