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Congress of the United States
Washington, DC 20515

February 21, 2006

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

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Re: STB Ex Parte No. 656 (Sub-No. 1)

Dear Secretary Williams:

We would like to comment in the above referenced proceeding initiated by the Surface Transportation Board ("STB" or "Board") to evaluate the continued antitrust exemption for the National Classification Committee ("NCC"), and to investigate whether the NCC has abused its market power in its classification-setting activities. With a review of the continuing soundness of this antitrust exemption now underway, we strongly urge the Board to deny the continuance of this exemption, which is unnecessary under present market conditions and antithetical to a modern, competitive, 21st century economy.

In virtually every other field of commerce, when two competitors conspire together to fix a price, the conduct is presumptively illegal under antitrust laws, subjecting the wrongdoers to criminal penalties and civil liabilities. Although the NCC does not engage directly in price-fixing activities, their collective class setting activities have a direct impact on the class rates established by other rate bureaus and charged by individual motor carriers. We believe that the current classification-setting process is rigid, inefficient, and reflects a carrier bias toward increasing classifications based on insufficient or non-representative data. It is well known that the class increases adopted by the NCC result in higher-class rates and increased revenues for the Committee's carrier members. This situation is closely related to the price fixing that anti-trust law attempts to prevent.

A lack of transparency and accountability only compounds the anti-competitive outcome of the NCC's classification process, as seen in the recent confectionery reclassification case, which affects candy businesses in our states. The NCC appears to have based the significant class increase for candy on information obtained primarily from its carrier members, absent meaningful or representative information from any confectionery shippers. The unfortunate and improper resulting class increase

demonstrates the inherent bias that exists in the current class-setting process, which lacks appropriate protections and thoroughness found in legal or regulatory proceedings.

NCC's rate setting is an antiquated exception to current antitrust laws and the current competitive state of the trucking industry, and we urge the Board to take the long overdue action to eliminate the NCC's exemption from antitrust laws. At a minimum, if the Board decides not to eliminate the antitrust exemption for the NCC, we request that the Board initiate an amendment to the NCC's procedures in order to allow shippers as well as carriers to sit on the NCC, and to have shippers as well as carriers voting on final classification decisions.

We appreciate your attention to this matter.

Sincerely,



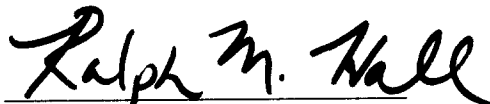
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