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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548  
STATEMENT OF  
OLIVER W. KRUEGER, ASSOCIATE DIRECTOR  
RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION  
BEFORE THE  
HOUSE SUBCOMMITTEE ON TRANSPORTATION  
COMMITTEE ON APPROPRIATIONS  
ON  
[ THE INTERSTATE COMMERCE COMMISSION'S  
ENFORCEMENT PROGRAM ]

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to be here today to discuss our review of various aspects of the Interstate Commerce Commission's (ICC) enforcement program as it relates to motor carriers. We undertook this review at your request, focusing our work on ICC's enforcement priorities, the standards used by ICC to measure the effectiveness of its enforcement efforts, and the procedures ICC used in allocating resources. We also examined to a limited degree the feasibility of transferring ICC enforcement activities to other organizations.

In spite of the important regulatory changes legislated by the motor carrier laws enacted in 1980 and 1982, ICC still retains an enforcement role. Many of the motor carrier obligations were retained and new penalties were added. Examples of ICC's enforcement activities include the following: Carriers hauling regulated goods must still obtain operating authority from the ICC and are subject to prosecution for failing to do so. Lumping, which is a



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practice of forcing truckers to accept assistance in loading or unloading their trucks, can be a criminal act and violations are subject to criminal prosecution. The ICC also has an enforcement role in ensuring household goods carriers follow specific regulations designed for the protection of shippers.

In the course of our review we identified five problem areas which limit the effective management of ICC's enforcement program:

1. Program goals and priorities have not been established by the Commission, and clear and consistent guidance has not been communicated from headquarters to regional staff.
2. At the direction of the Commission, the program is oriented toward responding to complaints rather than initiating compliance surveys and, as a consequence, appears somewhat less effective than it might be.
3. As a result of the complaint-driven system, the Commission's caseload and resources have been concentrated in five violation areas, only one of which overlaps with the list of priority violation areas identified by this Committee.
4. ICC's enforcement program has neither adequately used nor maintained its data in order to clarify how program resources are actually being applied and what results are being achieved.
5. ICC's basis for enforcement staffing levels appears questionable as a result of uncertainties regarding program goals.

Let me now briefly summarize some of our specific observations in each of these areas and share our suggestions for improving ICC's management of its enforcement program. I will also discuss the potential transfer of ICC enforcement responsibilities to other federal or state agencies as well as its benefits and drawbacks at both the federal and state levels. Attached to my statement for the record is a more detailed summary of our findings and conclusions.

PROGRAM GOALS AND PRIORITIES  
HAVE NOT BEEN ESTABLISHED

The Commission and the Director of the Office of Compliance and Consumer Assistance--in charge of ICC's enforcement program--have issued several different forms of guidance on program goals which have caused confusion at the regional level. For example, at the request of this Committee in 1982, ICC provided a list of high priority and lower priority areas. Subsequently, the Director issued separate guidance outlining regional enforcement objectives for fiscal year 1983. Later, the Commission held a conference in October 1982 with all the senior enforcement officials and issued summary guidance in 15 enforcement areas discussed at the conference.

Regional officials told us that the various forms of guidance issued by the Commission and the Director have been too broad, somewhat confusing, and at times contradictory. The degree of confusion is illustrated by regional officials' understanding that the summary of 15 enforcement areas was the direction that they should follow during fiscal year 1983 and that the prior documents were, in effect, invalidated by this guidance. However, the

Director told us that he believed all of the guidance documents were still in effect for fiscal year 1983.

Based on our review, we believe the Commission has not developed clear and consistent program goals in light of the significant policy changes resulting from the regulatory reforms of 1980 and 1982. A recent report by the President's Private Sector Survey on Cost Control noted the same basic problem throughout ICC, stating that the Commission has been unable to agree on the ICC's fundamental course and that "no explicit plan for moving into a period of limited regulation, as required by the 1980 legislation, has been developed." The report further noted that "ICC personnel needed much clearer guidance from Congress, the Administration and the Commissioners about where the agency is headed in the next five years."

THE PROGRAM IS ORIENTED  
TOWARD RESPONDING TO COMPLAINTS

While overall program goals have not been made clear, the Commission did instruct regional offices that they were not to perform self-initiated compliance surveys, develop informants, or monitor carrier activities. Instead, regional offices' enforcement actions were to be in reaction to specific shipper, carrier, and consumer complaints.

According to regional officials, self-initiated compliance surveys are one of their most important proactive-type activities, and ICC has historically relied upon these surveys to evaluate whether carriers' operations are being conducted in conformance with many ICC laws and regulations.

Another factor limiting the ability of the regions to perform general compliance surveys is the significant cut in staffing levels since the passage of reform legislation in 1980. The Office of Compliance and Consumer Assistance has been cut almost in half since fiscal year 1981, with a further 18 percent cut being projected for fiscal year 1985.

The reactive approach to complaints may hinder detection and prosecution of some serious, unlawful activities. According to a Regional Counsel, complaints tend to result in small, inconsequential cases which seek to resolve an immediate problem often caused by one carrier and affecting only one or two people. He stated that many of the cases arising from complaints have little deterrent effect and do not make a meaningful, far-reaching impact throughout the industry.

In a reactive environment, regional enforcement officials have limited flexibility in the selection of the types of cases being investigated. The nature of complaints received dictates to a great extent the violation areas being investigated and the areas in which ICC is spending its enforcement resources.

At our request, ICC developed data on investigations begun in fiscal year 1983--the first year of the reactive policy--in the three regions we visited. We found that only 8 to 17 percent of the investigations started in fiscal year 1983 were categorized as self-initiated. Moreover, information which led to opening of these cases, generally was identified while performing complaint-generated investigations.

It seems to us that the Commission's direction restricting regional enforcement staff from initiating compliance activities together with staff cutbacks may impair the capacity of enforcement staff to detect, investigate, litigate, and deter industry-wide violations.

RESOURCES HAVE BEEN CONCENTRATED  
IN FIVE VIOLATION AREAS

We found the preponderance of the program's resources being spent in primarily five violation areas--unauthorized transportation, owner-operator violations, lumping violations, rate integrity cases, and insurance. We found that 80 percent of the investigations in cases closed during fiscal year 1983 and 69 percent of the enforcement resources for the cases were concentrated in these five areas.

