

**REPORT TO CONGRESS**

**SECTION 816 [VISION-100]**

**RECOMMENDATIONS CONCERNING TRAVEL AGENTS**

**OFFICE OF THE SECRETARY**

**U.S. DEPARTMENT OF TRANSPORTATION**

**OCTOBER 2005**

**REPORT TO CONGRESS ON  
THE NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION  
AND CHOICE IN THE AIRLINE INDUSTRY'S  
RECOMMENDATIONS CONCERNING TRAVEL AGENTS**

**Introduction and Summary of Conclusions**

Section 816 of *Vision 100 – Century of Aviation Reauthorization Act* (Public Law 108-176) provides as follows:

“Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on --

- (1) the travel agent arbiter program; and
- (2) the special box on tickets for agents to include their service fee charges.

In preparing the report, the Secretary shall consult with representatives from the airline and travel agent industry.”

The November 13, 2002, report of the National Commission to Ensure Consumer Information and Choice in the Airline Industry (Commission) identified the major changes that have occurred in the airline ticket distribution system in recent years.<sup>1</sup> The most important developments cited by the Commission include (1) the digital revolution, the Internet, and the establishment of competitive, online distribution channels (including airline web sites), (2) the introduction and widespread acceptance of electronic tickets (e-tickets), and (3) competition among airlines, which has forced individual carriers to reduce their costs, including distribution costs such as the fixed sales commissions they once paid to travel agencies and the booking fees that they still pay to computer reservations systems (CRSs).

For decades, all airfares included the commissions that air carriers paid travel agencies. Consumers thus paid the same fares regardless of whether they bought their tickets directly from carriers or from travel agencies. Even with commissions, which ranged from 4 percent to 12 percent of the airfare, and CRS booking fees, carriers generally found using the travel agency network to sell their services to be less costly than maintaining extensive sales forces of their own. Travel agencies that controlled lucrative business accounts also received other forms of compensation from air carriers,

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<sup>1</sup> *UPHEAVAL IN TRAVEL DISTRIBUTION: IMPACT ON CONSUMERS AND TRAVEL AGENTS, REPORT TO CONGRESS AND THE PRESIDENT*, National Commission to Ensure Consumer Information and Choice in the Airline Industry, November 13, 2002 (“Commission Report”). A copy of the Commission Report’s Executive Summary is attached.

including volume discounts, rebates, free use of CRS equipment, and free travel passes and ticket upgrades. Given the rapid growth in air travel that followed the introduction of commercial jet aircraft and, after 1978, the deregulation of domestic airfares and services, as well as the limited competition agencies faced from alternate distribution channels, most agencies were financially healthy regardless of their size.

In recent years, however, airline competition and technological developments have fostered major and rapid changes that in turn have largely undone this long-standing equilibrium. Through the direct online contact with travelers made possible by the Internet, airlines have reduced their distribution costs and, presumably, increased brand loyalty, at least with some customers. Given the economic characteristics of the travel agency industry – in particular, low entry barriers, a highly competitive operating environment, and generally low profit margins – the carriers’ success in attracting consumers to their own web sites has undermined the financial health of some travel agencies, especially low-volume agencies. In contrast, high-volume agencies have often fared better, probably because they have succeeded in providing the specialized services valued by corporate clients, and because they are large enough to take advantage of certain economies of scale and scope, which in turn result in lower costs.

The Commission found that these and other factors have caused consolidation in the travel agency industry, but it did not recommend new legislation or regulations to counteract this trend. It did, however, recommend the following:

“The Travel Agent Arbiter program [which is discussed below] should be amended and strengthened. Agents should be protected from arbitrary actions of airlines in debit memo disputes. The Arbiter could serve as the neutral party so clearly needed to relieve this burden. By including the adjudication of debit memo disputes through paper submissions, the program could inexpensively and fairly rectify thorny doing-business issues.”

