WILLFUL IGNORANCE

INSIDE THE BELTWAY, transportation and logistics rarely appear to be priority considerations affecting Cabinet appointments or congressional committee assignments. Although supply chain issues impact foreign relations, national and homeland security and finance, they simply don’t garner the same attention.

As a result, the U.S. government often misunderstands the freight transportation industry and the pundits who analyze and comment on it. In a recent commentary, Washington Post columnist George Will cited positive train control as an example of how Congress rides roughshod over industries by imposing wildly unreasonable regulations.

Will quoted Obama White House economist Cass Sunstein’s acknowledgement that PTC’s benefits might not justify its expense. He claimed (without referencing sources) that “the cost of regulation ($1.806 trillion) is now more than the federal budget.” It would appear the railroads got a bargain.

It’s unfortunate Will didn’t take this opportunity to discuss the role of regulation in a free-market society. Regulation isn’t a homogenous monolithic force. In their discussions of regulation, economists frequently distinguish between economic regulation, which directs how markets perform by setting prices and governing market entry and exit; and social regulation, which mandates correction of market externalities such as discrimination, health, safety and the environment.

We’ve seen in the freight transportation industry that these trends are often countervailing. In the last 40 years, agencies such as the Environmental Protection Agency and the Food and Drug Administration have increased social regulation, while economic regulation has decreased. (Consider the “sunset” of the Interstate Commerce Commission and Civil Aeronautics Board.)

In some cases, the results are offsetting. The fatal crash of the February 2009 Continental Express flight outside Buffalo was clearly attributable to pilot error, which falls under social regulation. The first officer, however, earned less than $20,000 because of cost pressures driven by economic deregulation.

Will recognizes that the PTC mandate arose because of a September 2008 fatal accident in California in which a texting-distracted engineer failed to stop a freight train. Will also claimed the size and strength of the California congressional delegation was sufficient to get legislation passed, and compares this to a fatal train accident in Graniteville, S.C., that resulted in no legislation.

This is a faulty comparison on many levels. The National Transportation Safety Board, in its review of the South Carolina accident, identified improperly lined switches and the vulnerability of railroad tank cars carrying hazardous materials as the derailment causes, and it recommended new practices to prevent recurrences. In contrast, there is general agreement that PTC would have prevented the California collision. The issue is whether the envisioned expense is worth the cost.

Will also ignores California’s pre-eminent national role. Would he have preferred that California pass state legislation mandating PTC? Other states with high passenger densities (New York, Pennsylvania and Illinois, for example) might have followed with their own, distinct requirements. This potential regulatory Tower of Babel was obviated by appropriate federal pre-emption. (Consider the higher pump prices arising from 20-plus “summer blends” of locally mandated gasoline recipes designed to reduce smog.)

It’s worth comparing the U.S. Rail Safety Improvement Act of 2008 (which mandated PTC) to the Oil Pollution Act of 1990. The latter arose from the Exxon Valdez 1989 oil spill and mandated double-hull tankers to prevent accident reoccurrence — even though the U.S. Coast Guard determined that a double hull wouldn’t have prevented the spill. (It did, however, determine that the amount spilled would have been reduced by 60 percent.)

Prior to the RSIA’s passage, PTC was under consideration for more than 20 years. The NTSB consistently classified it on its “Most Wanted List of Transportation Safety Improvements.” Many railroads already had considered the technology. Union Pacific (Precision Train Control) and Burlington Northern (Advanced Railroad Electronics System) were primarily capacity-enhancement initiatives. CSX Transportation developed Communications Based Train Management after a fatal accident close to Washington, D.C. BNSF expanded on CBTM’s scope, perhaps as some believe, as a technology to safely support one-person train crews.

Finally, Will neglects to mention that the railroad industry didn’t object to the PTC mandate. In fact, its industry group supported the legislation. Given the industry’s significant strength on Capitol Hill, it’s doubtful the legislation would have passed without their acquiescence.

Will suggests that government overreach has an adverse impact on the economy. An industry other than railroads might serve as a better example to make his case. Railroads historically have embraced the social regulation issues of safety and environment as competitive advantages, and the industry considers itself the beneficiary of congressional deregulation — not the victim. joc

Ted Prince is principal, T. Prince & Associates. Contact him at ted@tpassociatelcc.com.