At your request, we looked at the consistency of this allocation of caseload and resources with existing legislation. The Motor Carrier Act of 1980 while aimed at reducing the regulatory burden on motor carriers, does not specifically identify priorities for ICC's enforcement program. The Director, Office of Compliance and Consumer Assistance, informed us that he was unaware of any congressional direction as to priorities or intent in the current legislation. However, this Committee, in its 1982 report on ICC, identified five violation areas as more serious unlawful activities which ICC should pursue. These areas are kickbacks, antitrust violations, discrimination, overcharges, and lumping. We found that all

five "more serious" violation areas accounted for about 15 percent of all cases and 12 to 13 percent of the staff hours expended on cases closed during fiscal years 1982 and 1983.

Only one violation area--lumping--out of the five violations identified by this Committee appears in the top five violations areas by number of cases or resources spent for the two fiscal years. Lumping cases represent about 9 percent of the cases in both years and 7 percent and 3 percent of the resources in fiscal years 1982 and 1983, respectively.

However, these lumping violations, which appeared to receive priority, merit further explanation. Our review of 45 lumping cases in Regions 1 and 2 shows that these lumping investigations were opened by the regions on the basis of head-quarter's suggestions, but with little indication that a potential lumping violation existed. In all but two cases the initial inquiry found no illegal lumping activities, and most of the cases have been closed. As of this date, none of the cases has resulted in any enforcement action.

MAINTENANCE AND USE OF ENFORCEMENT  
DATA IN ICC DATA SYSTEMS COULD BE IMPROVED

In reaching our conclusions about the actual use of enforcement resources, we used ICC's data base. However, we found that ICC's data base is neither adequately maintained nor used to assess the effectiveness of various types of investigations.

ICC previously developed data on its enforcement activities for this Committee, summarizing the number of investigations closed in fiscal years 1980, 1981, and 1982 by violation areas. We believe, however, that this information could be misleading in that no information was provided on the results of these investigations, the results of any prosecutions, or the resources used in these areas. In addition, the listing of cases by violation areas included cases for which the data system showed no investigations were performed. We found that about 12 percent of the reported closed cases for the fiscal years 1982 and 1983 were coded as being closed without an investigation.

A new data system is being considered by ICC; the essential data for analyzing the program, such as the type of violation, resources used, and the results, appears to be included. However, we found that neither headquarters nor regional officials have developed standards for evaluating the effectiveness of the program. Nor has any of the information provided to us demonstrated how the data system will be used to evaluate the effectiveness of the program against any defined standards.

According to an official of the Office of Compliance and Consumer Assistance, procedures for analyzing or evaluating data in the new system had not been addressed as of December 1983.

#### ICC STAFFING LEVELS

Because the ICC has not established clear and consistent program goals and priorities, or periodically tracked and



assessed the outcome of its enforcement effort, the Commission has a questionable basis for assessing its enforcement staffing requirements.

The Commission has attempted to justify its staffing requirements primarily on the basis of anticipated workload reductions due to regulatory reform. For example, in ICC's budget justification for fiscal year 1984, the Commission noted that the staff years devoted to enforcement would decrease by 38 percent between fiscal year 1982 and 1984. The justification was that "as deregulation of the motor carrier and rail industries continue to progress ..., the need for and scope of the Commission's enforcement activities will decrease."

The Commission also cites the reduction in the number of complaints it received as evidence of both a high level of compliance as well as the need for fewer staff. There are also other reasons for reductions in the number of complaints ICC has received, none of which would necessarily support the view that compliance is increasing and the need for enforcement is declining. For example, ICC no longer records nonjurisdictional complaints and has discontinued its nationwide toll-free hotline.

As we see it at this time, the Commission should take the following actions to improve its enforcement program and to develop a sounder basis for its staffing projections:

- Determine the proper role for its enforcement activities as a result of the new legislation and its own policies by (1) identifying appropriate goals for the program and (2) establishing meaningful priorities to assist in allocating resources to accomplish these goals.

- Provide its enforcement staff adequate flexibility to initiate compliance surveys to ensure designated priority areas are addressed.
- Improve the maintenance and use of data to clarify how program resources are actually being applied and what results are being achieved in relation to the program goals and priorities.

#### OPTIONS FOR TRANSFERRING ICC ENFORCEMENT TO OTHER AGENCIES

In identifying options for transferring ICC's enforcement responsibilities to other agencies, we found that, although certain ICC violation areas might be enforceable by other agencies or through other legal remedies, there appeared to be major drawbacks which could weaken proper enforcement.

Information we developed was based primarily on the views of officials of appropriate federal and state agencies, but their views were not necessarily the official views of the agencies they represented. Information on state activities was based on seven states, which were not scientifically selected but were selected to provide a national scope.

We considered two general options: (1) transfer of essentially all ICC enforcement areas to the states and (2) transfer of selected ICC enforcement areas to other federal and/or state agencies. We should note that major legislative changes would be necessary to implement either of these options.

Regarding the first option, state officials told us that state agencies generally could carry out ICC enforcement activities and, given proper authority and resources, could

absorb their activities. However, there appear to be several obstacles to state enforcement of ICC regulations. A major one would be the difficulty in achieving uniform enforcement and the consequent burden on interstate carriers of dealing with 50 different agencies. Another problem mentioned was the impact of current and future deregulation at both the state and federal level.

The other option would be to continue most ICC enforcement in the economic regulatory area but shift enforcement of some or all of its non-economic enforcement functions to other agencies. If such an option were selected, ICC would appear to be in the best position to enforce certain remaining portions of its economic regulations. For example, although recent deregulatory actions have given motor carriers greater freedom and flexibility in their economic operations, they also have increasingly limited carrier immunity from federal antitrust laws. As a result, ICC's antitrust enforcement responsibility has taken on new significance. According to Department of Justice officials, ICC's expertise and enforcement capacity are particularly important during the deregulatory transition period to monitor carriers' compliance with the federal antitrust laws.

On the other hand, ICC's non-economic enforcement functions may be less dependent on motor carrier expertise and therefore more readily enforceable by other agencies or through other legal remedies. Concerning ICC's enforcement in the household goods area, both the Federal Trade Commission and states

conduct broad enforcement activities aimed at protecting consumers from various unfair business practices. However, the Federal Trade Commission and state officials told us that their enforcement activities were oriented primarily toward addressing broader consumer problems rather than responding to individual consumer complaints. Therefore, to obtain assistance with problems, household goods consumers might have to resort to private legal action against carriers under appropriate state laws.

In the area of assisting owner-operators and shipping firms there appeared to be no appropriate federal or state agency to assume enforcement responsibilities. For this reason owner-operators and such shippers would probably need to take private legal action under appropriate state laws to obtain assistance with problems.