“The industry should provide travel agents a special box on tickets to include their service fee charges. The Commission believes that this feature would be more efficient for agents, and would provide customers better information on the elements comprising their ticket purchases.”<sup>2</sup>

Having met with representatives of the pertinent sectors of the air transportation and air transportation distribution industries, and having reviewed the Commission Report and other relevant literature, we conclude that the Department’s authority to enact regulations does not extend to carrying out the recommendations made by the Commission. Moreover, for the reasons discussed below, we conclude that there is not compelling evidence warranting Federal intervention in these issues.

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<sup>2</sup> Commission Report, page 3.

## **The Travel Agent Arbiter Program**

Owned by air carriers, the Airline Reporting Corporation (ARC) serves as a clearinghouse, a conduit for the exchange of money. It settles accounts among air carriers (for interline services, *e.g.*) and between air carriers, travel agencies, and credit-card companies. ARC has an arbitration service. For disputes between ARC and travel agencies, arbitration is mandatory. Theoretically, ARC's arbitration service is also available to resolve disputes between air carriers and agencies. Under current ARC procedures, however, both parties to the dispute, the agency and the airline, must agree to have it resolved by the ARC Arbiter, and, in fact, carriers do not agree.

Some low-volume agencies claim that they are at a disadvantage when they attempt to negotiate with an airline about a claim, in part because they have less access to the information and data necessary to settle the claim; accordingly, they would like to see ARC's existing arbitration service expanded so that it could resolve a wider array of complex, commercial disputes without their first having to get the carrier's agreement. These smaller agencies also contend that they are in an unfair bargaining position because they sell relatively few airline tickets; market realities, they contend, compel air carriers to negotiate in good faith with high-volume agencies but not with them. Moreover, if they choose to do so, high-volume agencies and other major distribution outlets have the financial and legal resources to bypass the ARC clearinghouse process and to settle their disagreements and accounts directly with air carriers. Smaller agencies, however, may not have the financial resources, legal expertise, or management resources to bypass ARC or to pursue their grievances in court.

Smaller agencies generally favor expanding the scope and jurisdiction of ARC's current arbitration program, especially for disputes over debit memos. Debit memos are charges assessed by air carriers to agencies. In most cases, debit memos represent the results of an airline's after-the-fact review of the validity of an airfare – that is, whether an agent charged a traveler the correct fare for the air service provided. Debit memos generally require agencies to pay airlines the difference between the “correct” or applicable airfare and the fare that the agency actually charged the traveler. While it is standard industry practice for an airline and an agency to discuss a questionable fare before a debit memo is issued, in practice, ARC accepts debit memos at face value and debits an agency's account accordingly. Because airlines control much of the pertinent information concerning the validity of fares, many smaller agencies contend that they effectively cannot challenge airlines' decisions to issue debit memos.

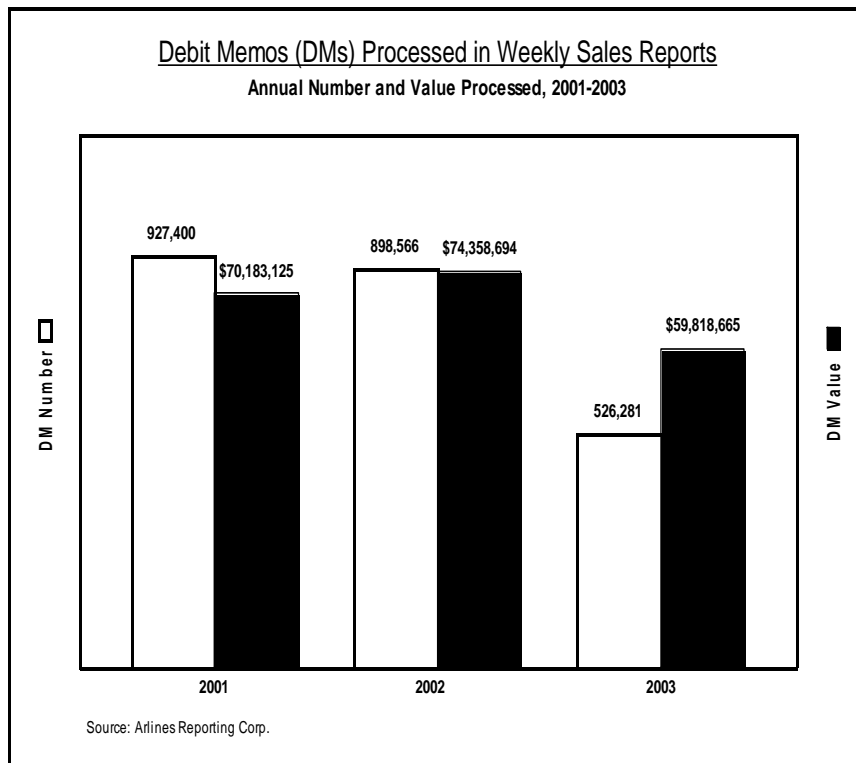
The American Society of Travel Agents (ASTA) reports that it is unlikely that a critical number of ARC's carrier owners will ever agree to mandatory arbitration through ARC of debit memos. To make its case for Federal intervention, ASTA points to problems that arose with respect to disagreements between travel agencies and American Airlines following the three-day suspension of commercial air service after the September 11 terrorist attacks.<sup>3</sup> In addition to working with stranded travelers, agencies often

