

LANCER INSURANCE COMPANY



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April 18, 1996

Docket Number MC-96-5

FHWA-97-2278-2

Room 4232
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Office of the Chief Counsel
Federal Highway Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

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LEGS./REGS. DIV.
FEDERAL HIGHWAY
ADMINISTRATION

Comments of Lancer Insurance Company:
Deletion of part 393.88, restrictions on television receivers.

Lancer Insurance Company is a provider of liability and other insurance coverages to the Intercity Bus Industry. We insure approximately 20,000 motor coaches and buses, providing on site and other safety services. Our field staff of six safety experts combines a reservoir of talent and experience totalling over 125 of bus industry experience. As such we are able to judge the relative safety of proposals as well as, we believe, the needs of these motor carriers regarding safety.

We consider the proposed deletion of the television receiver restrictions to be a cause of some concern. The intercity bus industry, particularly charter and tour operators, already provide, as a customer accommodation, on board video programming to passengers. The equipment, usually a VCR, is at this time generally situated behind the drivers position, frequently in an overhead compartment, and all display monitors are not viewable from the drivers seat. Controls for this equipment may or may not be within the drivers reach. Most often, we see video controls above and behind the driver, but occasionally, they are located at the right center of the forward dash wall.

Control of the video equipment, both the playing of tapes and the ability to adjust the quality of the presentation, almost always becomes the responsibility of the driver of the coach. If during the course of a trip, the video is to be started, ended, or adjusted in some way, the driver is essentially forced to stop, then make an adjustment. If the driver were to be able to see the video, there would be an inevitable temptation to periodically assure the quality of the viewing, or perhaps fine tune it a bit from time to time. If the devices were within arms reach, "for convenience", there would be a recurring need to change tapes, turn the equipment on or off or otherwise be involved with it. However, because of the restrictions present in 393.88, the

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location and physical positioning of the video players and controls make all of this impossible. The driver is forced to "stop and adjust", or assign all of these duties to someone else.

(For most carriers, relinquishing the control of on board presentation equipment is prohibited; only the driver is permitted to operate the video and audio systems.)

The current restriction on placement of monitors and controls assures that drivers are not allowed, in fact, makes it impossible for them to divide their attention between driving and video controls. We believe this rule is a good one; we enforce these restrictions with our clients where and when we find violations to these good sense ideas.

Were the rules in 393.88 to be deleted, we would lose one of the major arguments we have to assure that the bus company management doesn't inadvertently compromise safety. While we can argue that dividing the attention of the driver between driving and video operation is a bad idea, that it risks safety, the temptation to save a little time, to assume that the distraction will be momentary, or to not even consider such activity to be a risk at all are occasionally difficult to overcome.

As we visit policyholders, and find problems, some will listen, and others won't. I can assure you however, when we tell someone that the activity being engaged in is "illegal", attention and awareness are greatly heightened. It seems that carriers equate the rules and safety, if there isn't a rule, it must not be unsafe.

We note with dismay the argument that states have the right to cite a driver after an accident for driving inattentively as a justification for the deletion of this rule. Part 393.88 effectively prevents the video equipment from being installed in a position where the driver could in fact attempt to split his or her attention between driving and video control. States will enforce an inattentive driving rule after an accident, if at all. This is Monday morning quarterbacking on the part of the highway patrol; we have a chance to prevent the accident and by deleting the rule, we merely state that the inattention was a bad thing, and a driver citation and fine should teach him or her a lesson, meanwhile, lets go visit all of the passengers still in the hospital.

We certainly understand the need for flexibility in the use of ITS technology, but have many of the same reservations about it as we do about video equipment. Each of us has spent time with drivers, perhaps in a taxi, perhaps in some other vehicle, where the driver splits attention between computer generated messages



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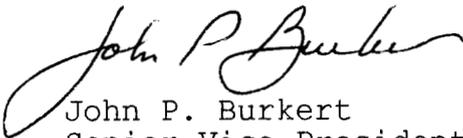
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and the road ahead. We are uneasy as the driver pores over the latest instruction,, all the while failing to see traffic backing up just ahead; we would be surprised if everyone wasn't just as uneasy.

Some of our policyholders have installed back up television cameras and receiver systems. These devices permit the driver to look into the blind spot directly behind the coach as it backs. The system is only activated when the vehicle is placed into reverse gear, and the driver uses the dash mounted monitor to assist in the driving operation. This is an example of a video system put to good use, where safety isn't compromised, it is enhanced. If the rules can be adjusted to accommodate this sort of equipment so it could be installed without a debate over the requirements of 393.88, this would be a rule revision we could support.

We urge FHWA to reconsider the specifics of how to accommodate safety and ITS as well as video technology. A simple rule deletion and a washing of the regulatory hands of the problems that are readily identifiable is in our opinion, inappropriate and degrades safety.

Submitted April 18, 1996



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