Under ICC laws, weight bumping and lumping violations can be criminal acts, subject to general enforcement by Justice as well as ICC. We were told, however, that Justice's enforcement role was limited primarily to prosecution of federal violations, and that it does not perform monitoring activities to investigate possible violations of ICC laws and regulations. As an alternative remedy, we were told that weight bumping victims could probably take private legal action under appropriate state laws. Also, we were told that lumping violations might be enforceable under state extortion or other laws, but enforcement would generally be subject to local enforcement priorities and discretion.

ICC's enforcement of carrier insurance requirements could be picked up by the Bureau of Motor Carrier Safety within the Department of Transportation, which already has broad responsibility for prescribing and enforcing both federal motor carrier safety and insurance requirements. Although the Bureau may be in a position to assume this ICC function, it is not equipped to ensure that all ICC carriers meet federal insurance requirements. Unlike ICC, the Bureau does not require motor carriers to submit evidence of insurance.

In summary, we found that, although there are alternatives to ICC enforcement, the results may not be satisfactory, and ICC may offer a better potential for proper enforcement. Also, it may not be prudent to consider dispersing ICC's enforcement functions while its enforcement requirements are changing as a result of motor carrier deregulatory initiatives pending at both the ICC and in Congress. As a result, it may be preferable to defer major changes until the status of motor carrier legislation and regulation is more stabilized.

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In conclusion, Mr. Chairman, within the next few weeks, we will be providing this testimony to ICC along with our specific recommendations for actions needed.

This concludes my statement and we will be glad to respond to your questions.

THE INTERSTATE COMMERCE COMMISSION  
CAN BETTER MANAGE  
ITS ENFORCEMENT PROGRAM

The Chairman of the Subcommittee on Transportation, House Committee on Appropriations, requested us on August 3, 1983, to review how the Interstate Commerce Commission (ICC) manages its enforcement program. Specifically, we were requested to review ICC's establishment of enforcement priorities, the standards used by ICC to measure the effectiveness of its enforcement effort, the procedures ICC used in allocating enforcement resources, and if ICC's priorities are consistent with existing legislation.

We were also requested to identify and assess the feasibility of transferring ICC's enforcement responsibilities to other enforcement organizations, such as other federal or state agencies. The request letter is included as appendix I.

ICC'S ENFORCEMENT  
PROGRAM

To ensure carriers comply with ICC's statutes, rules and regulations, ICC investigates alleged violations and takes various enforcement actions including assessing civil penalties, taking injunctive actions, and recommending civil or criminal actions to the Department of Justice.

ICC's Office of Compliance and Consumer Assistance has primary responsibility for the enforcement program and ICC's compliance monitoring and consumer complaint activities, which operate through six regional offices. The consumer complaint activity includes receiving and processing complaints and inquiries from shippers, receivers, carriers, truck owner-operators, and the general public. Compliance monitoring activities encompass ICC-initiated surveys performed at carriers' plants as well as road checks of truckers in transit to determine whether the carriers' operations are being conducted in compliance with ICC's statutes, rules, and regulations.

These activities--complaint processing, compliance surveys, and road checks--have historically been used to identify potential violations and have provided the basis for investigations and subsequent administrative or litigative enforcement actions as necessary.

The Effect of Regulatory  
Reform Legislation on ICC's  
Enforcement Program

In 1980, Congress enacted major legislation reforming ICC's regulation of the trucking and rail industries and, in 1982, the bus industry.

The major purpose of this legislation was to stimulate competition within these industries by generally reducing restrictions on entry and allowing increased flexibility in the setting of rates. However, these reforms provided for only partial deregulation. The legislation--particularly the Motor Carrier Act--left in place most of the historic mechanisms requiring carriers to obtain operating authority and to file rates with ICC.

For example, even though it is now easier to obtain operating authority from the ICC, it is still illegal to carry regulated commodities without ICC authority. As a result, ICC is still responsible for ensuring that carriers hauling regulated goods are authorized by the ICC. The Commission indicated that the primary purpose of cases involving unauthorized transportation is not to bar new entrants or competitors, as in the past, but rather to ensure firms maintain the required amounts of insurance. Many other requirements and prohibitions less directly tied to the economic regulatory structure were also left in place, each of which continued to imply the need for enforcement efforts. Examples of these requirements are the regulations designed to protect household goods shippers and the leasing regulations which are designed to protect owner-operators.

The Director of the Office of Compliance and Consumer Assistance told us that the regulatory reform legislation has not significantly altered the Commission's enforcement responsibilities in the motor carrier area. A description of the major motor carrier enforcement areas of ICC's enforcement program is included as appendix II. He noted that the penalty provisions of the earlier statutes were not eliminated and, in fact, new penalty provisions were added. For example, the legislation provides more severe penalties for household goods movers who fraudulently increase the weight of shipments in order to charge

the shipper more. This violation is called weight bumping. In the rail area, however, segments of the industry have been exempted from economic regulation, which has resulted in some reductions in ICC's rail enforcement responsibilities.

Objectives, Scope, and Methodology

To evaluate how the ICC manages its enforcement program's resources, we reviewed how ICC established its goals, objectives, and priorities. We reviewed how ICC allocates its resources, which violation areas receive enforcement priority, and how ICC evaluates and measures the success of its program. In addition, we briefly considered the congressional intent for the enforcement program.

We developed information in three of ICC's six regional offices--Region 1 in Boston, Region 2 in Philadelphia, and Region 6 in San Francisco. We selected the regions to be representative of the shifts in the workloads of the various regions, and also to provide some representation of various regions of the country. We met with the Regional Directors and enforcement officials in these regions as well as the Director and other officials in the Office of Compliance and Consumer Assistance in the Washington Headquarters.

We reviewed the data on all enforcement cases closed in fiscal years 1982 and 1983 from ICC's case tracking system and its uniform reporting system which accumulates staff hours spent. We used the data to develop information on the results of the program and the resources spent in various enforcement areas.

To identify and assess the feasibility of other options available to the Congress for ensuring proper enforcement of ICC statutes and rules and regulations--specifically, what enforcement areas might be transferred to other enforcement organizations, such as other federal or state agencies--we met with various officials of the Department of Justice (DOJ), the Bureau of Motor Carrier Safety of Department of Transportation, the Federal Trade Commission (FTC), and seven state regulatory agencies for transportation as well as state enforcement agencies. The states included in our review were Rhode Island, Massachusetts, Virginia, Maryland, California, Arizona, and



Nevada. While our sample of states was not scientifically selected, we did attempt to develop a sample that provided a national scope. We also discussed the Commission's enforcement activities with some industry associations.

At the Chairman's request we did not obtain comments from the ICC. However, at the conclusion of our review, we met with the full Commission to review our findings.

