

U. S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20590

STATEMENT OF ROBERT H. BINDER, ASSISTANT SECRETARY FOR POLICY, PLANS AND INTERNATIONAL AFFAIRS, U. S. DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE OF THE SENATE COMMITTEE ON THE JUDICIARY ON CHARTER AIR FARES, THURSDAY, NOVEMBER 7, 1974.

Mr. Chairman and Members of the Subcommittee:

As a general principle, DOT believes that rates for transportation services should be at compensatory levels. Since 1972, we have urged the Congress to prohibit domestic surface transportation rates from being below cost. Acceptance of this principle was signalled by the Report of the House Interstate and Foreign Commerce Committee last month on the Surface Transportation Act, H.R. 5385. We also believe that rates for scheduled and charter air services should be compensatory.

DOT further believes that as a general rule, rates should be set in a competitive environment by carriers acting unilaterally. We have espoused such principles in domestic transportation and urged increased price flexibility for surface transportation. We also have asked the Civil Aeronautics Board to establish a cost-oriented zone of reasonableness within which domestic air carrier rates may shift up and down free from Board regulation as to "reasonableness."

International air transportation, however, has reflected different policy principles. Since World War II, this country has repeatedly endorsed the

concept of permitting the International Air Transportation Association to establish scheduled rates for air transportation between the United States and various foreign countries. Any agreements on rates among IATA carriers are, of course, subject to scrutiny by the Civil Aeronautics Board before they are permitted to become effective. Agreements adverse to the public interest are disapproved. The use of IATA ratemaking was endorsed by the President's 1970 Statement of International Air Transportation Policy. Charter rates, on the other hand, have not been incorporated in IATA agreements but have been reflected in individual carrier tariffs. This practice, too, was endorsed in the 1970 Policy Statement.

Prior to international air fare legislation in 1972 (P. L. 92-259), the Civil Aeronautics Board had no authority to reject or to suspend non-compensatory international air rates: scheduled service or charter. Its only authority was to disapprove an IATA scheduled fare agreement.

The international air fare legislation did, however, grant the Board authority to suspend and reject tariffs that are non-compensatory, any such decision being subject to the veto of the President. Since 1972, the Board has acted to suspend scheduled passenger rates that appear to be non-compensatory, but to date, the Board has not yet exercised its authority to suspend or reject any passenger charter rates.

In January 1973, DOT urged the CAB to undertake an investigation regarding scheduled and charter air fares and costs on the North Atlantic. The Summary in our filing at the CAB shows what our concerns were at that time:

"The Department of Transportation has several objectives: We are anxious to encourage the availability of low-cost air transportation for the traveling public. We are anxious to support the simplification of the North Atlantic air fare structure. We want to avoid what might be considered predatory competitive practices, particularly the charging of non-compensatory rates by scheduled airlines in competition with charter services. We also want to prevent the charging of charter rates that are not compensatory. And we want to encourage the CAB to hold an expedited investigation into the level and structure of air fares across the North Atlantic, so as to influence the fare structure that is adopted by the carriers for use during the winter season of 1973 and thereafter." (Complaint of the DOT in Docket 25101, filed January 9, 1973, at page 2.)

I have appended to my testimony a description of the IATA carriers' profitability across the North Atlantic from 1968 to this year. It shows that 1970 was barely a break-even year for operating profits, and every year since has seen increasing operating losses. 1973 saw losses of \$130 million; this year the loss has threatened to reach \$300 million.

Another appendix to my testimony shows a basis of our concern. In 1973, two major U. S. supplementals posted operating losses for transatlantic operations. The pattern worsened for the year ended March 1974,

where four of the five major supplemental carriers showed losses exceeding \$25 million, a fourfold increase over 1972 losses. In addition, in 1972 both American Flyers and Universal went out of business. More recently, two of the five supplemental carriers serving the North Atlantic have filed for merger approval, while two others have explored the possibility of merger.

Of particular relevance to your inquiry today, we asked the Board, in January 1973, "to suspend and investigate any charter fare that is below a cost-based minimum" (page 3). The Board did not act to suspend any charter rates in 1973. Instead, the Board proposed in September 1973, a rulemaking to declare as prima facie unjust and unreasonable, charter rates which fell below certain minimums, and to state the Board's intention to suspend such rates. DOT supported this concept proposed by the Board which we understood to be based on the policy that charter rates should be compensatory. However, we urged a hearing to collect the necessary cost evidence and to take testimony regarding appropriate charter pricing policies.

