

**BEFORE THE
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, D.C.**

**Notice of Proposed Rulemaking (“NPRM”) for
The Proposed Reservation System for
Unscheduled Arrivals at Chicago’s O’Hare
International Airport**

FAA-2004-19411

COMMENTS OF THE MARK TRAVEL CORPORATION

The Mark Travel Corporation submits these comments in response to the Federal Aviation Administration (“FAA”) Notice of Proposed Rulemaking (“NPRM”) for the proposed reservation system for unscheduled arrivals at Chicago’s O’Hare International Airport.

I. Introduction

On October 15, 2004, the FAA issued a NPRM proposing to implement a Reservation System restricting the number of unscheduled aircraft arrivals at Chicago’s O’Hare International Airport (“O’Hare”) during the hours of 7:00 a.m. through 8:59 p.m., beginning November 1, 2004, and continuing through April 30, 2005.

In the NPRM, the FAA stated:

The FAA’s broad statutory authority to manage “the efficient use of airspace” encompasses management of the nationwide system of air commerce and air traffic control. On a daily basis, that system transports millions of passengers, thousands of tons of cargo and often millions of pieces of mail.

The FAA, through the High Density Rule, had historically limited the number of takeoffs and landings at O'Hare to 145 per hour, with "ten additional reservations available for the other category of unscheduled operations (The "other" class of users included general aviation, charter, military, public aircraft, and other irregular operations by commercial air carriers)."

For thirty years, Mark Travel has operated as one of the largest tour operators and vacation wholesalers in the United States. We currently operate sixteen nationally recognized vacation brands, representing many leading airlines and hoteliers. Mark Travel's brands service nearly three million annual vacation passengers. These passengers are flown on both scheduled and charter airlines.

Under its Funjet Vacations label, Mark Travel operated a large number of charter flights at O'Hare when the High Density Rule was in place and after the rule was first eliminated. Mark Travel/Funjet Vacations was able to meet passenger demand under the "10 per hour" reservation limitation and should be allowed to maintain its historical number of operations under this proposal.

According to the FAA, in 2003, O'Hare accommodated 928,691 flight operations, which made it the busiest airport in the world in terms of aircraft arrivals and departures. During the first six months of 2004, 490,987 flights arrived at and departed from O'Hare. From January through July 2004, total airport operations at O'Hare increased approximately 8.7% over the same period in 2003. Mark Travel/Funjet Vacations has not increased operations during that time period.

As a result of the increase in delays after the High Density Rule was eliminated, on August 18, 2004, the FAA Administrator issued an order embodying the terms of air carrier agreements with the FAA that temporarily limited the number of scheduled arrivals during the

peak hours at O'Hare. The order limited the number of scheduled arrivals to 88 per hour, with certain exceptions. The FAA stated that it "assumed that the airport would accommodate four additional unscheduled arrivals per hour¹."

The FAA added, "although scheduled airlines cannot readily adjust their number of arrivals to take advantage of temporary fluctuations in the airport's capacity, unscheduled operators frequently can do so given the nature of their operations."

II. Mark Travel Corporation

Funjet Vacations is a wholly owned company of The Mark Travel Corporation. We have operated at Chicago O'Hare Airport and in the entire Chicago community for over thirty years. Funjet Vacations provides vacation travel for approximately one million passengers on an annual basis to approximately 260 destinations. Chicago has always been a major part of our business for vacation travel. From O'Hare, we serve various markets including several cities in Mexico and Las Vegas on a regular basis. At the same time, we bring large numbers of tourists and groups to the Chicago area from multiple locations within the United States and from locations outside of the United States.

III. Impact of Proposed Rulemaking

Mark Travel/Funjet Vacations and the tens of thousands of passengers we serve every year at O'Hare applaud the FAA for taking important steps to reduce delays at O'Hare and throughout the air traffic system. Passengers utilize our services because we deliver on-time departures. Travelers plan and pay for group or family vacations/tours months ahead of proposed travel dates and do not want to see those plans changed or cancelled because of delays or congestion. Unlike some other operators, Federal law prohibits us from canceling charter flights less than ten days prior to departure. Constant and significant delays discourage travelers

¹ The "four" limitation is much lower than the "10 per hour" limit in the High Density Rule.

from utilizing the nation's air transportation system. It is for this reason that during the past year, Mark Travel/Funjet Vacations took several steps to modify O'Hare flight schedules to reduce possible delays and impacts on the airport while still keeping the needs of the traveling public a priority. Nevertheless, like all those who serve the public, Mark Travel/Funjet Vacations must be prepared to operate at times that passengers want to travel. Since we do not offer multiple flights to the same markets, we cannot offer passengers unlimited options to get to a planned destination. This is why it is essential that we be allowed to schedule operations at times that allow our customers to best utilize their time.

