

STATEMENT OF DEPUTY SECRETARY OF TRANSPORTATION DARRELL TRENT BEFORE
THE SUBCOMMITTEE ON AVIATION OF THE SENATE COMMERCE, SCIENCE, AND
TRANSPORTATION COMMITTEE, CONCERNING EARLY SUNSET OF THE CIVIL
AERONAUTICS BOARD, JULY 7, 1981.

Madam Chairman and Members of the Committee:

We are pleased to appear before this Committee today in support of S.1425, the Administration's proposal for early sunset of the Civil Aeronautics Board and related legislative proposals to advance deregulation of the U.S. domestic airline industry. This proposal is part of President Reagan's program to reduce regulation and revitalize the economy. With me this morning are Judith Connor, Assistant Secretary for Policy and International Affairs, and Frank Willis, Deputy Assistant Secretary for Policy and International Affairs.

Madam Chairman, we are here today because we are pleased with the progress of the U.S. air transport industry under the Airline Deregulation Act of 1978. Reducing regulation has permitted the airlines to make more efficient use of their aircraft, to change their operating schedules, and to adjust fares during admittedly difficult times of spiraling fuel and financing costs. This ability to respond to the marketplace, in our view, has been beneficial to consumers and airlines alike. I want to add that this Committee is to be congratulated for its leading role in the enactment of the Deregulation Act and the continued support it has offered to the deregulation effort. We are looking forward to working closely with you on this legislation, which will culminate the effort begun in 1978 and result in a fully competitive domestic air transportation system.

As you consider our proposal and the suggestions of other interested parties, I think the Committee should recall the difficult circumstances faced just 3 years ago when the Deregulation Act was passed. At that time there was significant reason to believe that deregulation would be beneficial, yet many feared change would result in chaos. In a very short time we learned that these fears were unjustified. The industry as a whole and all of its significant component parts have adjusted effectively and far more rapidly than many believed likely or even possible. That is not to say that the transition has been flawless. Any innovation will have some short term problems. However, these short term problems clearly have been magnified by our weak economy in the last half of 1979 and in 1980.

This week the Committee will be hearing from a number of groups which will express particular concerns that further deregulation might adversely affect them. In developing our bill we have worked closely with the aviation community and I am sure that we already have heard many of the points that will be brought to the Committee's attention in the coming days and weeks. Of course many of the proposals will be at cross purposes. We did not attempt to solve all the perceived problems by a bulky bill that was strewn with ornaments. Instead we have chosen to rely on the free marketplace to make these decisions, not on Federal statutes or regulations. After considering the various points of view we have, in almost all instances, opted for a strong deregulatory solution. This approach reflects our confidence in this industry and its ability to continue to adjust rapidly to changing circumstances. We urge the Committee to adopt this point of view.

With this in mind, Madam Chairman, I would like in the balance of my statement to briefly review why we believe that the Airline Deregulation Act has been a success and then explain some of the more important legislative changes that we have proposed. I will keep my comments brief since we have provided you with what we believe is a comprehensive explanation of each provision in our legislative package.

DEREGULATION HAS BEEN A SUCCESS

In evaluating the success of airline deregulation, I think it is appropriate to focus on two key concerns--service and fares. Madam Chairman, in just under three years since the deregulation effort began in earnest under the 1978 Act, three new major, low-fare competitors--Midway, New York Air and People Express--have entered the domestic airline marketplace. This occurred in an industry that had seen no major entry for more than 30 years prior to 1979. Airlines which were once restricted to providing charter services or service within one state have expanded their scheduled services to points in other states and other countries as well, creating yet another set of competitors. Furthermore, we can expect more competition to be injected into the domestic industry by several new entrants planning to start service within the year. We also expect the strong performance of the expanding commuter airlines to continue.

Statistics for the month of February 1981 show that, throughout the country, scheduled departures have increased on the average by 6 percent compared with the corresponding month of 1978. Although some communities

have experienced decreases in the total number of seats available as well as in the total number of departures, the guarantees provided under the Airline Deregulation Act have assured that no community has lost all of its air service. In direct contrast, during the ten years prior to passage of the Act, 137 communities lost all of their certificated air service.