While we have found that the Commission could improve the management of its enforcement program, it is appropriate to note that our observations are not the same as many carrier associations, shippers, and unions who contend that the Commission has failed to implement the motor carrier laws as amended in 1980 and 1982. Much of their criticism concerning the Commission's failure to enforce the law is mainly directed at numerous policy decisions of the Commission. Our review was not directed at Commission policies in implementing the new legislation, but focused instead on the management of the enforcement program.

Our review was performed in accordance with generally accepted government auditing standards.

PROGRAM GOALS AND PRIORITIES  
HAVE NOT BEEN ESTABLISHED

The Commission and the Director of the Office of Compliance and Consumer Assistance have issued several different forms of guidance on program goals which have caused confusion at the regional level. For example, at the request of the House Appropriations Committee in 1982, ICC was asked to provide the Commission's priorities for the enforcement program. As a result, ICC sent to the Committee a list of 22 areas of high priority and 18 lower priority areas. In March of 1982, the Director sent this list to all regional offices noting that the Commission had not adopted a formal statement of policy on priorities. The priorities were apparently developed by headquarters officials but it was unclear whether the present Commissioners agreed with these priorities.

During 1982, the Office of Compliance and Consumer Assistance in conjunction with regional officials developed a number

of broad objectives for its fiscal year 1983 activities. These objectives were issued in a document called "expectations" and included the responsibilities of the headquarters and regions in meeting these objectives. The expectations document did not identify the amount of resources that each region should allocate to each objective nor how to measure the success of any effort by the regions.

After development of the expectations document, the Commissioners held a conference on enforcement policy in October 1982. The Commissioners met with the Director of the Office of Compliance and Consumer Assistance and the Regional Directors to provide some verbal guidance on ICC's various enforcement areas. The full text of the Commissioners' comments was issued by ICC in a transcript.

On October 25, 1982, the Commissioners issued a statement based on the conference. The Commission indicated that all enforcement activity should be evaluated in terms of its relationship to (1) public interest, (2) enhanced competition and (3) a specific congressional directive. In addition, the Commission provided to the House Appropriations Committee a summary of the Commissioners' verbal guidance in the 15 major enforcement areas that were discussed by the Commissioners at the conference. This summary was also transmitted to the regional offices.

Regional officials indicated the various forms of guidance issued by the Commission and the Director have been too broad, somewhat confusing, and at times contradictory. The degree of confusion is illustrated by regional officials' understanding that the summary of 15 enforcement areas was the direction they should follow during fiscal year 1983 and that the prior documents were, in effect, invalidated by this guidance. However, the Director told us that he believed all of the guidance documents were still in effect for fiscal year 1983.

An illustration of an apparent contradiction in Commission guidance is the differing messages in the statement based on the conference and the guidance on 15 enforcement areas. The Commission's statement indicates that enhancement of competition is one of three important objectives of its enforcement program.

In contrast, in the guidance on the 15 areas, the Commission appeared to establish a passive enforcement policy for antitrust --an enforcement area directly related to identifying potentially significant anticompetitive behavior: "In severe and egregious matters, there is a role for ICC enforcement to play, but the ICC does not have sufficient resources to seek out every violation."

Regional and headquarters officials disagreed on the relevancy of the various documents and on how regions should use such guidance to manage their enforcement resources. In general, regional officials we met with believe that no meaningful and uniform strategy had been developed by the Commission with the necessary goals and priorities which could be used by the regions to manage and allocate their enforcement resources.

By contrast, in our discussion with officials of the Federal Bureau of Investigations and the Customs Service, we found that these organizations had established priority systems to allocate their enforcement resources. These organizations have targeted certain types of cases as more important than other types. In addition, work in the field offices is monitored to assess whether the higher priority areas are being given adequate attention.

Based on our review, we believe the Commission has not developed clear and consistent program goals in light of the significant policy changes resulting from the regulatory reforms in 1980 and 1982. A recent report by the President's Private Sector Survey on Cost Control noted the same basic problem throughout ICC, stating that the Commission has been unable to agree on the fundamental course the ICC should pursue and that "no explicit plan for moving into a period of limited regulation, as required by the 1980 legislation, has been developed." The report further noted that "ICC personnel needed much clearer guidance from Congress, the Administration and the Commissioners about where the agency is headed in the next five years."

#### THE PROGRAM IS ORIENTED TOWARD RESPONDING TO COMPLAINTS

While overall program goals have not been made clear, the Commission did instruct regional offices that they were not to

perform self-initiated compliance surveys, develop informants, or monitor carriers' activities. Instead, regional enforcement activities were to be in reaction to specific shipper, carrier, and consumer complaints.

According to regional officials, self-initiated general compliance surveys are one of their most important proactive-type activities and ICC has historically relied upon these surveys to evaluate whether carriers' operations are being conducted in conformance with many ICC laws and regulations. Such surveys would be initiated without the need for identifying potential violations from complaints.

In detailing some specifics of the Commission's reactive policy, the Director referred to the Commissioner's comments in the October conference that enforcement investigators should not be out "snooping" around and that regional enforcement teams were too aggressive in looking for violations. The Director stated that his opinion was further reinforced in subsequent communication with the Commission as exemplified by a directive issued on agricultural cooperatives.

In October 1982, the Director of the Office of Compliance and Consumer Assistance issued a directive to initiate a nationwide proactive effort to evaluate compliance by agricultural cooperatives with new provisions of the Motor Carrier Act and to halt unauthorized transportation by such cooperatives. According to the Director, the effort to investigate and monitor agricultural cooperatives was initiated to carry out the new ICC authority in the act, as well as to respond to numerous complaints concerning unauthorized transportation violations by agricultural cooperatives or their agents. The Director stated that he was ordered by an ICC Commissioner to cancel the directive because its proactive nature did not comport with the Commission's complaint-driven policy. The Director cancelled this effort on November 30, 1982, and issued revised guidelines which emphasized that only potential violations identified in complaints would be investigated.

#### Staffing Cuts Limit Flexibility to Initiate General Compliance Surveys

Another factor limiting the ability of the regions to perform general compliance surveys is the significant cut in staffing levels of the Office of Compliance and Consumer Assistance

since the passage of reform legislation in 1980. This Office has been reduced from a fiscal year 1981 level of 623 to a fiscal year 1984 level estimated at 340, with a further 18 percent cut being projected for fiscal year 1985.

As provided by the Office of Compliance and Consumer Assistance, Table 1 shows the change in the number of personnel actually engaged in compliance, investigatory and litigative activities in ICC's regional offices from fiscal year 1980 to fiscal year 1985.

