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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPARTMENT OF TRANSPORTATION

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DOCKET SECTION

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Notice of Proposed Rulemaking)
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Fair Displays of Airline Services in)
Computer Reservations Systems)
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Docket No. OST-97-2881 -48

COMMENTS OF RENO AIR, INC.

Communications regarding this should be sent to:

Robert M. Rowen
Vice President & General Counsel
RENO AIR, INC.
220 Edison Way
Reno, Nevada 89509
(702) 686-3807

December 9, 1997

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DEPARTMENT OF TRANSPORTATION
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Fair Displays of Airline Services in Computer Reservations Systems)	Docket No. OST-97-2881
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COMMENTS OF RENO AIR, INC.

In the foregoing dockets, the Department has requested comments whether it should continue or modify its existing rules governing airline computer reservation systems (CRSs) and on a petition for rulemaking filed by America West Airlines ("AWA").

Reno Air urge the Department to continue its existing rules regarding CRSs, as modified and strengthened to eliminate certain anticompetitive practices. Reno Air also supports the petition for rulemaking filed by AWA.

In Docket OST-96-1639, the Department solicited comments on proposed rules intended to promote fair displays of airline services in CRSs. Reno Air filed comments in that Docket, urging the Department to act decisively to curb continued abuses of CRS vendor power. We pointed out instances in which CRS displays continue to be significantly biased in favor of the CRS owners. We specifically urged the Department to adopt rules (i) requiring CRSs to offer travel agencies easy access to a ranking algorithm that does not include an on-line preference, and (ii) requiring the use of elapsed time or arrival time (but not displacement time) as a significant factor in ranking flight displays. Reno Air hereby incorporates these comments in this docket. The display biases documented in Reno Air's comments continue today.

The elimination of certain display biases, as requested in Reno Air's comments, and the adoption of a rule requiring booking fees to relate to actual passenger travel, will increase competitive market forces in the CRS industry by (i) more closely associating CRS displays with passenger interests, and (ii) more closely associating CRS charges with the benefits provided by the CRS systems.

In these comments, Reno Air responds to certain questions posed by the Department, explains why transaction-based CRS fees lead to abusive or negligent booking practices by travel agencies, and illustrates the lack of bargaining power of smaller airlines such as Reno Air.

I. Reno Air Responses to DOT Questions Raised in the Notices of Proposed Rulemaking.

The following comments respond to questions raised by the Department in its ANPRM dated September 10, 1997.

1. The CRS rules should be continued for at least another ten years. Should industry developments during such period suggest a reason for further changes, modifications or withdrawals to such rules, the Department can respond accordingly. Since the rules have been promulgated, there have not been any marketplace developments that suggest any material lessening of the market power of the CRS systems.

We understand the desire of the Department to adopt rules that create market forces that, in themselves, eliminate abuses of the CRS systems. However, we believe this is impractical. Although a number of parties have stated that they are developing alternative CRS systems, the fact remains that there has not been any successful new CRS system in more than the last decade. The Department, therefore, cannot assume that the possibility or reality of alternative CRS systems will help "police" the industry. Moreover, travel agencies are committed to their existing CRS systems both by long term contracts and by the costs -- in terms of training and business disruption -- that would be created by switching systems. And, most importantly, the marketplace reality of CRS systems continues to be disrupted by the disassociation between usage and charges. (The travel agencies who use the systems do not pay for their activity.) Although the Department could adopt rules that do have the effect of increasing competitive market forces in the industry, such rules would create substantially more disruption to the existing system than the more limited proposals of Reno Air and AWA.¹

2. The rules have been effective in prohibiting certain abuses, but they have not been effective in prohibiting abuses entirely. These abuses have been documented herein and in Reno Air's comments in Docket OST-96-1639. The rise of internet and on-line services that allow individuals to access CRS systems create the potential for substantially increased abuse of the CRS systems. Reno Air and other airlines have

¹ The booking abuses of the type documented in the AWA petition could be eliminated through marketplace forces by Department adoption of a simple rule requiring that CRS charges be paid by travel agencies (and individual users accessing a CRS through the Internet) rather than by airlines. Absent such a rule, the Department cannot rely on marketplace forces to "police" booking fee abuses.

