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DEPARTMENT OF TRANSPORTATION

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DOCKET SECTION

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BEFORE THE U.S. DEPARTMENT OF TRANSPORTATION

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COMPUTER RESERVATIONS SYSTEM (CRS) REGULATIONS

Docket No. OST-97-2881 - 18

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COMMENTS OF FRONTIER AIRLINES, INC.  
IN SUPPORT OF AMERICA WEST'S PETITION FOR RULEMAKING

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On October 14, 1997, America West Airlines, Inc., filed a petition for rulemaking in Docket OST-97-3014 asking the U.S. Department of Transportation [DOT] to take action to prohibit computer reservation system [CRS] vendors from encouraging fictitious, speculative and duplicative bookings by travel agents. America West proposed that CRS vendor charges be limited to booking fees for actual travel, and participating carriers be permitted to terminate passive bookings of their product. Frontier Airlines, Inc., supports that petition, and respectfully urges the DOT to act on such proposals immediately.

To enhance their revenue, the major CRSs have allowed, and in some instances encouraged, travel agents to make fictitious, speculative, and duplicative bookings. The problem stems from the fact that CRS vendors employ a transactional, or net segment, pricing program which imposes a fee upon an airline of approximately \$3.10 based on each and every booking made on that airline, irrespective of whether a ticket is sold or segment flown reflecting that booking. CRS vendors not only insist airlines pay high fees based on reservations booked, rather than segments flown, they also incentivize travel agents to maintain high booking levels via productivity rewards conferred on the basis of increased CRS usage.

Under the CRS productivity pricing contractual provisions in Travel Agent Participation Agreements, rent payable by an agent is reduced or eliminated if the travel agent maintains a certain volume (quota) of bookings per month.<sup>1</sup> Of course, additional bookings result in additional revenue to the CRS, creating profit which is upstreamed to the major airlines which own them.

In effect, this establishes a regressive wealth transfer from smaller airlines to larger airlines. From the perspective of the airline whose product is booked, when an agent books, cancels, and re-books a reservation several times (a/k/a “churning”), the

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<sup>1</sup> Mia Wouters, The Hybrid Relationship Between Computer Reservations Systems (CRSs) and Airlines, *The Aviation Quarterly* 346, 348 (1997).

aggregate CRS fees can erode or eliminate profit on its sale, even where the ticket which corresponds to the reservation is eventually sold. If no ticket is sold, the airline whose flight is booked is still forced to pay CRS booking fees, even on duplicative or fictitious bookings. The cumulative impact of booking fees set well above costs, coupled with CRS encouragement of multiple fictitious bookings, is causing airline CRS distribution costs to grow at a rate well in excess of inflation.

False bookings increase distribution costs for airlines, exacerbate the revenue transfer problem from smaller to the larger airlines which own CRSs, and result in inventory spoilage. Such increased transactions costs serve no legitimate market purpose, consume unnecessary and wasteful time and resources for the travel agents and the airlines, and result in a regressive wealth transfer from small to large airlines (which own CRSs), thereby harming airline competition. We must remember that CRSs are part of the vertically integrated distribution system controlled by a few major airlines, whose natural inclination is to suppress competition and maximize wealth.

Passive segments are bookings made by a travel agent for any flight any time, whether the desired class of service is sold out or not. The bookings are nefariously not communicated to the internal reservations system of the carrier whose flights are booked. Sometimes agents issue a ticket with an expired date. Delays are experienced when these passengers arrive at the airport, because the airline has no record of them. Legitimate passengers are inconvenienced, and sometimes denied boarding. Thus, consumers also are ill-served by passive bookings.

Incentives of CRS vendors to encourage duplicative and fictitious bookings would be eliminated if booking fees were tied to actual travel flown instead of reservations booked. A further improvement which would reduce fictitious bookings would be to require that the passenger's ticket number be recorded in the CRS passenger-name-record [PNR] file within 24 hours of booking, else the booking automatically will be canceled.

Frontier also agrees with America West that carriers should also be allowed to opt out of passive bookings. All carriers, not just CRS owners, should be free to deny CRSs the ability to make passive bookings with respect to them. The discriminatory functionality now available to United and American via Apollo and Sabre, respectively, protects them from abusive practices by travel agents by restricting their ability to make illegitimate bookings. This allows United and American not to be charged for passive bookings. We ask that the DOT rule that such discrimination in functionality is already a direct violation of existing CRS rules, and act promptly to remedy such discrimination.

