

MARKET DOMINANCE IN THE RAILROAD REVITALIZATION  
AND REGULATORY REFORM ACT OF 1976

by

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## INTRODUCTION

Railroads were the first industry in the United States to be brought under federal price control. This came about with the passage of the Act to Regulate Commerce in 1887 and the establishment of the Interstate Commerce Commission (I.C.C.). One purpose of economic regulation was to control the ability of the industry to exploit the public through its position of monopoly power and market dominance. Since regulation was initially imposed, developments of new transportation modes have weakened the monopoly position which the railroads once possessed. The legislation establishment in 1887 has been amended several times but rate regulations imposed on the rail industry have continued.

The Railroad Revitalization and Regulatory Reform Act, signed into law by President Gerald Ford on February 6, 1976, was designed to provide the revitalization of failing railroads through federal aid and the revitalization of all railroads through regulatory reforms calculated to enhance the industry's competitive strength.

Under this Act, the Interstate Commerce Commission's powers are limited and, for rate increases, suspension is dependent on market dominance by the carrier proposing the rate increase. The Act refers to market dominance as the absence of effective competition by other rail carriers and other transportation modes. The Interstate Commerce Commission was required to further define "market dominance" and "the absence of competition" to make them workable concepts for purposes of carrying out the intent of Congress in administering regulatory legislation. Congress, in the legislation, set a deadline date of 240 days after the legislation

was signed into law for the I.C.C. to adopt a final definition of market dominance.

The objectives of this report are (1) to assemble and examine literature related to I.C.C. development of an operational definition of market dominance for railroad regulatory purposes and (2) to relate the final definition to applicable economic theory indicating the manner in which theoretical concepts are either explicitly or implicitly applied. It is not an objective to this report to develop evidence of the functional quality of the final I.C.C. definition as determined by measurement problems and quality of available data. The purpose is to review the operational concept in light of dominant firm theory.

This report first discusses the purposes and basic provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 to give a broad overview of this legislation. Second, the report discusses the development of the dominant firm concept and the evolution of the attitudes of shippers and carriers to the proposed, interim and final definitions adopted by the I.C.C. The final section of the report discusses the literature involving economic theory and the effect of monopoly regulation as related to concepts incorporated in the final I.C.C. definition.

## Chapter 1

PURPOSE AND PROVISIONS OF THE RAILROAD  
REVITALIZATION AND REGULATORY REFORM ACT OF 1976

The Railroad Revitalization and Regulatory Reform Act of 1976 is an "Act to improve the quality of rail services in the United States through regulatory reform, coordination of rail services and facilities, and rehabilitation and improvement financing, and for other purposes."<sup>1</sup> It was the purpose of Congress in this Act to "provide means to rehabilitate and maintain the physical facilities, improve the operations and structure, and restore the financial stability of the railway system of the United States, and to promote the revitalization of the system, so that this mode of transportation will remain viable in the private sector of the economy and will be able to provide energy-efficient, ecologically compatible transportation services with greater efficiency, effectiveness, and economy."<sup>2</sup>

Basic provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act) called for making available \$2.1 billion for Consolidated Rail Corporation (ConRail) to continue and complete the reorganization of the bankrupt railroads in the Northeast and in the Midwest. ConRail was authorized to issue debentures and Series A preferred stock to the United States Railway Association (USRA) for \$2.1 billion and also

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<sup>1</sup>Railroad Revitalization and Regulatory Reform Act of 1976, Public Law 94-210 (S. 2718), February 5, 1976.

<sup>2</sup>4-R Act of 1976, Title I - General Provisions, Section 101, Declaration of Policy, Public Law 94-210 (S. 2718), February 5, 1976.