

BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION  
DOCKET SECTION

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Petition of )  
)  
AMERICA WEST AIRLINES, INC. )  
)  
for Amendment of Part 255 of the )  
Department's Economic Regulations to Limit )  
CRS Vendor Charges to Booking Fees for )  
Actual Travel and Permit Termination of )  
Passive Bookings by Participating Carriers )  
)  
Advanced Notice of Proposed Rulemaking )  
)  
COMPUTER RESERVATION SYSTEM (CRS) )  
REGULATIONS )  
)

Docket No. OST-97-2881-46

COMMENTS OF KOREAN AIR

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**COMMENTS OF KOREAN AIR**

Korean Air submits these comments in support of the Petition for Rulemaking filed by America West Airlines proposing two new rules to limit Computer Reservation System ("CRS") charges for abusive booking practices that result in excessive booking fees but provide no value to the airline. The rules would: (1) limit CRS pricing practices to charges for bookings that result in actual travel; and (2) enable a participating airline to prohibit CRS vendors from allowing travel agents to make passive bookings on this airline.

The Department has long recognized that the four CRSs used in the United States have substantial market power to manipulate their systems to distort the marketplace for the benefit of their airline owners. The abuse of this market power is inconsistent

with the public policy objectives of the Airline Deregulation Act to prevent unfair, deceptive, predatory or anticompetitive practices in the marketing of air transportation and to avoid excessive market domination and monopoly power which exclude competition. See, 49 U.S.C § 40101(a).

Based on Korean Air's own experience with the CRSs, and the extensive analysis provided by the America West Petition, Korean Air strongly urges the Department to act under its statutory authority to prohibit unfair and deceptive practices and unfair methods of competition, 49 U.S.C. § 41712, and issue a notice of proposed rulemaking to adopt these two rules. As noted by America West's Petition, in United Air Lines, Inc. v. Civil Aeronautics Board, 766 F.2d 1107, 1112-1113 (7th Cir. 1985) the Court held the Department must base its determination that an unfair or deceptive practice exists on "common sense and experience." In this regard, Korean Air believes the Department's common sense analysis of market power and the need to eliminate oppressive CRS imposed conditions contained in the final parity clause rule, 62 Fed. Reg. 59784, November 5, 1997 fully justify the relief requested by America West. Korean Air believes the Department should issue an NPRM immediately upon the close of the comment period on January 23, 1998 so that relief will be available as soon as possible.

Korean Air is a major Transpacific carrier which operates in a highly competitive environment governed by a liberal bilateral air transport agreement. Korean Air serves nine cities in the continental United States and competes directly against major U.S. carriers that are CRS owners. Thus, to the extent that Korean Air is paying for improper bookings and those revenues are transferred to its CRS owner-competitors, Korea Air is clearly at a competitive disadvantage. Korean Air believes the Department has a statutory responsibility to stop this anticompetitive practice.

Korean Air has reviewed America West's Petition, and shares America West's complaint that the market power enjoyed by CRS vendors has enabled them in the period since the Department's last rulemaking in 1992, to unilaterally impose strategically interrelated marketing and pricing practices designed to promote overusage by travel agents at the expense of participating carriers which are held captive by the CRSs. Thus the CRSs use productivity and incentive agreements with subscribers to create strong incentives to agents to engage in abusive booking transactions which provide no benefit to the carrier.

Korean Air has been particularly plagued by charges for fictitious, duplicative and group bookings for non-existent passengers. The costs associated with these bookings for the airline is very significant. Korean Air's CRS costs overall have risen 15-30% each year, well beyond the carrier's revenue

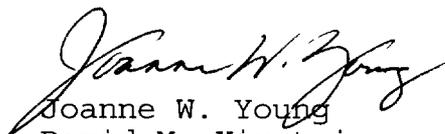
increases. Korean Air believes these increases are unjustifiable in a period of little general inflation and during a time when changes in computer technology have generally resulted in lower costs to most users of computer services. Of the overall CRS costs, the airline's experience is that approximately 20% are attributable to abusive bookings alone. This is a significant sum which otherwise could be passed on to passengers in the form of service improvements or lower costs.

Korean Air believes the rules proposed by America West would have a significant pro-competitive impact. If booking fees were limited to transactions that result in actual travel, airlines would only be charged for travel agent actions that create value for the airline. Such a rule would transfer the economic risk of improper bookings onto the CRSs which are in the best position to police travel agent behavior or to restructure their productivity agreements to penalize misuse of the systems. The rule would lower booking costs and also enable Korean Air to more accurately predict its CRS related expenses because charges will be directly related to the number of booked passengers that fly on the airline. In addition if airlines were permitted to prohibit passive bookings, an airline that is not a CRS owner would be able to forego participating in a system feature which causes the airline competitive injury.

**CONCLUSION**

The pricing systems imposed by the CRSs directly impose an unfair financial burden on participating carriers. As a result of the market power exercised by the CRSs, carriers must participate in the reservations services and have no choice but to pay these fees. In 1992 the Department chose not to impose regulation on booking fees because it believed the CRSs had acted with restraint and had not unduly taxed participating carriers. However, it is now apparent that the CRSs use no restraint and have used this unique market power to extract monopoly profits from carriers for the last five years. Having now proven conclusively to the Department that the vendors will abuse their power whenever possible, the Department must take immediate action to impose the remedies proposed by America West.

Respectfully submitted



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