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<sup>3</sup> For more information about this example, see Commission Report, page 35.

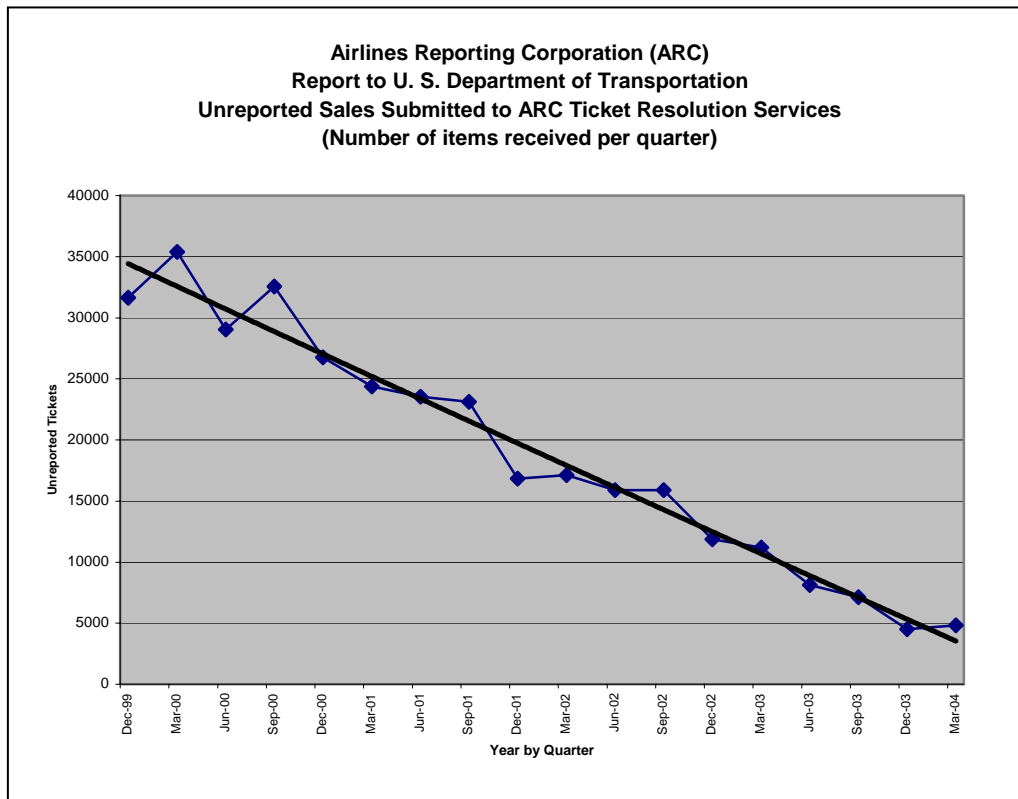
refunded the monetary value of “worthless” airline tickets to their clients so the latter could pay for alternate means of transportation (rail, bus, car rentals). American, however, directed ARC not to recognize agency claims for non-refundable tickets, even though air transportation was neither provided by American nor available from other air carriers. American initially took the position that the non-refundable tickets at issue were just that -- non-refundable -- and that the Federal government, not American Airlines, was responsible for ordering the suspension of air service. In addition to the financial consequences of American’s action on agencies, it also resulted in hundreds of agencies being placed in the middle of a contentious dispute between travelers and American Airlines. (American subsequently changed its position and worked to resolve its disputes with agencies.) ASTA contends that if its members had had recourse to mandatory arbitration after September 11, disputes such as the one that arose between American and travel agencies could have been resolved relatively quickly and uniformly for all agencies.

