



DEPARTMENT OF TRANSPORTATION
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DOCKET SECTION

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December 9, 1997

U.S. Department of Transportation
Room PL-401, Docket 49812
400 7th Street, S.W.
Washington, D.C. 20590

Re: Computer Reservation System (CRS) Regulations
Docket No. OST-97-2881 - *ad*
Comments of Preview Travel, Inc.

Dear Sir or Madam:

Preview Travel, Inc. ("Preview") submits these comments in response to the Department of Transportation's ("the Department") Advance Notice of Proposed Rulemaking regarding the rules governing computer reservation systems ("CRS"), 62 Fed. Reg. 47606 (September 10, 1997). A copy of any responses to these comments should be sent to the undersigned.

Preview believes that the Department's existing CRS rules have served the public interest, supports the continuation of these rules, and respectfully suggests that these rules must be augmented to prevent discrimination against the emerging Internet distribution

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channel. Department intervention is absolutely critical to disallow discriminatory and anti-competitive practices that threaten to prevent this new medium from realizing its potential to enhance consumer choice and to maximize price and service competition among air carriers.

Preview Travel

Preview is one of the nation's leading online travel services, selling airline tickets, hotel and car rental reservations, and vacation packages directly to consumers via the Internet and America Online (through Preview Travel Online, Inc., a wholly owned subsidiary, which is an ARC accredited travel agency). The Internet and online services provide consumers access to comparative price and service offerings of individual travel service providers (air carriers, hotels, rental cars, cruise lines, etc.), 24 hours/day, 7 days/week, and offer consumers innovative ways to purchase travel on a competitive basis. Preview sells travel to consumers only online, but also provides all traditional travel agency support services to its customers. According to industry sources, Preview Travel is one of the three largest non-airline online travel services, along with Expedia.com, owned by Microsoft, and Travelocity, owned by Sabre. Preview invites the Department and other commenters to visit its Internet site at www.previewtravel.com.

Preview, and some services like it, offers to consumers the new and exciting opportunity to select and purchase travel which best meets the consumer's needs for price, time, carrier choice, and routing. Using Preview's online service, consumers may identify the lowest airfares available at any point in time for a specified trip. Similarly,

consumers may designate preferred air carriers, class of service, seat choice and meal options. Preview's services are available any time, anywhere provided that a consumer has access to the Internet or to America Online.

Internet Booking Sites

In its notice, the Department acknowledges the existence of two types of Internet booking sites. One variety consists airline-operated sites ("Airline Sites"), which are intended to offer consumers the opportunity to view information primarily for the air carrier which operates the Internet site. Such sites are neither designed nor intended to facilitate inter-carrier price and service comparisons.

The second variety of Internet booking sites consists of independently owned and operated sites ("Independent Sites"), such as Preview, which are operated by fully accredited travel agents or by companies booking through accredited travel agencies. These sites make available information regarding many air carriers directly to consumers. By enabling consumers to compare directly the fares and service offerings of multiple air carriers, the Independent Sites enhance price and service competition among air carriers in a way that the Airline Sites do not. Independent sites typically rely upon connections to CRSs for fare and availability information, and to consummate purchases.

Air carrier practices which discriminate either against Independent Sites in favor of Airline Sites or against Independent Sites in favor of non-Internet channels of distribution threaten to compromise the important pro-competitive effect which the growth of Independent Sites is having on the air travel market. Accordingly, the

Department should investigate very carefully discriminatory air carrier practices which are designed to limit the growth of Independent Sites and to channel consumer purchases of air travel directly to individual Airline Sites where direct price and service comparisons among carriers will be more difficult or simply not possible. These are the same concerns—the potential for airline owned reservation systems to prejudice airline competition and give consumers misleading or incomplete information—that originally led the Civil Aeronautics Board to adopt rules governing airline affiliated CRSs.

These very real concerns do not necessarily lead to the conclusion that the present CRS regulations simply should be extended to Internet booking sites. For Airline Sites, Preview does not believe that extending the CRS rules to them would be of any consumer benefit, since consumers visiting an airline site already expect to see information primarily for that airline.

Similarly, Preview does not believe that extending the CRS rules to Independent Sites, including Preview's, would be of any consumer benefit for two reasons:

1. There are presently many Independent Sites where consumers can compare airline price and service offerings, book reservations, and purchase tickets. If consumers found that any Independent Site was biasing airline schedule information or presenting incomplete displays, it presently would be very easy for consumers to switch to another Independent Site. This ease of switching and the robust competition among Independent Sites has kept such sites unbiased, and should continue to do so, provided that the Department enacts rules to prevent discriminatory carrier practices designed to stunt the growth of Independent Sites.

2. Consumers have the option on most Independent Sites to have airline schedule information sorted in the manner that is most convenient for them. As an example, consumers using Preview's site can have schedules sorted by price (the default choice), time or airline. Were the Department to mandate a particular sorting method, consumers would have fewer choices and enjoy less convenience.

Rather than extending CRS rules as such to Internet booking sites per se, the Department should act to protect the still nascent Independent Site market by preventing air carriers from taking actions which, over time, are consciously designed to capture the Internet distribution channel for Airline Sites to the detriment of price and service competition. The need for appropriate Department action is particularly immediate as most of the major domestic air carriers have already taken action to reduce commissions paid to Independent Sites dramatically below traditional travel agencies, which they have also recently cut back again.