The display biases possibly could be eliminated through market place forces by Department adoption of a rule requiring each CRS to allow access to the displays of other CRS systems. This is impractical.

devoted significant resources to educating travel agencies about the cost of the systems, the bias built into certain fair displays, and other aspects of the systems, so as to enable travel agencies to fairly access all airlines and book passengers at effective cost. This education campaign has assisted in reducing certain abuses such as overcharges due to travel agency misuse of the CRS systems. It will be effectively impossible for any smaller airline such as Reno Air to educate the entire travelling public about these issues.

3. This is answered in our further comments below and in Reno Air's comments in Docket OST-96-1639.

4. Despite the development of joint (and non-airline) ownership of CRS systems, Reno Air has not seen any lessened need for Department oversight of CRS practices.

5. Reno Air does not have sufficient information to respond to this question.

6. CRS systems should be precluded from requiring any minimum level of participation by airlines unaffiliated with another CRS.

7. The use of CRSs as booking engines by internet sites creates additional situations where airlines will be subject to abusive billing practices. Airlines should not be charged for internet booking activity that does not create airline revenue.

Due to the potential for significantly increased booking fee abuses when CRS systems are accessed through the internet, the Department should adopt a rule providing that airlines participating in a CRS must be provided the right and ability to block any access via the internet that either (i) allows internet users to create fee charges to airlines, or (ii) allows internet users to block reserved space on the airline without payment for such reservation.

8. See our comments in Docket OST-96-1639.

9. We believe that certain airlines do use such data for noncompetitive purposes. However, we are skeptical whether the Department can, by rulemaking, effectively preclude access to such data by airlines controlling the CRS systems. Accordingly, we support continuation of the rule requiring that such data be made available to all airlines.

10. Reno Air does not have sufficient information to respond to this question. The airlines which own or are affiliated with the CRS systems have not advised us of the extent to which they possess functionality superior to the functionality provided to Reno Air.

11. Yes. This is further addressed below.

12. Yes. This is further addressed below.

13. We have not noticed any correlation between airline competition and competition between CRS systems. We also have not noticed any correlation between CRS competition and fairness of CRS practices. CRS systems provide many functions to travel agencies -- such as bookkeeping and report generation -- that are largely irrelevant to the airlines. These and other marketing practices appear to be the competitive forces in determining CRS penetration of travel agencies -- rather than the issues discussed in the Department's ANPRM.

14. We believe these assertions are true. They are also difficult to prove due to the pernicious effect on travel agencies who complain.

We believe that major airlines with a dominant position at their hubs can use for their direct benefit a variety of anticompetitive or abusive practices directed at travel agencies. However, travel agencies at such hub are largely dependent on maintaining a cooperative relationship with the dominant airline because (i) as a matter of necessity, a substantial amount of the travel they sell will be travel on such airline and (ii) travel agencies depend on assistance from airlines in order to effectively service their preferred customers. To our knowledge, every major airline has a department devoted to assisting travel agencies. Such assistance can include relaxing the advance booking rules or increasing inventory booking levels for preferred customers, waiving charges for preferred customers, expediting processing of refunds or claims, assisting in market analysis and sales, providing preferred access to high-demand flights or low fares, and providing free or reduced-rate travel to travel agency personnel. *This travel agency dependence on the incumbent major airline renders it difficult to establish the existence of airline intimidation of travel agencies, because travel agencies subject to such practices are fearful of a further adverse response by the airline.*

15. Reno Air has no response to this comment.

II. The Department Should Prohibit Booking Fees for Activity that Does Not Actually Benefit An Airline.

Questions 11 and 12 in the September 10 ANPRM relate to CRS booking fee practices. Subsequent to the issuance of the ANPRM, AWA filed a petition for rulemaking. AWA proposes that booking fees be limited to bookings that result in actual passenger travel. AWA further proposes that airlines be permitted to prohibit passive booking on any CRS. This functionality apparently is unique to certain owner-affiliates of the CRS systems.