Table 1

Personnel Directly Engaged in Compliance,  
Investigating and Litigating Cases

<u>Beginning of fiscal year</u>	<u>Transportation industry analysts</u>	<u>Investigators</u>	<u>Attorneys</u>	<u>Total</u>	<u>Accumulative percent of change</u>
1980	168	69	35	272	-
1981	157	62	33	252	7
1982	154	59	32	245	10
1983	126	40	25	191	30
1984 (est)	100	40 <sup>a</sup>	25 <sup>a</sup>	165	39
1985 (est) <sup>b</sup>	83	35	22	140	49

<sup>a</sup>Investigators and attorneys (enforcement program) for fiscal year 1984 were not reduced because Congress provided greater funding for enforcement than requested by the Administration.

<sup>b</sup>Figures are estimates based on the President's Fiscal Year 1985 Budget.

From fiscal year 1980 to fiscal year 1984, ICC's compliance investigative, and litigative personnel have dropped 39 percent and, based on the current staffing level for ICC in the President's Budget, further cuts in fiscal year 1985 will result in a 49 percent drop from the fiscal year 1980 level.

Effects of a Complaint-Driven Policy

It appears that ICC's approach of reacting to complaints may be hindering detection and prosecution of some serious

unlawful activities. One regional enforcement official indicated that although complaints can result in significant investigations, adherence to a strict reactive policy generally produces many more insignificant cases. According to a Regional Counsel, complaints generally result in small inconsequential cases which seek to resolve an immediate problem often caused by one carrier and affecting only one or two people. He stated that many of the cases which result from complaints have little deterrent effect and do not make a meaningful, far-reaching impact throughout the industry.

Regional enforcement officials believe general compliance surveys provide a valuable source for discovering potential violations since, in the course of these surveys, the staff may review carriers' operations for compliance in many potential violation areas rather than only in the area of a complaint. In a reactive environment, regional enforcement officials have limited flexibility in the selection of the types of cases being investigated. The nature of complaints received dictates to a great extent the violation areas being investigated and the areas in which ICC is spending its enforcement resources.

At our request, ICC regions developed the following data on investigations begun in fiscal year 1983--the first year of the reactive policy--in the three regions we visited.

Table 2

Investigations Originated  
in Fiscal Year 1983

<u>Origination</u>	<u>Region 1</u>		<u>Region 2</u>		<u>Region 6</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Complaints	57	46	62	45	77	82
Road Checks	5	4	20	14	-	-
Headquarters	51	41	34	24	1	1
Other agencies	1	1	4	3	-	-
Self-initiated	<u>10</u>	<u>8</u>	<u>20</u>	<u>14</u>	<u>16</u>	<u>17</u>
	<u>124</u>	<u>100</u>	<u>140</u>	<u>100</u>	<u>94</u>	<u>100</u>

As Table 2 shows, the regions did categorize between 8 and 17 percent of their investigations as self-initiated in fiscal year 1983. However, enforcement officials in the regions stated that these cases are the results of leads developed during the investigations of complaints and could be considered extensions of complaint-generated cases.

Specifically regarding complaint-generated investigations, we found that most fall into four categories--unauthorized transportation, owner-operator abuses, household goods abuses, and rate integrity violations. Table 3 shows that from 78 to 87 percent of cases were in these four categories for the three regions included in our review.

Table 3

Number of Complaint-Generated Investigations  
by Major Violation Categories for FY 1983

<u>Region</u>	<u>Unauth. Transp.</u>	<u>Owner- Oper.</u>	<u>Household Goods</u>	<u>Rates</u>	<u>Totals</u>	<u>Total Complaint Cases</u>	<u>Percent of Selected Cases to Total</u>
1	16	15	6	10	47	57	82
2	36	9	5	4	54	62	87
6	19	29	3	9	60	77	78

In sum, the Commission's direction restricting regional enforcement staff from initiating compliance activities together with staff cutbacks may combine to impair the capacity of the enforcement staff to detect, investigate, litigate, and deter industry-wide violations.

RESOURCES HAVE BEEN CONCENTRATED  
IN FIVE VIOLATION AREAS

We found the preponderance of the program's resources being spent in primarily five violation areas--unauthorized

transportation, owner-operator violations, lumping violations, rate integrity cases and insurance.<sup>1</sup> As shown in Table 4, we found that 80 percent of the investigations in cases closed during fiscal year 1983 and 69 percent of the enforcement resources for the cases were concentrated in these five areas.

Table 4

Use of ICC Enforcement Resources by Violation Areas  
with Highest Caseload and Hours

	Fiscal Year 1982		Fiscal Year 1983	
	Percent of investigations	Percent of hours	Percent of investigations	Percent of hours
Unauthorized transportation	41	36	37	29
Owner-operator	17	18	16	23
Lumping	10	7	9	3
Rate integrity	9	11	8	12
Insurance	8	3	10	2
Freight claims	3	5	3	5
Reporting/accounting	0	0	3	4

The information in the above table concerns investigations closed by ICC in fiscal years 1982 and 1983 as reflected in its data systems. Because investigative resource data for cases initiated prior to fiscal year 1981 were generally incomplete, we eliminated all of these cases from the above table as well as any other cases for which no investigative hours were noted.

At the request of the Subcommittee on Transportation of the House Appropriations Committee, we briefly considered whether the allocation of caseload and resources was consistent with congressional intent. The Director, Office of Compliance and Consumer Assistance, informed us that he was unaware of any

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<sup>1</sup>A description of the major enforcement areas of ICC's enforcement program is included as appendix II.



congressional direction as to priorities or intent in the current legislation.

The House Appropriations Committee in its report in 1982 identified five violation areas it considered as more serious unlawful activities ICC should pursue to a greater extent. These violation areas are kickbacks, antitrust violations, discrimination, overcharges, and lumping. As shown in Table 5, all five "more serious" violation areas accounted for about 15 percent of all cases and 12 to 13 percent of the staff hours expended on cases closed during fiscal years 1982 and 1983.

Table 5

Percent of Cases and Hours in the  
Five Violation Areas  
Identified by the House Appropriations Committee

<u>Violation areas</u>	<u>Fiscal Year 1982</u>		<u>Fiscal Year 1983</u>	
	<u>Percent</u> <u>of</u> <u>cases</u>	<u>Percent</u> <u>of</u> <u>hours</u>	<u>Percent</u> <u>of</u> <u>cases</u>	<u>Percent</u> <u>of</u> <u>hours</u>
Kickbacks	0.9	1.1	1.7	3.4
Antitrust violations	0.3	0.1	0.9	1.3
Discrimination	1.3	0.8	2.5	4.0
Overcharges	2.8	4.3	-	-
Lumping	<u>9.7</u>	<u>6.9</u>	<u>9.3</u>	<u>3.4</u>
Total	<u>15.0</u>	<u>13.2</u>	<u>14.4</u>	<u>12.1</u>

The information in Table 5 reflects investigations closed by ICC in fiscal years 1982 and 1983 as indicated in ICC's data systems. Again, because investigation resource data for cases initiated prior to fiscal year 1981 was generally incomplete, we eliminated all of these cases as well as any other cases for which no investigation hours were noted.