Weekly sales debit memos represent airfare disputes between air carriers and agencies. The following chart, based on data provided by ARC, provides information about such memos over a three-year period. In calendar year 2003, 526,281 such memos were issued, a significant decline from 927,400 in 2001. For 2003, weekly sales debit memos had an aggregate value of \$59,818,665, and an average value of slightly more than \$113. There are approximately 25,000 ARC-accredited travel agencies; accordingly, the typical agency received about 21 claims. (Some debit memos issued for one year may be for a previous year’s transaction, so even the relatively low figures for 2003 may be overstated.)



ARC also provided data about debit memos linked to “unreported sales” (a category not included in the weekly sales category). These memos represent a financial claim based on an agency’s failure to report a transaction to ARC. Such an action can be an honest mistake or the intentional reuse of a ticket that was not “voided” by an agency. In 2003, 22,491 debit memos fell into this category, fewer than one per agency location per year. The average value of a claim was \$644, which included the value of the unreported airfare.

The following graph shows a steady decline in unreported sales debit memos. This decline reflects one of the benefits of the widespread adoption of e-tickets. When an e-ticket is voided, interactive software automatically requires the removal of that e-ticket before a replacement number can be entered into the system. Other information technologies also make it easier to track airline tickets. In sum, advances in computer software are reducing the number of these debit memos.



### The Fee Box

Over the last decade, air carriers cut and then eliminated the fixed sales commissions they paid agencies. Agreements between carriers and travel agencies for the payment of commissions based on attainment of certain sales volumes are still to be found, but these are far from universal. Many if not most agencies have thus had to institute their own service fees in order to compensate for the revenues they no longer receive from standard commissions.

According to some agencies, air carriers are blocking the means by which the former could collect their service fees in the manner most efficient for their clients as well as themselves. Some agencies would like to have their fees once again included in the basic airfare (*i.e.*, with no separate line item on a ticket or invoice); others would prefer that a separate box for agency fees be included on all ticket instruments (including e-tickets), as is the case today with Passenger Facility Charges and Federal Security Service Fees. ARC requires agencies to bill travelers separately for services rendered, and thus to act as a “separate merchant” with credit card companies. Agencies claim that their clients are unhappy when they discover a new, separate credit-card charge from the agency -- perhaps billed by the credit card company on a later cycle than the ticket. In sum, many agencies contend that air carriers are making it more difficult than it need be for them to collect their fees or that they are actively attempting to make it more attractive for travelers to bypass traditional travel agencies.

### **Discussions with Outside Parties**

To prepare this report, we have reviewed relevant articles in the trade press, previous government reports on airline industry distribution practices, and statements submitted to the National Commission to Ensure Consumer Information and Choice. Also, in order to determine whether industry conditions had changed since the Commission issued its report (and as directed by the legislation), we met with officials from ASTA, ARC, and US Airways (to gain the perspective of a large air carrier). We also met with Mr. William S. McGee, the ARC Arbiter.

In broad terms, ASTA continues to claim that low-volume agencies are at a distinct disadvantage in their commercial negotiations with air carriers. To improve their bargaining position, ASTA favors broadening the jurisdiction of the Travel Agent Arbiter Program and eliminating the “mutual consent” requirement for arbitration. ASTA contends that the carriers will not agree to mandatory arbitration by ARC’s arbitrator since this would undermine their substantial negotiating advantages.