With respect to fares, we all know fares have gone up primarily as a result of unexpected fuel price increases and overall inflation. However, despite these shocks, the average fare actually paid by passengers has not gone up as fast as airline costs. We believe that new competition in the industry has played a major part in holding the average fare down. Because of the freedoms extended by the Airline Deregulation Act, carriers have been able to streamline their operations and take advantage of pricing flexibility to tailor fares to market conditions, thereby stimulating traffic growth.

ACCELERATED SUNSET

Now let me turn to the major legislative changes that we have proposed, based on our belief that deregulation has been a success.

We would accelerate sunset of the CAB to September 30, 1982. We do not see a need for the agency beyond that date. By that date, the provisions of the ADA of 1978 would have phased out most domestic regulatory authority, anyway. In fact, the CAB saw no reason to wait for the statutory authority to be extinguished, and acted promptly to ease many regulatory restrictions.

For example, entry into new domestic markets has been eased and substantial domestic fare flexibility to respond to market conditions has been allowed. The taxpayers should be relieved of the burdens of maintaining a costly part of the Federal bureaucracy any longer than is necessary. Functions which need to be continued will be, including the international aviation and essential air service programs.

ANTITRUST

We have proposed significant changes in antitrust treatment of the commercial air transport industry. We would end special treatment of acquisitions and mergers and phase out, by September 30, 1983, Federal authority to immunize from the antitrust laws domestic aviation inter-carrier agreements. Here in particular, Madam Chairman, I would again emphasize our confidence in the ability of this industry to adjust to changing circumstances and our particular confidence in individual companies competing successfully in their own interest and, with guidance from the marketplace, in the public's interest. We realize that historically, the air transport industry has been given special treatment on antitrust matters based on the comprehensive economic regulation of the industry. We are proposing to remove this unnecessary antitrust exemption for the domestic airline industry. We do not share the fear that the industry will be unable to function without antitrust immunity. Of course, the industry will need to make some adjustments, since certain of the current arrangements rely on antitrust immunity, and will have one year after sunset, until September 30, 1983, to phase-in and plan for the effects of domestic operations without antitrust immunity.

REDUCING REGULATORY BURDEN

Our bill will result in significant paperwork reduction. We contemplate ending the economic fitness certification process. We intend to rely on the existing safety certification procedures of the FAA as the prerequisite for domestic operating authority. In addition, tariff filing requirements will end for the domestic air transportation industry. We simply do not see a need to continue to impose on the industry the vestiges of a regulatory system with its attendant paperwork requirements when, from the point of view of the traveler, rates and routes have been deregulated. Moreover, we see no reason to continue tariff filings when our authority to approve the tariffs has been eliminated.

Our bill will transfer to DOT the authority to collect air carrier data. However, we propose to reduce the reporting requirements to the minimum necessary. We will accomplish this by a complete review, with full industry-user participation, as soon as Congress completes action. Many representatives apart from the airlines have come to us and emphasized the need, aside from government regulatory purposes, for continued data collection.

LABOR PROTECTION

We have also proposed to repeal the labor protection provisions of the Airline Deregulation Act. This proposal reflects our judgment that the airline industry should be treated as much as possible like other economically unregulated industries. The labor protection provisions

were included in the 1978 Act because of concerns at that time that deregulation might not prove successful. We believe that the evidence shows that, to the contrary, deregulation has enabled the industry to cope more successfully than it could have under regulation, both during prosperous times and recession. We have carefully reviewed the existing legislation and believe it is inconsistent with deregulation.

Further, there can be no doubt that aviation is a long term growth industry and that there will be significant opportunities for airline employment. There will be more new entrants in the larger air carrier category and the rapidly growing commuter sector. In light of this, Madam Chairman, we do not feel it is appropriate to offer employees protections beyond those provided under the general labor laws, and I do want to emphasize that those general benefits will always remain available to employees in the airline industry.

ELIMINATION OF 406 SUBSIDIES

Our bill would also terminate the section 406 subsidy program, but continue the section 419 subsidies, to ensure that essential air service is provided. I want to assure this Committee and the entire Congress that the maintenance of essential air service is important to us and that the proposal to end 406 subsidies does not reflect any weakening of our commitment to essential service. In fact, the small communities program will be a stronger program with elimination of section 406. Recognizing the importance of maintaining essential service, I'd like to review in some detail the reasoning behind the proposal to end section 406 subsidy.

