SAFETY IS INTERMODAL

ON MAY 13, the National Transportation Safety Board found itself in the media spotlight during three days of public hearings on the Feb. 12, 2009, crash of a Continental Express flight destined for Buffalo, N.Y. Acting NTSB Chairman Mark Rosenker accused the flight’s operator, Colgan Air, of “winking and nodding” about practices that clearly violated established safety regulations.

Matthew Wald, The New York Times aviation reporter, noted Colgan’s testimony “varied between protesting its blamelessness and asking for help.” This was especially true on the issue of fatigue. On the one hand, Colgan said pilots were professionals and should take advantage of the time off given to get proper rest. On the other hand, the company said it was almost impossible to know when pilots violated the rule not to commute to work (on other airlines) on the day a duty shift begins.

This accident is just the latest manifestation of how competitive pressures have affected airline safety. We no longer operate in a regulated environment where a single entity produces the entire service — or even manufactures all the components. Globalization and outsourcing have grown in the wake of deregulation. While the confluence of these factors has enabled a steady decline in pricing for transportation customers over the past 30 years, other expenses are not always obvious.

As the NTSB hearing reminds us, deregulation does not imply a complete lack of government oversight. Fritz Kahn, the former Civil Aeronautics Board chief who was the architect of airline deregulation in the 1970s, denied responsibility for the ensuing network of “fortress hubs” by pointing out he never envisioned antitrust enforcement would cease.

Antitrust oversight is just one area that has suffered as we have allowed economic deregulation to stray into areas that were never meant to operate without constraints.

In the past year, we have seen problems develop with the oversight of food and toy safety in an outsourced, global economy. The problem has not been a lack of regulation but a lack of enforcement. In the Colgan case, it appears regulations implemented after past accidents were not followed. For example, Colgan failed to require pilots to waive their privacy rights so that the airline could find out about previous safety failures with previous employers.

To complicate matters, the federal government approaches safety in the same way it does policy — in a disjointed, modally distinct manner. Although fatigue is uniform, different modes regulate hours of service differently. Meanwhile, airlines are supposed to know if a pilot failed a check ride with a previous employer, but truck lines can’t find out how many drug tests a driver flunked with previous carriers.

Although there is a clear need for government’s role, carriers must exercise their primary responsibility to operate safely. And practices occur across a wide spectrum. Some companies genuinely believe in safety, but others consider it a bother. While one company may spend considerable time and money on a safety program, another may unveil an initiative involving safety breakfasts — with an open bar.

As difficult as it is to effectively oversee individual segments, intermodal transportation, with its confluence of multiple modes, practices and participants, poses a unique challenge. After a decade of initiatives led primarily by intermodal truckers, the Federal Motor Carrier Safety Administration recently issued a final rule on intermodal chassis maintenance and oversight mandated by the 2005 federal highway bill.

All acknowledge that the road-ability rules will produce dramatic changes in industry business practices. However, the full impact of these new rules is just beginning to show, especially for peripheral players who are not actual carriers. Leasing companies, equipment pools, repair vendors and terminal operators will all need to carefully review their new mandates.

Roadability will require the intermodal industry to change the “way we have always done it.” This transcends the requirements imposed by the government. It means business processes must be examined for usefulness, and potentially altered. For example, the Uniform Intermodal Interchange Agreement, an industry standard for decades, needs to revisit its model to reflect new participants, and review or redefine their underlying responsibilities.

Simultaneous with all the challenges of safety and industry transition, we also face surface transportation reauthorization this year. Some believe the dormant issues of longer and heavier trucks will become part of the deliberation. In the past, when this occurred, all sides sought to enlist “safety” on their side.

A resurrection of an intermodal feud would be a disservice to all. In today’s world we need to have comprehensive and robust safety programs that enhance the nation’s transportation system across all modes. JOC

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