The Case for Port Antitrust Immunity

• Disclaimer

• Goals:
  – Healthy Competition
  – Discussion of mutual issues relating to practices or pricing
  – Common practices – where possible –
    • drives efficiencies

• Not all discussions require antitrust immunity
Pricing in a Perfect World

![Graph showing supply and demand curves](image)

- **Supply** curve:
  - Points: (40, $2), (80, $3), (120, $4)

- **Demand** curve:
  - Points: (20, $1), (60, $2)

- **Axes**:
  - **Price**: $1, $2, $3, $4
  - **Quantity**: 20, 40, 60, 80, 100, 120
Pricing in the Port Industry

• What happens if:
  – demand increases and supply remains stagnant?
  – demand increases but contractual commitments prohibit price adjustments?
  – some Ports receive tax subsidies, state incentives?
  – the cost to produce the supply increases?
What is our role?

- How do we ensure that we are receiving reasonable compensation?
  - Covers costs – provide a positive return
  - Facilities occupied/Vacancy rates
  - Competitive
  - Regional benefits, jobs, economic impact
  - Other??
Process

• Agreement(s) with the Federal Maritime Commission (FMC)
  – CAPA – since 1940
  – NWMTA

• Minutes of meetings submitted to FMC

• Independent Action
  – Inform members prior to action
Value of Antitrust Immunity

- Allows dialogue around practices and pricing which impacts competitiveness
- Provides a tool for ensuring reasonable returns for use of facilities
- Allows opportunities to support goods movement/national trade issues
- Allows Ports to be proactive in dealing with emerging issues in a systematic manner
Types of Issues

• Pricing – increases to tariff rates
• Practices –
  – Free Time
  – Pier Pass program
• Labor
  – Allocation
  – Training
  – Rules
• Security
  – Legislation
  – Fees
Conclusion

• Antitrust immunity is a valuable tool which should be used to:
  – Ensure the financial stability of Ports in the U.S.
  – Establish common practices among ports
  – Generate operational efficiencies