The 406 program began with the original Civil Aeronautics Act of 1938. The basic purpose of the original law was to assist in the development of financially healthy trunk air carriers, through Federal subsidy when necessary, to maintain service to points where carriers were required to operate because of their certificates.

In passing the Airline Deregulation Act, the Congress recognized that maintaining essential air service to smaller communities was necessary, but could best be achieved by focusing subsidy payments on the needs of the communities rather than on the needs of the air carriers. Accordingly, under the 1978 Act the 406 program would terminate by 1986.

Madam Chairman, as you know, this Administration has and will continue to very closely scrutinize all subsidy programs. The President's budget simply does not include programs for which there is no clear need. The section 419 program guarantees that no community will lose essential air service and that program does so in a far more cost efficient manner than section 406. Few communities included presently in the 406 program actually require subsidized air service and for those which might, the 419 program will accommodate their needs. Therefore, we see no need to continue the 406 program beyond this October, much less until 1986.

A CAB analysis of the total Section 406 subsidy payments shows that about 75 percent of the payments support services to communities which enplane more than 40 daily passengers. These are cities which, under the section 419 program, have generally demonstrated that they can maintain essential air service without Federal assistance. Moreover 45 percent of

section 406 subsidy payments goes to support services to cities that enplane more than 100 daily passengers, a level of enplanements which could most likely support profitable service of two daily round trips with aircraft of suitable size. The 406 program allows the air carrier to operate with improperly sized equipment, and the public ends up paying for a lot of empty seats. By contrast, the 419 program limits subsidy to the level of service required by the community while continuing safe and adequate service for small communities.

In addition the 406 program works to the disadvantage of the commuter industry which often competes without subsidy against 406 subsidized local service carriers. I want to add here that the strong performance of the commuter industry under deregulation makes us particularly confident that accelerated sunset can be a healthy stimulus to the entire air carrier industry.

To sum up, the 406 program is carrier oriented, not community oriented, and we do not feel that it is either necessary or desirable.

CONSUMER PROTECTION

As for consumer protection, Madam Chairman, we believe that in a fully competitive industry, the consumer is naturally protected against fraudulent, deceptive or unfair practices because of the many choices available and the policing effect of competition itself. Therefore, after sunset, we believe that there will likely be little need for comprehensive Federal regulation of airlines' consumer practices.

Consistent with our desire to treat domestic air transportation like other unregulated industries, we propose to eliminate the current prohibition against application of the Federal Trade Commission Act to air transportation and repeal current section 411 of the FAA Act. As a result, the FTC will be able to intercede under its general authority when it determines the situation warrants.

Our proposal would retain for DOT the Board's other statutory authority to address, when necessary, consumer concerns that for some reason the market place does not resolve. In particular we would retain the requirement in section 404 that air carriers provide "safe and adequate" air service, which is relied upon presently by the CAB for much of its consumer protection rules.

CARRIAGE OF MAIL

We also have proposed streamlining the provisions relating to the carriage of mail by eliminating the inefficient regulatory apparatus that currently sets air mail rates. The Administration proposal will eliminate regulatory restrictions on the air transportation contracting authority of the U.S. Postal Service. We believe contracting or negotiated bids is the fairest method for determining the rates paid for the carriage of air mail.

SAFETY

Before closing, I want to emphasize that we have drafted our bill to ensure that the sunset of the CAB will in no way adversely affect aviation safety. We have not seen any adverse effects on safety from deregulation and the legislation we are proposing now will have no adverse effect. The authority of the FAA would be unimpaired.

SUMMARY AND CONCLUSION

In summary, Madam Chairman, we believe that the Airline Deregulation Act has proven its viability. We believe that the results of deregulation under the 1978 Act justify an accelerated sunset of the CAB. We also believe several changes to present law will result in domestic air transportation being treated more nearly like other economically deregulated industries.

We believe that prompt enactment of our legislation would serve the public interest and we look forward to working with you to achieve that objective.

That concludes my prepared statement, Madam Chairman. My associates and I would be pleased to respond to questions the Committee may have.

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