Many agencies would prefer to include their service fees as part of a single ticket/billing transaction. The parties with whom we met disagree over whether additional space is available on the ticket instrument for a separate travel agency charge; however, none of them could provide an estimate of what it might cost to modify existing ticket instruments to accommodate a separate box for agencies fees or what it would cost to reprogram the relevant computer software. ASTA officials claimed, without providing details, that Austrian Airlines includes a separate box for agency fees on its ticket instruments in Europe.

ARC views itself as a neutral clearing house for airline ticket transactions, acting as the merchant for clearing credit-card transactions and charging a standard 3.5 percent fee. Approximately 90 percent of ARC’s annual budget is paid by airlines and the remainder from fees assessed to agencies.

US Airways' representatives discussed changes in airline distribution practices and insisted that in today's competitive environment air carriers must relentlessly strive to cut their costs, including their distribution costs. Because it does not want to risk having to bear any portion of the credit card fee associated with the agent's fee, US Airways objects to inclusion of a travel agency's service fee as part of one single billing transaction. The US Airways representatives predicted that increasingly sophisticated computer software and simpler airfares will result in fewer billing mistakes; accordingly, debit memos will be a "fading issue."<sup>4</sup>

For the foreseeable future, US Airways expects that traditional travel agencies will sell the majority of its tickets. Its representatives took issue with ASTA's assessment of the relative bargaining power to travel agents and carriers, claiming that the threat of selling transportation on competing carriers gives even the smallest travel agencies some leverage. They reasoned that if US Airways had the power to treat travel agencies unfairly, it would have the power to bypass travel agencies altogether and sell only through its own web site, a less expensive distribution channel.

Funded by ARC, the position of Travel Agent Arbiter has existed since 1987. The Arbiter has jurisdiction over contractual issues involving ARC's disputes with accredited agents, as well as appeals from agencies that seek ARC accreditation. In 2003, 105 new cases were brought before the Arbiter and 104 cases were decided, including some filed in 2002. For most cases, a decision is issued in approximately six weeks.<sup>5</sup> ARC, however, treats debit memos as matters strictly between an airline and an agency, and any disputes arising from them are not encompassed under the Arbiter's jurisdiction unless both parties agree to arbitration in advance, which has occurred only once.

### **The Department of Transportation's Authority**

The Department of Transportation does not have authority to grant the relief ASTA seeks. Our authority to adopt and enforce regulations governing the commercial practices of commercial airlines and travel agents is conferred by 49 U.S.C. §41712, which provides in pertinent part as follows:

#### **§41712. Unfair and deceptive practices and unfair methods of competition**

On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and

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<sup>4</sup> They maintained that ASTA had not raised its objection to separate credit card transactions with them.

<sup>5</sup> The Arbiter also decides issues involving agencies that have been terminated by ARC for breach of contract, stolen tickets, bond/surety coverage requirements, custody issues for airline ID Plates and ticket stock, and residual payments due after an agency has lost its accreditation. William S. McGee, "Travel Industry Disputes Between Key Players With A Flexible, Private Arbitration Provider," *Institute for Dispute Resolution*, Vol. 20 (1), January 2002.



decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a hearing, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

Under this provision, the Department has the authority to issue regulations prohibiting conduct only if it is an unfair or deceptive practice or an unfair method of competition in air transportation or its sale. Within the meaning of this statute, unfair methods of competition are practices by airlines or travel agencies that violate the antitrust laws or antitrust principles. The Department has consistently construed §41712 in conjunction with the pro-competitive policy directives set forth in 49 U.S.C. §40101 “as allowing each airline the same freedom to choose the channels and the terms for distributing its services that firms in other unregulated industries enjoy [citation omitted]. [The Department does] not read these directives as giving [it] authority to intervene in disputes over ... aspects of the contractual relationship between carriers and travel agencies absent evidence of a violation or quasi-violation of the antitrust laws.”<sup>6</sup> Here, we have seen no evidence that either the carriers’ refusals to submit debit memo disputes to arbitration or their refusals to cooperate with the travel agencies to eliminate separate billing transactions for the latter’s service fees constitutes a violation of antitrust laws or principles.

