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October 5, 2004

FMCSA Administrator Annette M. Sandberg
c/o Docket Management Facility
U.S. Department of Transportation
400 Seventh Street, SW., Room PL-401,
Washington, DC 20590-0001

Re: Docket No. FMCSA-2004-18898 - 21
Comprehensive Safety Analysis 2010 Initiative

2004 OCT -1 P 3:58
UNIT OF TRANSPORTATION
DOCKET

Dear Administrator Sandberg:

The FMCSA registered carrier and intermediary subsidiaries of Landstar System, Inc. (referred to here as "Landstar") welcome the opportunity to offer the following preliminary comments on FMCSA's "Comprehensive Safety Analysis 2010 Initiative" announced in the August 20, 2004 *Federal Register*. Landstar commends FMCSA for initiating this wide ranging evaluation of motor carrier safety regulation.

The Landstar motor carriers and multi-modal entities constitute one of the Nation's largest transportation organizations with total annual revenue for 2003 in excess of \$1.5 billion. Landstar describes itself and is known by others in the transportation community as a "safety-first" transportation provider. It is now and has for many years been fully committed to the goal of improving highway safety. Where appropriate, Landstar has partnered with FMCSA to promote particular safety programs, such as "Click It or Ticket."

As a responsible member of the transportation community, Landstar is very much interested in having in place a system which does all it can to promote highway safety among all commercial entities, which rewards those carriers which achieve high levels of safety, and which treats all entities fairly. The analysis which FMCSA has proposed in its notice is clearly a long-term undertaking. We are submitting these comments now to reflect Landstar's interest in this topic and to support of FMCSA in its efforts. FMCSA's notice requests comments on any number of broad issues. Rather than try to comment comprehensively at this early stage of this important undertaking, Landstar is here setting out some preliminary thoughts in an effort to provide FMCSA with some views which may perhaps differ from those it has already considered. As FMCSA moves forward in its analysis and presents more specific proposals, we will continue to offer our further comments as appropriate.

In today's world of transportation, safety is of concern to many, not just to FMCSA regulated entities. Landstar understands FMCSA is constrained by limited resources. The agency should keep in mind that it is not alone in its focus on safety; there are many others in the industry interested in and to some extent who "regulate" safety. Perhaps in its analysis FMCSA can

focus thinking on a synergistic approach to safety, rather than shouldering the entire safety burden.

For example, although several of the Landstar entities are FMCSA-registered motor carriers obligated to comply with FMCSRs by reason of their "carrier" status, they also hold broker registration. In their broker capacity, they arrange for transportation which is actually performed by other, non-Landstar affiliated motor carriers. As a part of its own operating strategy, Landstar has established its own internal procedures to "qualify" for safety purposes those carriers which it hires when arranging transportation. In part, Landstar relies on FMCSA's safety ratings, but for "conditional" and "unrated" carriers, Landstar undertakes its own independent investigation to identify what it believes a carrier's propensity to operate safely and comply with FMCSA rules. In some instances, this may even involve a visit by Landstar personnel to a carrier's location to judge its safety qualifications. We believe other responsible organizations in the industry follow somewhat similar practices.

Similarly, from discussions with insurance companies which write auto liability coverage - including the mandatory minimum levels required by FMCSA rules - we believe that insurers active in the trucking market also make their own independent efforts to qualify a carrier's safety propensity in terms of rating the risk posed by each individual carrier. That rating is reflected to some extent in premium levels.

We believe to a lesser extent that some larger shippers also seek to qualify a carrier as to safety through some sort of investigation of carrier practices, beyond just requesting evidence of a "satisfactory" safety rating.

While each of these entities directly or indirectly involved in actual transportation may look at "safety" according to slightly different criteria, their end goal is the same: identifying those carriers which by readily observable criteria are reasonably likely to perform safely and those which aren't. They do this in part because of their interest in being responsible corporate citizens and in part because "safety" saves dollars, whether in insurance premiums, claims, costs associated with workers, and damage to business caused by poor safety.

Statistics released periodically - as well as what we believe is "conventional wisdom" within the carrier community - suggest the number of motor carriers is vast and the likelihood of an FMCSA safety compliance review is slim. For the most part (judging by enforcement decisions released by FMCSA on the DMS site), monetary penalties are generally low, and often imposed only after proceedings which in some cases last many years.

To address the problem of too many carriers and too few enforcement personnel and procedural limitations in bringing enforcement cases promptly to an end, it may be that FMCSA will need to explore ways in which it can "partner" with others in the industry also committed to safety to work together to multiply its enforcement efforts.

FMCSA operates under the statutory directive of the Motor Carrier Safety Improvement Act that "safety is the highest priority," but by recognizing that others in the industry are also interested in safety - even if only for their own pecuniary benefit - FMCSA may be able to

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marshal the safety interests of others effectively to multiply its own resources. This may be a concept which has not yet received serious attention - it was not mentioned in the *Federal Register* notice - but it may be worth exploring.

To that end, even though it is important that all rules apply to all carriers equally, perhaps FMCSA needs to consider that not all carriers are the same. Landstar devotes substantial time, effort, and money to safety-related programs, including not only everyday compliance, but also a complete management system which we believe is proactive in addressing safety concerns and practices of today and those which will be important tomorrow. We cannot speak for others, but we believe many other larger carriers also have reasonably sophisticated safety programs. We do believe that a sophisticated safety management program coupled with strong compliance efforts using modern - and expensive - electronic data systems makes Landstar generally a safer organization than are many smaller carriers, often operating on a shoestring budget, which simply don't have the same resources available for safety. We believe FMCSA in its future safety planning should take into account the vastly different safety propensities of many larger carriers, once those carriers have demonstrated their financial and management commitment to safety. Perhaps it can design future policies taking these differences into account.

While Landstar understands FMCSA is constrained by limited resources, it may still be appropriate to expand its efforts into some new areas. In particular, we suggest FMCSA consider enhancing safety oversight of individual CDL operators. Landstar's internal policies include a procedure to undertake a careful evaluation of the motor vehicle driving records and history of potential new Landstar operators, and feedback we receive suggests other carriers are focusing on driver history as well, since such history is a good predictor of future safety performance. Some recent FMCSA actions relating to prior carriers providing driver history to new employers is a step in that direction, but perhaps greater emphasis on individual operator history would make it easier to weed out the unsafe drivers.

We hope these preliminary comments are helpful to FMCSA as it begins its analysis. We will watch closely for future FMCSA announcements in this area and will comment further when more specific proposals are placed on the table.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis P. Owen". The signature is written in a cursive style and is positioned to the right of the word "Sincerely,".

Dennis P. Owen
Vice President and General Counsel

DPO/kap