

RECEIVED
JUL 22 2005

LAW OFFICE OF JOHN R. BAGILEO
GEORGETOWN PLACE
SUITE 300
1101 30TH STREET, N.W.
WASHINGTON, D.C. 20007

BY:

John R. Bagileo

TELEPHONE: (202) 944-3736
FACSIMILE: (202) 944-8611
E-MAIL: jrb@bagileolaw.com

July 22, 2005

U.S. FIRST CLASS MAIL

Andrew J. Heimert
Executive Director General Counsel
Antitrust Modernization Commission
1120 G. Street, N.W.
Suite 810
Washington, D.C. 20005

Re: AMC Request for Comments - Immunities and Exemptions

Dear Mr. Heimert,

The National Motor Freight Traffic Association, Inc. (NMFTA), through its National Classification Committee (NCC), an autonomous standing committee, collectively establishes the National Motor Freight Classification (NMFC). That activity is conducted pursuant to an agreement approved by the Surface Transportation Board in accord with the requirements provided in Section 13703(a) of 49 U.S.C., and is vested with antitrust immunity.

Freight classification is the process by which classes are assigned to the myriad commodities transported by motor carriers in interstate commerce. That assignment is based on the transportability of an article in the motor carrier's vehicle, predicated on the density, loadability, stowability, and liability characteristics of the commodity.

Congress has long recognized the value of the freight classification to the entire transportation community. In the legislative history of the Motor Carrier Act of 1980, it was stated that:

...[T]he Committee is of the view that the commodity classification system currently in place is a useful tool for shippers, receivers and transporters of regulated freight so all "know what they are talking about" thereby contributing to an efficient and economical transportation system (H.R. Rept No. 96-1069, 96th Cong., 2nd sess., p.28 (1980).)

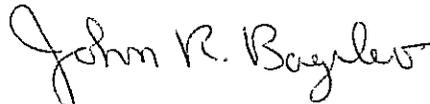
Although the thrust of the AMC's May 19, 2005 Federal Register Notice was that it was the intent of the Commission to focus on the first eight items on the list of immunities and exemptions, items a through h, it appears that counsel for the National Small Shipments Traffic Conference, Inc. (NASSTRAC) submitted comments regarding item t, the Motor transportation exemption, 49 U.S.C. §13703. That statement contains a number of allegations which NMFTA submits are incorrect.

1. The procedures and standards under which classifications are assigned "are not adopted by the NCC members themselves" as NASSTRAC asserts, but have been reviewed and approved by the Surface Transportation Board STB and its predecessor the former Interstate Commerce Commission (ICC).
2. The procedures under which the classification process is conducted are set forth in the agreement approved by the STB, and have been reviewed, prescribed and/or modified by that agency and the ICC.

3. The standards by which classifications are assigned have been established by the STB and the ICC in a long line of agency proceedings.
4. Other than certain institutional objections, "many shippers" have not voiced their objection to the National Motor Freight Classification. Not a single shipper is on record in the review now pending before the STB of the NCC's Section 13703 agreement. Indeed, over the years shippers shipper representatives, and former ICC Commissioners, among others have voiced strong support for the continuation of the collective freight classification process.

NMFTA would welcome an opportunity to more fully present its views to the Commission should it solicit comments or conduct a hearing on item t, the Motor Transportation exemption, 49 U.S.C§13703. Please do not hesitate to contact counsel should the Commission have any questions regarding NMFTA, the NCC, or the classification in the interim.

Respectfully Submitted,



John R. Bagileo
Counsel for the National Motor
Freight Traffic Association, Inc. and
the National Classification
Committee

cc: William W. Pugh
Executive Director
National Motor Freight
Traffic Association, Inc.