We have similarly seen no evidence that these practices constitute unfair or deceptive practices within the meaning of §41712. Conduct may constitute an unfair practice “if it violates public policy, is immoral, or causes substantial consumer injury not offset by any countervailing benefits.”<sup>7</sup> This cannot be said of the practices at issue here. Deceptive practices are practices that deceive consumers, and we have used our authority to prohibit deceptive practices to regulate advertising.<sup>8</sup> We have seen no evidence that either of the practices at issue here deceives consumers. ASTA asserts that consumers are confused or unhappy when they are billed for two separate charges, one for air transportation and one for a travel agency’s service fees, especially when the charges appear in different billing cycles. However, ASTA’s representatives were unable to furnish DOT with any information on the extent of consumers’ complaints to member agencies about the separate charges. Even assuming this to be the case, such confusion or discontent does not indicate deceptive conduct on the part of an airline. To the contrary, it is the travel agency that is required under the Department’s advertising rules and policies to disclose the total price that the consumer will pay, including its own service fee, before consummating any sale. (A travel agency is free to disclose its service fee separately as well but is not required to do so.) Thus, because the Department does not have authority to adopt regulations to require airlines to arbitrate

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<sup>6</sup> Order 2002-9-2, September 4, 2002, at 23-24.

<sup>7</sup> *Id.* at 24, citing Order 92-5-60 (May 29, 1992) at 12.

<sup>8</sup> *Id.*, note 27.

debit memo disputes or cooperate with travel agencies to effect a single credit-card charge for air transportation that includes agency fees, the agencies' goals could only be effectuated by means of legislation.

## Conclusions

Based on our review of the relevant literature and discussions with outside parties, the Department has concluded that there is not compelling evidence in favor of Federal legislative intervention with respect to the two recommendations made by the Commission. Neither of the issues suggests a market failure that merits legislation to protect consumers or to prevent unfair methods of competition in the airline or travel agency industries.

Market failure occurs when imperfect or inadequate information, high transaction costs, third-party externalities, or some other condition prevents a market either from forming or from performing well.<sup>9</sup> Today, however, there is nothing to prevent agencies and air carriers from resolving commercial disputes, such as those that arise with respect to routine debit memos, through arbitration. Air carriers and travel agencies are free to establish arbitration procedures or to request that the scope of ARC's arbitration jurisdiction be amended to handle routine disputes, such as those that characterize the overwhelming majority of debit memos. Indeed, when an agency and an air carrier first enter into a business arrangement – that is, when terms of compensation and other relevant matters are discussed and agreed to – as well as in subsequent periodic reviews, there is nothing to prevent agencies from bargaining with air carriers for the establishment of arbitration procedures for disputed debit memos. That an air carrier may decline to enter into such an arrangement does not, by itself, constitute a market failure meriting legislative intervention. In the absence of arbitration, of course, litigation is always available.

It should also be noted, as described above, that debit memos have substantially decreased in number since the Commission's analysis. To the extent that debit memos are a problem today, it may be, as US Airways speculates, that the structure of airfares will become easier to understand and this, in conjunction with improved computer software, will make debit memos even less of a problem in the future. Moreover, any Federal legislation adopted to address these issues (or any regulations adopted pursuant to such legislation) could distort or slow the pace of economic and technological change now underway in the airline and travel agency industries, thus resulting in unintended harm to consumers. Over the last decade, air travelers have reaped substantial benefits from changes that have occurred in airline ticket distribution practices, as the Commission recognized.<sup>10</sup> In view of this, and given the prospect of additional benefits in the future, we are reluctant to counsel in favor of Federal government intervention in

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<sup>9</sup> For guidance on Federal regulatory standards and appropriate supporting analysis, see Office of Management and Budget, Circular A-4, September 17, 2003. [http://www.whitehouse.gov/omb/inforeg/circular\\_a4.pdf](http://www.whitehouse.gov/omb/inforeg/circular_a4.pdf)

<sup>10</sup> According to the Commission, "First among the Commission's conclusions is that consumers have benefited greatly from the changes in travel distribution." Commission Report, page 1.

travel agency-airline commercial affairs without compelling evidence that new legislation or regulations are necessary.