Airline Participation in Internet Booking Sites

Delta Air Lines has contended that it should not be required to participate in Internet booking sites as a condition to participation in the services offered by CRSs to travel agency subscribers. Preview strongly opposes Delta's position with respect to Independent Sites as discriminatory and anti-competitive. All Independent Sites are operated by accredited travel agencies, or by companies booking through accredited travel agencies. Delta's proposal would have the effect of limiting the choices consumers

have in how they choose to communicate with a travel agency and how they choose to purchase travel. Consumers can now choose to communicate with an accredited travel agent in person, by talking on the telephone or by hooking their computer up to their telephone. This proposal would restrict the last choice, leading to less competition and less choice for consumers. In essence, Delta wishes to deny consumers the opportunity to compare, on Independent Sites, Delta's price and service offerings against those of competing carriers. There can be no doubt that any practice which makes price comparisons more difficult is likely to lead to increased price levels.

The airlines do have legitimate concerns about potential fraud and abuse of their inventory by consumers using Internet bookings sites. Since there is always an accredited travel agency involved in these bookings, the airlines already have the ability to control access to their inventory through their agency agreements. Ultimately, they can pull the plates of any travel agency that allows fraud or abuse of inventory to take place. No new rules that would apply only to Independent Sites are necessary.

Discrimination Against the Pro-Competitive Growth of Internet Bookings

The organizing principle underlying the CRS rules is the prevention of discrimination which threatens the competitive process. The Department's present CRS rules require that fees charged participating carriers shall be non-discriminatory, that CRSs must not discriminate against code-sharing flights, that service enhancements be made available to all participating carriers on a non-discriminatory basis, and so on. The very same principles which led the Department to promote competition in the CRS

business by the elimination of discriminatory practices require that the Department act now to prevent comparable carrier conduct from destroying competition in the emerging Internet booking site market.

Most of the major domestic airlines recently have instituted discriminatory commission levels which directly threaten both the growth of the Internet travel sales market and price competition in the sale of air travel among carriers. These airlines have lowered standard commissions paid to travel agencies, including Preview, for bookings made via the Internet below the level of commissions paid for bookings made over the telephone or in person through other travel agencies. Whether a consumer chooses to communicate with a travel agency by talking over the phone or by hooking their computer up to the phone does not have any economic effect on the value of a booking to an airline and thus should not affect the commission level earned by the travel agency. In fact, Independent Sites like Preview invest heavily in telephone support in addition to technology to better serve consumers.

In addition to the discriminatorily reduced commissions now in place for Internet bookings, the air carriers, through ARC, are presently considering recommended guidelines for electronic travel agencies that would facilitate yet other coordinated actions by airlines to discriminate against Independent Sites, without any pro-competitive justification. Among other discriminatory and potentially anti-competitive rules, ARC is proposing to facilitate airline rules which could deny Independent Sites the ability to issue paper tickets (as all Independent Sites now offer) even where a customer specifically desires to purchase such a ticket. Preview is unaware of any legitimate basis

for such discriminatory treatment of Independent Sites compared either to traditional travel agents or to Airline Sites.

Common sense and textbook economics suggests that air carriers should be indifferent between sales obtained through traditional agents and sales obtained through Independent Sites. Where individual economic actors appear to be acting inconsistently with individual economic self-interest, it is appropriate to be concerned about collusion and anti-competitive conduct. Here, there can be no doubt that the advent of Independent Sites has facilitated consumer choice and encourages highly efficient price comparisons between competing airlines' price and service offerings. This can only serve to increase competition and reduce prices which consumers pay for air travel. This is especially true as it relates to promoting visibility of low-cost carrier offerings to consumers.

The major domestic air carriers' conscious decision to discriminate in commissions between traditional travel agencies and Internet bookings demonstrates the airlines' intent to limit or destroy the growth of pro-competitive Independent Sites with the goal of dictating a market structure for the Internet comprised largely or solely of sites where consumers are deprived of the opportunity to make direct, easy price and service comparisons among carriers, including potential new entrants. The potential harm to the competitive process is exacerbated by the carriers' contemporaneous efforts to reduce competition in the sale of air travel through the traditional travel agent channel by reducing agent compensation. Taken together, the airlines' conduct suggests that they are seeking to dictate a future characterized by greatly increased sales of air travel through Airline Sites which make meaningful price comparisons difficult or impossible and which

facilitate higher consumer prices and reduced competition.

The role of travel agents has been to search out the best information and present the consumer with choices and recommendations to help them get the best deal.

Telephone calls to airlines, and visits to Airline Sites, only yield the best information from that airline. For the consumer to shop for the best deal would require many phone calls or visits to many Airline Sites. Providing the consumer with “one-stop” shopping options appears to be a benefit to consumers, since 80% of airline bookings are currently made through travel agents. If the consumer is to have this same ability to comparison shop online, the online marketplace needs to remain viable.

The Department should end the present discrimination with a rule that an airline’s standard commission level (which each airline in theory sets independently) must be the same for all travel agencies, regardless of how consumers communicate with the travel agency. The Department further should preclude air carrier conduct which otherwise discriminates against Independent Sites either in favor of traditional travel agents or in favor of Airline Sites. By preventing discrimination against the emerging market of Independent Sites, the Department would preserve or increase competition among air carriers and enhance consumer choice.

CRS Rules

Preview believes that the existing CRS rules have been effective in promoting competition and consumer choice, and should be continued with the modifications stated above. Even with all of the changes that have taken place in the industry, most of the

conditions that led to the original rules being implemented have not changed significantly. Most travel agencies still use only one CRS, and changing systems is difficult and expensive. CRSs are still controlled by the major airlines, even with the recent ownership changes and public shareholders.

Given the rapid pace of change in the industry, Preview suggests that another review in three years would be appropriate, instead of the five years included in the original rules.

Sincerely,

A handwritten signature in black ink, appearing to read "David Lambert", with a long horizontal flourish extending to the right.

David Lambert
President, Preview Travel Online, Inc.

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