Reno Air supports the petition of AWA. Like other airlines, Reno Air has been subject to booking practices for which it has been charged outrageous fees. Such abuses include travel agency churning of bookings, fictitious name bookings, passive bookings, practice bookings and other misuse of CRS systems, including intentional abuse to meet productivity quotas.

The problem centers on those CRS systems that charge booking fees on a transaction basis: Apollo/Galileo, WorldSpan and Amadeus. Although the incremental cost to these CRS systems of each such transaction is negligible, the systems charge over a dollar for each booking transaction, regardless of whether travel actually occurs. The systems charge approximately \$0.25 for each cancellation of a booking. Each time a passenger cancels a prior reservation and books an alternative travel plan (even if the alternative is for travel between the same cities on the same day but on a different flight) a new set of charges is incurred. This even applies when the cancellation/rebook is for *the same flight*, as occurs when travel agencies or individuals recycle their reservation to avoid a requirement that ticketing be accomplished within a certain time after the reservation is made. This can and has resulted in booking fees exceeding \$100 even when no travel actually occurred.

Although this problem is created by the CRS systems booking fee practices, and although the CRS systems are in the best position to stop or reduce the frequency of these booking practices through travel agency education, the CRS systems benefit from the booking fee abuses and, not surprisingly, have not taken significant efforts to reduce such abuses.

Although Reno Air and other subscribing airlines have endeavored to better educate travel agencies on the fees generated by abusive activity, and thereby reduce such activity, the frequency and extent of such activity will increase due to the use of the traditional CRS as booking engines for sales made over the internet. A number of systems have been developed to allow individuals to book airline travel over the internet. All of such systems, with the exception of airline proprietary systems, use a CRS as its access to airline seat inventory and as its booking engine. Where the CRS involved has transaction-based booking fees, each such use drives a charge to the participating airline. This fact is seldom known by the person using the system. As more consumers attempt internet bookings, the frequency and amount of non-productive CRS transaction fees will increase substantially, and may explode. Reno Air's experience to date indicates a significant increase in CRS costs as a percentage of revenue for tickets sold via the internet.

III. The CRS Systems Have Not Taken Responsibility for Addressing These Issues

Reno Air is not able to obtain meaningful relief from abusive booking fees through discussions with the CRS systems. Indeed, the Apollo/Galileo, WorldSpan and Amadeus CRS systems have significantly increased the cost of booking abuse by changing their fee structures to be transaction-based, as opposed to based on actual bookings.

The CRS systems are an essential facility to which Reno Air must subscribe in order to effectively market its product through travel agencies. Accordingly, Reno Air has no negotiating leverage with the CRS systems.

Reno Air respectfully submits that the best way to eliminate the problem of CRS booking fee abuse is by requiring CRS systems to charge airlines based only on actual segments booked and flown. All other activity on the CRS systems should be at no expense to participating airlines.

This rule will ensure that airlines pay the CRS systems commensurate with the benefit they receive.

This rule will provide CRS systems -- who are best-positioned to police booking activity -- an incentive to eliminate nonproductive booking activity.

III. Conclusion.

For the reasons stated above, Reno Air urges the Department to promptly extend its CRS rules and to adopt further rules reducing CRS display bias and overcharges of CRS booking fees.

Respectfully submitted,

RENO AIR, INC.

A handwritten signature in black ink that reads "Robert M. Rowen". The signature is written in a cursive style and is positioned above a solid horizontal line.

Robert M. Rowen

Vice President and General Counsel