Only one violation area--lumping--out of the five violations identified by the Committee appears in the list of top five violation areas by number of cases or hours spent for the two fiscal years (see table 4). As shown in Table 5 lumping

cases represent about 9 percent of the cases in both years and 7 percent and 3 percent of the resources in fiscal years 1982 and 1983, respectively.

Even that one violation area, which appeared to receive priority, merits further explanation. Our review of 45 lumping cases in Region 1 and 2 shows that these lumping investigations were opened by the regions on the basis of headquarters suggestions with little indication that a potential lumping violation existed. As a result, in all but two cases the initial inquiry found no illegal lumping activities; follow up inquiries for the two cases did not identify any illegal activities. None of the cases have resulted in any enforcement action.

MAINTENANCE AND USE OF ENFORCEMENT  
DATA IN ICC DATA SYSTEMS COULD  
BE IMPROVED

In reaching the above conclusions about the actual use of enforcement resources, we used information from ICC's data base. However, we found that the data bases are neither adequately maintained nor used by the ICC to assess the effectiveness of various types of investigations or the overall enforcement program.

We experienced a great deal of difficulty in using ICC data in our analyses because of inconsistently applied or incomplete data in its data systems. For example, regional offices were inconsistent in coding cases which were closed with some administrative action, such as issuance of a warning letter. As a result, to develop data on various categories of non-prosecutable cases, we had to review individual case files. Table 6 shows a breakdown of the results for cases closed in fiscal year 1983 in ICC's Regions 2 and 6.

Table 6  
Results For Cases  
Closed in Fiscal Year 1983

<u>Region</u>	<u>Cases closed</u>	<u>Prosecuted cases</u>	<u>Non-Prosecutable Cases</u>			<u>Total</u>
			<u>Administrative actions</u>	<u>Violation not proven</u>	<u>No Investigations</u>	
6	113	34	33	24	22	79
2	<u>152</u>	<u>42</u>	<u>14</u>	<u>83</u>	<u>13</u>	<u>110</u>
Total	<u>265</u>	<u>76</u>	<u>47</u>	<u>107</u>	<u>35</u>	<u>189</u>

As can be seen above, of the nonprosecutable cases that were actually investigated, over one-half of the cases resulted in no violation proven. The reason for the large difference in "violations not proven" between the regions is that Region 2 was following a headquarters directed policy of going directly into final investigations based on an allegation; whereas, Region 6 did some preliminary investigative work prior to opening a final investigation.

ICC developed data on its enforcement activities for the House Appropriations Committee summarizing the number of investigations closed in fiscal years 1980, 1981, and 1982 by violation areas. We believe that this information could be misleading in that no information was provided on the results of these investigations, the results of any prosecutions, or the resources used in these cases.

In addition, we found that the listing of closed cases included those for which the data system showed no investigations were performed. These cases are ones in which ICC planned an investigation but, due to additional information being made available prior to beginning the investigation, the case is closed without investigation. ICC accumulated similar data for fiscal year 1983 and again included cases in its summary where no investigations were performed. We found that about 12 percent of the reported closed cases for the fiscal years 1982 and 1983 were coded as being closed without an investigation.

A new data system is being considered by ICC; the essential data for analyzing the program, such as type of violation, resources used, and the results appear to be included. None of the information provided to us shows how the system will be used to evaluate the effectiveness of the program. According to an official of the Office of Compliance and Consumer Assistance, procedures for analyzing or evaluating data in the new system had not been addressed as of December 1983. Also, no information has been developed on how the accuracy, completeness, and consistency of the data will be assured.

As an additional facet of the problem regarding use of its data base, we found that ICC has not developed any standards to track or measure the success of its enforcement effort. Neither headquarters nor regional officials had developed any standards to measure the success or effectiveness of its program.

We recognize that there are many problems in attempting to directly measure the degree of compliance or noncompliance among ICC-regulated carriers. Similarly we acknowledge that more program-specific standards such as percent of cases prosecuted or share of resources expended, do not provide simple formulas for evaluating the productivity of the program. However, we believe some measures to approximate the success and impact of the program would be helpful to both ICC and the Congress in evaluating the program.

#### ICC STAFFING LEVELS

Because ICC has not established clear and consistent goals and priorities, or periodically tracked and assessed the outcome of its enforcement effort, the Commission has a questionable basis for assessing its enforcement staffing requirements.

The Commission has attempted to justify its staffing requirements primarily on the basis of anticipated workload reductions due to regulatory reform. For example, in ICC's budget justification for fiscal year 1984, the Commission noted that the staff years devoted to enforcement would decrease by 38 percent between fiscal year 1982 and 1984. The justification was that "as deregulation of the motor carrier and rail industries continue to progress ..., the need for and scope of the Commission's enforcement activities will decrease."

The Commission also cites the reduction in the number of complaints it received as evidence of both a high level of compliance as well as the need for fewer staff. There are also other reasons for reductions in the number of complaints ICC has been receiving, none of which would necessarily support the view that compliance is increasing and the need for enforcement is declining. For example, ICC no longer records nonjurisdictional complaints and has discontinued its nationwide toll-free hotline.

In summary, although the ICC has cut its enforcement program resources, it has not adequately determined a strategy for the program in light of the reform legislation. As a result, we found that the ICC has a questionable basis for determining or justifying an appropriate staffing level for the program.

### CONCLUSIONS

We find that five specific issues regarding ICC's enforcement program raise important questions which need to be addressed:

1. Program goals and priorities have not been established by the Commission, and clear and consistent guidance has not been communicated from headquarters to regional staff.
2. At the direction of the Commission, the program is oriented toward responding to complaints rather than initiating compliance surveys and, as a consequence, appears somewhat less effective than it might be.
3. As a result of the complaint-driven system, the Commission's caseload and resources have been concentrated in five violation areas, only one of which overlaps with the list of priority violation areas identified by the House Appropriations Committee.
4. ICC's enforcement program has neither adequately used nor maintained its data in order to clarify how program resources are actually being applied and what results are being achieved.

5. ICC's basis for enforcement staffing levels appears questionable as a result of uncertainties regarding program goals.