As the Board was considering these issues, the carriers who operate charter services sought authority from the Board to discuss and agree on minimum charter rates--any such agreement subject to CAB approval. The Board gave the carriers such authority, but the carriers failed to reach agreement on such minimum rates at various meetings held over a period

of many months. One of the carrier meetings at which minimum charter rates were discussed was held last month at the Department of Transportation at the invitation of the Department. Several weeks later, the CAB issued their current guidelines on minimum charter fare levels. (CAB Regulation PS-57, issued October 18, 1974).

During the past several years, there also have been discussions between the U.S. and foreign governments about the level of charter rates across the North Atlantic, and several European governments have acted to establish minimum levels of rates based on their view of compensatory rate levels.

DOT is presently studying the Board's charter rate guidelines. While we endorse the principle that charter rates should be compensatory, and that some regulatory intervention by the CAB appeared to be needed at this juncture to implement that principle, DOT has problems with significant aspects of the guidelines that the Board has issued. For example, we are troubled that the guidelines adopted by the Board appear to be in part demand based, rather than cost based, since they reflect seasonality factors. The Board's decision to have only one equipment-size rate break instead of the three that the carriers had identified may not reflect the differences in equipment efficiency. We are also reviewing the Board's definition of the costs which the guidelines are supposed to cover. We intend to discuss our analyses of these guidelines with other interested elements of the Executive Branch.

DOT intends to watch closely the impact of the Board's minimum rate guidelines, and we intend to keep the issue of minimum charter rates under constant review. While we do not endorse the concept of the Board's established minimum charter rates as a part of our long-term aviation policy, in the short run we see a need for this interim measure to avoid destructive pricing practices. In this regard it should be noted that the guidelines apply only in calendar year '75, and only to the North Atlantic. In addition, by the terms of the guidelines, carriers may file rates below the guidelines if the rates can be justified in terms of costs, and we would expect the Board to act expeditiously in considering such filings.

As I believe you already know, Mr. Chairman, the establishment of a compensatory air rate structure across the North Atlantic is part of the Administration's Seven Point Action Plan for Improved Profitability in International Air Carrier Operations. Part of that compensatory fare structure is the need to assure that charter fares are compensatory. We have been working to implement that action plan for the past several months.

Although compensatory charter fares are part of our action plan, Mr. Chairman, I want to make clear that our efforts in this area began long before Pan Am's current cash crisis began. As the history of the

last several years shows, compensatory charter fares were made a part of the action plan because they were a well established objective of the Department, and because so much progress had been made toward their establishment by the Board and by the carriers.

ESTIMATED IATA NORTH ATLANTIC CARRIERS' PROFITABILITY
1968-1973

	<u>Total Opn. Rev.</u> (millions)	<u>Total Opn. Exp.</u> (millions)	<u>Opn. Profit</u> (millions)	<u>Deficiency in Earnings 1/</u> (millions)
1968	\$1,004	\$932	\$70	(\$86)
1969	1,142	1,079	63	(120)
1970	1,286	1,284	2	(236)
1971	1,389	1,488	(99)	(374)
1972	1,625	1,652	(27)	(333)
1973	1,833	1,963	(130)	(492)
1974	--	--	(300) ^{2/}	--

SOURCE: IATA Publication, North Atlantic Passenger Report, May 1974

November 5, 1974

1/ Includes a 10% return on investment plus taxes. Averages about 17% above operating expenses.

2/ Forecast by IATA

Operating Profit (Loss) - North Atlantic Services
 U. S. Supplemental and IATA Carriers
 (In Thousands of Dollars)

	1972	1973	Year Ending March 31, 1974
Overseas National	(\$ 2,427)	(\$ 4,572)	(\$ 6,669)
Saturn	489	2,090	162
Capitol	728	1,661	(1,254)
World	(3,674)	(12,397)	(17,437)
Trans International	209	(56)	(40)
IATA Carriers	(27,000)	(130,000)	(300,000) *

* For the 1974 Calendar Year, IATA has projected North Atlantic operating losses (all services), at \$300 million. The two U. S. IATA carriers, Pan Am and TWA, reported \$15.3 million in operating losses for charter operations in the North Atlantic (year ending March 31, 1974).

Source: CAB Transatlantic
 Route Proceeding
 IATA