Because Mark Travel/Funjet Vacations serves high demand markets, load factors are higher than many scheduled operators and some charter operators. Moreover, Mark Travel/Funjet Vacations utilize 160 to 200 seat aircraft. Many of our customers would not travel if they could not take advantage of our flights and fares.

The FAA established this rule in order to address increases in operations at O'Hare. Mark Travel/Funjet Vacations has not increased operations at the airport. According to the FAA's own documents, the increases in operations at O'Hare have been created by incumbent and new entrant carriers and by regional jet operations. Nevertheless, the FAA has allowed each of those categories of operators to expand operations at O'Hare with some limitations. At the same time, Mark Travel/Funjet Vacations, which has not expanded operations, could be forced to reduce or cancel operations in the future. A significant schedule change would not be acceptable to our customers and would severely harm our business model and our ability to provide affordable and competitive options for leisure travelers. Further, "last minute" changes to the schedule or requiring a request for approval of landing rights within a 72 hour period would limit

our ability to notify the customers of flight changes and potentially cause staggering financial losses due to customer inconvenience and dissatisfaction.

IV. FAA Should Change the Proposal to Promote Travel and Support Competition

The FAA's proposal to address "unscheduled operators" includes various different types of operators. While the preference is that all types of operators be allowed to utilize airports without limitations, according to the FAA, that is not possible at O'Hare. Therefore, additional alternatives need to be considered. There are very basic differences between general aviation operations and charter operations. Moreover, there are differences between "on-demand" charters and "public charters."

While some charter operations, particularly those that are for special events and aren't established until a time period closer to the travel dates can be shifted to "off-peak" times, other days or to other airports, we cannot make changes to the long-term charters that we have operated at O'Hare for the past several years. If the FAA rule does not allow us to schedule these charters at the times and the number of charters that we have historically operated, we will be the one type of operation that will be discriminated against in this rule. That would be extremely detrimental to our business and to the care and service of our customers.

Mark Travel/Funjet Vacations schedules operations up to a year ahead of time to obtain gates, customs approvals and secure ground handling agreements. Since we do not have dedicated airport facilities, we need to establish loading agreements for all flights. Once those agreements are finalized, we have limited options to move flights. We start marketing and selling our services six to nine months before departure dates. Moreover, unlike some "unscheduled operators," we cannot operate at other Chicago area airports because of our operations. Therefore, to serve the Chicago area, we need to be at O'Hare. For all of these

reasons, if all operations cannot be approved FAA should distinguish between general aviation, on-demand charter operators and public charter operators.

In order to allow the public charter operations conducted by Mark Travel/Funjet Vacations to be placed on a somewhat equal footing with the other operators who control 98% of Chicago operations, the FAA needs to allow those charter operators that have been at the airport before the current problems arose, that schedule and operate charters longer than six months before date of operation, and utilize aircraft with more than 125 seats to operate the same number of charter flights as they operated in 2003-2004². In implementing these restrictions which could dramatically impact the public charter operators, the FAA needs to ensure that those operators can continue to operate. Mark Travel will also take reasonable steps to schedule operations in non-peak periods. If we cannot operate as planned, it will impact our current and future business. FAA must also allow public charter operators to make flight reservations for the above types of flights as those charters are arranged. They should not be held to a 72-hour reservation restriction. The number of flights to be handled in this manner would be small. The ability of Mark Travel/Funjet to operate in this manner is critical to the continued economic growth of the operators and others involved in the travel packages. It is also critical that we provide affordable and competitive options to travelers in the Chicago area.

V. Conclusion

The FAA has taken important steps to improve travel to and from O'Hare by allowing some expansion of flights to O'Hare, without permitting unlimited operations. At the same time, FAA must allow public charter operators and their customers to operate at O'Hare. This is particularly important because we are talking about less than 1% of O'Hare operations.

² This can be computed on an average daily average for the November 1, 2003 to April 30, 2004 period.

Such a decision would be consistent with airline deregulation, competition and the continued growth of travel and tourism. The public interest will not be served if FAA denies this request to allow reservations when necessary and to reserve public charter operations historically operated.

Respectfully submitted,

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