We believe the Commission needs to take the following actions to better manage its enforcement program and to develop a sounder basis for its staffing projections:

- Determine the proper role for its enforcement activities as a result of the new legislation and its own policies by (1) identifying appropriate goals for the program and (2) establishing meaningful priorities to assist in allocating resources to accomplish these goals.
- Provide its enforcement staff adequate flexibility to initiate compliance surveys to ensure designated priority areas are addressed.
- Improve the maintenance and use of data to clarify how program resources are actually being applied and what results are being achieved in relation to the program goals and priorities.

#### OPTIONS FOR TRANSFERRING ICC ENFORCEMENT TO OTHER AGENCIES

In identifying options for transferring ICC's enforcement responsibilities to other agencies, we found that although certain ICC violation areas might be enforceable by other agencies or through other legal remedies, there appeared to be drawbacks which could weaken proper enforcement.

There are federal and state agencies engaged in enforcement functions which appear to be related or similar to functions carried out by ICC. We sought to determine whether transfer of ICC enforcement functions to such agencies might be feasible. The major ICC motor carrier enforcement areas we addressed are described in appendix II. Information we developed was based primarily on the views of officials of appropriate federal and state agencies, but their views were not necessarily the official views of the agencies they represented. Information on state activities was based on seven selected states which were not selected so as to be scientifically representative of all states but were selected to provide a national scope.

Our options address the potential transfer of ICC enforcement areas under ICC's present regulatory requirements and not the disposition of its enforcement areas in the event of total deregulation of motor carriers. We considered two general options: (1) transfer of essentially all ICC enforcement areas to the states and (2) transfer of selected ICC enforcement areas to other federal and/or state agencies. We should note that major legislative changes would be necessary to implement either of these options. There may be constitutional problems in considering transfer of ICC enforcement functions to the states which we have not evaluated.

The first option would transfer essentially all of ICC's enforcement areas to state agencies regulating intrastate motor carriers. While these agencies generally have no authority over interstate carriers, they appear to be the agencies whose enforcement activities would most closely resemble ICC's activities.

State officials told us that these agencies generally are in a position to carry out ICC enforcement activities, and, given proper authority and resources, could absorb their activities. We were told that most states have entered into cooperative enforcement agreements with ICC and were already involved in interstate carrier enforcement under state laws requiring state registration of a carrier's ICC operating authority.

However, there appear to be several obstacles to state enforcement of ICC regulations. A major one would be the difficulty in achieving uniform enforcement and the consequent burden on interstate carriers in dealing with 50 different agencies.

Another problem mentioned was the impact of current and future deregulatory actions at both the state and federal level. We were told a number of states have already deregulated intrastate motor carrier activity and have dropped their enforcement activities. Other states have taken various steps toward reducing regulation, which could affect their enforcement requirements. A pending Senate bill (S. 2038) and a recent proposal by DOT would totally deregulate interstate motor carriers and thus would eliminate most federal enforcement requirements.

ICC officials indicated that, because of such drawbacks, state assumption of ICC enforcement functions was the least

attractive option. ICC also questioned whether such a transfer was constitutional.

The other option would be to continue with ICC enforcement in most economic regulatory areas but shift enforcement of some or all of its non-economic enforcement functions to other agencies.

ICC's enforcement activities include the economic regulation of motor carriers relating to the control of entry and rates and other regulations generally aimed at protecting those doing business with carriers--household goods consumers, owner-operators and shippers. ICC also oversees ICC-authorized carrier compliance with federal insurance requirements. Enforcement of ICC's economic regulations requires expertise in motor carrier rate setting and other related activities which other agencies might not have. While recent deregulatory actions have given motor carriers greater freedom and flexibility in their economic operations, they also have increasingly limited carrier immunity from federal antitrust laws. As a result, ICC's antitrust enforcement responsibility has taken on new significance.

According to DOJ officials, ICC's expertise and enforcement capacity are particularly important during the deregulatory transition period to monitor carriers' compliance with the federal antitrust laws. Although both DOJ and FTC have broad antitrust enforcement responsibilities covering interstate commerce in general, we were told that neither has ICC's capacity to carry out ongoing compliance monitoring activities.

On the other hand, ICC's non-economic enforcement functions may be less dependent on motor carrier expertise and therefore more readily enforceable by other agencies or through other legal remedies. Both the FTC and the states conduct broad enforcement activities aimed at protecting consumers from various unfair business practices. Although FTC's authority excludes motor carriers, we were told that with proper authority and resources FTC could assume enforcement of ICC's household goods regulations. However, the FTC and state officials told us that their responsibilities cover a broad range of consumer activities, and enforcement of household goods matters would normally be subject to their overall enforcement priorities.



In addition, we were told that FTC's and the states' enforcement activities were oriented primarily towards addressing broader consumer problems and issues rather than responding to individual consumer complaints. Therefore, to obtain assistance with problems, consumers might have to resort to private legal action against carriers, under appropriate state laws.

In the area of assisting owner-operators and shipping firms, there appeared to be no appropriate federal or state agency to assume enforcement responsibilities. Both FTC and state consumer protection agencies indicated that their activities were primarily concerned with consumers as a group, and therefore protection of owner-operators and shipping firms appears to go beyond their basic mission. We were told that owner-operators and such shippers would probably need to take private legal action under appropriate state laws to obtain assistance with problems.

Under ICC laws, weight bumping and lumping violations can be criminal acts, subject to general enforcement by DOJ as well as ICC. We were told, however, that DOJ's enforcement role was limited primarily to prosecution of federal violations, in accordance with its prosecutorial priorities and discretion, and that DOJ does not have the capacity to perform monitoring activities to investigate possible violations of ICC laws and regulations.

Again we were told that weight bumping victims could probably take private legal action under appropriate state laws. Also, we were told that lumping violations might be enforceable under state extortion or other laws, but enforcement would generally be subject to local enforcement priorities and discretion.

ICC's enforcement of carrier insurance requirements could be picked up by the Bureau of Motor Carrier Safety in the Department of Transportation, which already has broad responsibility for prescribing and enforcing both federal motor carrier safety and insurance requirements. Although the Bureau may be in a position to assume this ICC function, it is not equipped to ensure that all ICC carriers meet federal insurance requirements in the same manner ICC oversees compliance. Unlike ICC, the Bureau does not require motor carriers to submit evidence of

insurance. We were told that a recent Bureau study indicated that such ongoing insurance surveillance was not warranted.

