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THE WALL STREET JOURNAL

WSJ.com

JULY 20, 2009

FedEx and UPS Clash Over Legislation

Accusations of Bailout and Disinformation Fly as Bill Threatens to Facilitate FedEx Unionization

By [ALEX ROTH](#)

FedEx Corp. and **United Parcel Service Inc.** are intensifying a dispute over proposed legislation that could upset the balance of power in the package-delivery business by making it easier to unionize FedEx.

UPS is hoping Democratic control of Congress and the White House will enable it to win support for a bill that would place some of FedEx's drivers and other employees under the National Labor Relations Act, the same law that governs UPS. FedEx drivers are currently governed by a separate federal law that makes unionizing more difficult.

The House passed a version of the bill, called the FAA Reauthorization Act, in May. But a Senate version of that same bill doesn't contain a provision that would change FedEx's current labor status.

The chief executives of both companies have met with senators in recent months and have doubled or tripled their lobbying expenditures over the past year and a half. In June, FedEx unveiled a Web site criticizing UPS, whose workers are organized by the Teamsters, for its support of the bill. FedEx also has said the bill would put it at a competitive disadvantage and, as a result, has threatened to postpone buying billions of dollars in new planes from **Boeing Co.** if the bill becomes law.

The political calculus doesn't divide neatly along party lines. Some Republicans who normally might not support Teamster-backed bills hail from states where Atlanta-based UPS has a big presence, while some union-friendly Democrats are from states where FedEx, of Memphis, Tenn., has large facilities that could be hurt by the legislation.

The latest twist came last week, when David Keene, president of the American Conservative Union, joined several other conservative groups in signing a letter questioning FedEx's use of "bailout" to describe what UPS is seeking. In a video on FedEx's Web site, brownbailout.com, an actor alleges that UPS's opposition to the bill is tantamount to a demand for a government rescue because it would put a large competitor at a disadvantage. UPS argues that it wants the government to level the playing field.

The July 15 letter signed by Mr. Keene and several other prominent conservatives noted that "FedEx's campaign is designed to capitalize on public sentiment that is angry that hundreds of billions of dollars have been wasted in the name of bailouts. But since UPS is not seeking even

one dime of taxpayer money, the campaign is essentially a disinformation campaign and should be stopped."

In response to that letter, FedEx gave the Web site Politico a letter it received, dated June 30 and signed by Dennis Whitfield, the ACU's executive vice president. The letter said Mr. Keene's organization had offered to produce "op-eds and articles written by ACU's Chairman David Keene and/or other members of ACU's board of directors" in support of FedEx's position. In exchange, the group wanted FedEx to pay potentially several million dollars for the group's grass-roots efforts.

The ACU offered to "contact over 150,000 people per state multiple times at a cost of \$1.39 per name or \$2,147,550 to implement the entire program....If we incorporate the targeted, Senator-personalized radio effort into the plan, you can figure an additional \$125,000 on average, per state."

FedEx declined the offer, and company spokesman Maury Lane accused the group of shopping its views to the highest bidder, saying the ACU's actions "defy the principles of integrity. To say that we were surprised would be an understatement."

The conservative group released its own statement saying Mr. Keene's signature on the pro-UPS letter was "a personal decision on his part and he was not representing ACU at the time." The group said Mr. Keene hadn't received permission to use its logo on the July 15 letter and the group didn't know the letter was being sent.

The group said it continues to support FedEx's position and that its political views "have never been for sale." A spokesman declined to make Mr. Keene available for comment or to discuss the contents of the letter.

UPS spokesman Malcolm Berkely said UPS didn't pay Mr. Keene or anyone else whose name appears on the July 15 letter in return for their signature. He did acknowledge that UPS's foundation has given annual grants to Americans for Tax Reform, whose president, Grover Norquist, also signed the pro-UPS letter.

Mr. Berkely said UPS's foundation supports the organization "because of their effort to educate consumers and taxpayers about the cost of taxation, regulation and litigation." A spokesman for Americans for Tax Reform didn't respond to an email question about its financial relationship with UPS.

FedEx, the No. 2 delivery company behind UPS, worries that a Teamster-organized work force would eliminate a key competitive advantage. In past contract negotiations between the Teamsters and UPS, FedEx has played up the issue of potential "industry disruption" in attempting to capture business from some UPS customers.

In 2008, UPS more than doubled its lobbying expenditures to \$5.2 million, according to Opensecrets.org, which tracks federal lobbying spending. FedEx last year spent \$9.3 million on lobbying, or nearly triple its annual average in recent years, according to the Web site.

Both UPS Chairman and Chief Executive Scott Davis and Fred Smith, FedEx's chairman and CEO, have paid visits to Sen. Mark Begich of Alaska and Sen. Johnny Isakson of Georgia, among

other legislators, to press their cases, according to people familiar with the matter. Mr. Begich is a Democrat, but his state is home to a major FedEx sorting hub. Mr. Isakson is a Republican, but his state is also home to UPS headquarters.

Mr. Berkely confirmed that Mr. Davis "has made himself available to discuss this issue with members of Congress when available." FedEx also has confirmed the meetings.

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