Frontier also believes that CRSs should not be allowed to force carriers to participate in CRS internet booking sites. The most popular internet distribution vehicles are linked to the four major CRS engines, and thereby provide yet another means of creating passive bookings.

Frontier respectfully urges DOT to issue regulations immediately prohibiting these abusive bookings and corresponding fees tied to reservations made (rather than tickets sold). It would not be desirable for DOT to wait until the March 1999 date to which it has extended the overall CRS regulations. For same reasons that DOT acted promptly requiring parity in interline versus on-line displays, and requiring that displays either use elapsed time as a significant factor in ranking flights or give single-plane flights a preference over connecting flights (in Docket OST-96-1639) and prohibiting CRSs from prohibiting a carrier from choosing a lower level of participation than in another CRS (in Docket OST-96-1145), we believe DOT should act promptly on these problems as well. Every day which passes results in additional competitive harm to small carriers like Frontier.

Frontier respectfully reminds DOT that the policies of the Airline Deregulation Act support its position taken herein. Section 41712 of the Federal Aviation Act requires that DOT act in the "public interest" to protect consumers and competitors against unfair

and deceptive practices. The public interest is defined by the policy provisions of the Federal Aviation Act (as amended by the Airline Deregulation Act):

[T]he Secretary of Transportation shall consider the following matters, among others, as being in the public interest . . . :

(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices. . . .

(9) preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation.

(10) avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier . . . unreasonably to increase prices, reduce service, or exclude competition in air transportation.

(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.<sup>2</sup>

Finally, though not directly relevant to America West's petition, we would like to raise one final issue, relevant to yet another important policy in the Federal Aviation Act, which requires the DOT to "maintain a complete and convenient system of scheduled interstate air transportation for small communities . . . ."<sup>3</sup> In our comments filed in the instant proceeding on November 19, 1997, Frontier explains why the enormous discrimination placed by CRSs such as Apollo against non-code-sharing interline connections (whose algorithm adds the equivalent of 24 hours to the connection in order to determine display preference), vis-à-vis code-sharing interline connections (which because no additional penalty is imposed upon them are thereby given preferential display), causes small communities to receive poorer, higher-cost, higher-priced and non-competitive service. We will not repeat those arguments here, but incorporate them by reference.

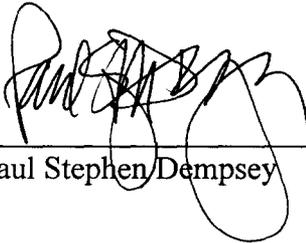
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<sup>2</sup>49 U.S.C. § 40101.

<sup>3</sup>Id.

But since we filed those comments, the DOT on December 3, 1997, issued final rules in OST-96-1639,<sup>4</sup> which require *inter alia* that CRSs must offer at least one display that lists flights without giving on-line (or pseudo on-line code-sharing) connections a preference. We applaud the rule, but it does not go far enough. If small communities are to enjoy competitive jet service, travel agents must be given such a display as the primary or default display offered by each CRS. In the instant proceeding, we respectfully urge that the DOT require that the display which does not prejudice interline connections be the primary or default display offered.

Respectfully submitted,



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Paul Stephen Dempsey



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<sup>4</sup> Fair Displays of Airline Services In Computer Reservations Systems, 62 Fed. Reg. 63,837 (Dec. 3, 1997).

## CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December 1997, I served a copy of the foregoing comments of Frontier Airlines, Inc. on the following individuals by first class mail, postage-prepaid.

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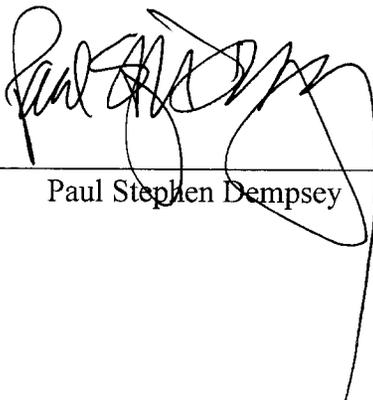
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