In summary, we found that, while there are available alternatives to ICC enforcement, it appears that the resulting enforcement may not be satisfactory, and that ICC's enforcement expertise and capacity may offer a better potential for proper enforcement. Also, it may not be prudent to consider dispersing ICC's enforcement functions while its areas of enforcement activity are changing as a result of further legislative and administrative deregulatory actions currently pending. As a result, it may be preferable to defer any transfer of ICC's major enforcement responsibilities until the status of motor carrier legislation and regulation is more stabilized.

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August 3, 1983

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Honorable Charles A. Bowsher  
 Comptroller General of the United States  
 U.S. General Accounting Office  
 Washington, D.C.

Dear Mr. Bowsher:

As you know, the Interstate Commerce Commission has had responsibility to enforce federal statutes governing motor carrier, railroad, and other transportation related industries since 1887. During the past several years, with passage of landmark deregulation legislation, we have witnessed probably the most significant restructuring of ICC responsibilities since that time.

One of the areas the Transportation Appropriations Subcommittee has been concerned with is how deregulation has affected the Commission's enforcement responsibilities. Although the deregulation act changed the Commission's enforcement role, they did not eliminate it.

In our view, the Commission appears to be floundering with the question of how to restructure and manage its enforcement program in light of deregulation. During recent appropriation hearings, the ICC was unable to satisfactorily explain its enforcement objectives and priorities, or to give us adequate assurances that its enforcement efforts are having a meaningful impact on uncovering and deterring serious unlawful activities. This makes it difficult for the Subcommittee to justify a funding level for this activity and gives us concern that federal statutes are not being adequately enforced.

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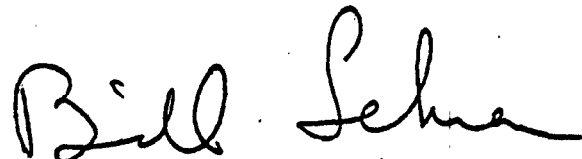
Honorable Charles A. Bowshe

The Subcommittee requests the General Accounting Office to evaluate the ICC's effectiveness in carrying out its enforcement program. Specifically, we request the GAO to determine which activities receive enforcement priority, the standards ICC uses to measure its effectiveness, how those standards are established, and the procedures used to allocate its enforcement resources to meet its goals. We would also like GAO to assess whether the ICC's enforcement priorities are consistent with what the Congress had intended, and whether the ICC enforcement program has been effective in enforcing those priorities. The emphasis of your efforts should be on motor carrier enforcement activities and should compare ICC management practices with those of federal law enforcement organizations with similar responsibilities.

I also request that you identify and assess the feasibility of other options available to the Congress for ensuring proper enforcement of federal statutes in this area. Such options could include transferring ICC enforcement responsibilities to other law enforcement organizations, such as the FBI, state regulatory agencies, and local police.

I would like your staff to brief the Subcommittee on the results of your work by mid-December. At that time, agreement will be reached on additional reporting needs. The Subcommittee looks forward to working with your office on this important and timely issue.

Sincerely,



William Lehman  
Chairman  
Subcommittee on Transportation  
Appropriations

## ICC MAJOR ENFORCEMENT AREAS

### LOSS AND DAMAGE, OVERCHARGES, AND DUPLICATE PAYMENTS, ETC.

Transportation of property sometimes results in loss and damage to property, overcharges or duplicate payments for such transportation, and nonremittance of C.O.D. collections. The ICC laws and regulations require carriers to establish procedures for handling claims for losses and damages, and for payments of overcharges, duplicate payments and C.O.D. collections, and that such transactions be processed and settled within specified period.

### HOUSEHOLD GOODS ABUSES

Shippers of household goods are often victims of abuses by carriers relating to improper charges, untimely delivery, poor service, etc. ICC's regulations impose various requirements on carriers related to weighing of goods, complaint handling, delivery dates, notifications of delivery dates, documentation, etc. ICC regulations also impose conditions on carriers who choose to make binding cost estimates. Under ICC laws, civil penalties may be imposed on carriers for violating household goods regulations, and for falsifying documents or charging for unnecessary services or services not performed.

### WEIGHT-BUMPING

Some carriers, using various techniques, falsely inflate the weight of goods moved in order to increase moving charges. This practice can be a criminal act under ICC law, subject to criminal penalties.

### OWNER-OPERATORS

Independent truckers (owner-operators), not regulated by ICC, often lease their trucks and operators to carriers for transporting property and engage in other arrangements. To protect owner-operators against abuses by carriers, ICC laws and regulations require, among other things, that leases specify carriers' responsibility relating to such things as timely reimbursement of compensations, costs incurred, insurance, handling of escrow funds, etc.

### LUMPING

Transported property is generally loaded/unloaded under mutual arrangements between the carrier and shipper. In some cases, independent truckers, who prefer to load/unload themselves, are forced by shippers, labor groups, and others, often under threat of violence, to accept and pay for loading/unloading services even when not performed (referred to as lumping). This practice can be a criminal act under ICC laws and is subject to both civil and criminal penalties.

### UNAUTHORIZED TRANSPORTATION; INSURANCE REQUIREMENTS

Under ICC laws, interstate carriers of passengers and property are required to obtain authority from ICC to engage in transportation. In addition, such carriers are required to maintain certain levels of passenger, property, bodily injury and public liability insurance.

### RATE INTEGRITY AND KICKBACKS

Although under recent deregulation measures carriers were given greater flexibility to set rates, ICC laws still prohibit discounts, rebates, concessions and rate discrimination, which in effect result in charging certain customers rates different from the ICC approved tariff, regardless of the impact on competition. Also prohibited are secret payments made by carriers to employees of shippers, generally in return for selecting the carrier to transport the shipper's property (kickbacks). Collective ratemaking, when approved by ICC is exempt from anti-trust laws. Under ICC laws, such deviations from approved tariffs are subject to civil and criminal penalties.

### MERGERS, CONSOLIDATIONS, POOLING

Under ICC laws, carriers are required to obtain ICC approval to merge or consolidate with or acquire property or control of other carriers. ICC approval is also required where carriers agree to pool or divide traffic. Such transactions, when approved by ICC, are exempt from state authority and anti-trust laws. ICC generally takes enforcement action when it appears a carrier has gained, or is attempting to gain control of another carrier without ICC approval.

### ANTITRUST

Under antitrust laws, ICC has authority to enforce anti-trust prohibitions against carrier activities resulting in restraint of trade--specifically price discrimination, boycotting other carrier services, acquiring controlling stock in other carriers and purchases between carriers with interlocking relationships. These laws call for civil and criminal penalties for violations. ICC may issue cease and desist orders to achieve compliance. ICC also has responsibilities to prohibit antitrust practices in general.

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