Similarly, we do not see evidence of consumer harm or market failure that would compel legislative action to mandate a special box on tickets. As noted above, travel agencies are required to inform their customers about the total price of any transportation, including their service fees, before consummating any sales. Agents are free to disclose their fees separately as well. When agency fees are transparent, documented, and agreed to before any service is provided, consumers can make informed choices about whether the service provides sufficient value, and whether the agency is competitive with other agencies. We have no evidence of consumer confusion or deception that would require legislation mandating that ticket instruments include a special box for travel agency fees.

If agencies and air carriers believe it to be in their best interests to include a separate box for such fees on the ticket instrument so that customers will be billed for just one charge, there is nothing to prevent them from doing so. We recognize, of course, that a large number of air carriers would have to agree to take this action, but if the collective benefits of such a change were evident and compelling, there would be nothing to prevent it from happening. In any event, regardless of whether an agency fee is included or not included on a ticket instrument, if an agency bills its clients for its fees at the same time that it bills them for their tickets, any confusion or misunderstandings about receiving two separate credit card charges or bills should be eliminated, or at least greatly reduced. Accordingly, we believe that there is no evidence that Congressional action is necessary to address the two issues identified in the Commission's Report. The Department will, however, continue to monitor airline distribution practices to ensure compliance with applicable laws and regulations.<sup>11</sup>

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<sup>11</sup> Commission Report, page 4.

## **Attachment**

### **NATIONAL COMMISSION TO ENSURE CONSUMER INFORMATION AND CHOICE IN THE AIRLINE INDUSTRY**

#### ***Executive Summary***

Congress directed the Commission to study two distinct issues. First, the current state of the travel agency industry and the impact of changes in the industry on consumers, and second, the potential for impediments to distribution of information to cause injury to agencies and consumers. We have examined those issues in detail and, herewith, deliver our report, focusing on the causes for the severe decline in the number of industry participants, the impact of such changes on consumers, and the proposals we have received that might alleviate their difficulties.

This report arrives in a world undergoing tumultuous change, unprecedented in the business sector known as “travel distribution.” Perhaps no other industry has suffered as much in the last two years as air transportation and its affiliated businesses, including the travel agency industry. Aviation’s problems, created by the recession, were compounded by the tragedy of 9/11, and the responses to it. As a result, no other business sector has been as directly and negatively affected as air travel. And through it all, a quiet revolution known as the Internet has profoundly enhanced consumers’ access to travel information, and changed long-standing industry processes.

Travel distribution, powered by advances in technology and the growth of e-commerce, is changing in ways that none of the interested parties—legislators, regulators, travel industry participants, and consumers—can possibly predict with accuracy. That fact of business life lies at the heart of the Commission’s approach to its task, and has guided its hearings, deliberations, and conclusions.

First among the Commission’s conclusions is that consumers have benefited greatly from the changes in travel distribution. The Internet provides extensive information on a multitude of subjects, including travel. This gives consumers more, and more efficient access to travel information than ever before.

Because the entire reservation transaction can be accomplished online, consumers also have more ways to book, and more distributors competing for their business. Historically, they were limited to purchasing travel directly from suppliers or through travel agents. Now, airline web sites and online agencies are vying for their business. More distribution channels and the information-rich Internet translate to concrete advantages for consumers—lower fares and greater convenience in purchasing tickets.

For travel agents, however, the picture is not so rosy. Since a 1994 peak of 24,000, one of every three agencies has disappeared. Agents sold \$83.5 billion worth of air transportation in 2000, but dropped 16 percent to \$69.9 billion just one year later.

Very tangible factors contributed to this decline: shrinking airline commissions beginning in 1995, and continuing into 2002; migration of travel purchasers to the Internet; the airlines' practice of encouraging travelers to bypass agents, including the advent and proliferation of web-only fares; and sharp reductions in travel spending, tied to the recession and the post-9/11 environment.

We are deeply concerned about the harm these factors have done to travel agencies. The data on agency attrition and loss of sales cited above are sobering. However, the government, as a rule, does not intervene in how suppliers distribute their products. Moreover, several changes in the distribution system, particularly with respect to web-fare access for agents, occurred during the course of the Commission's deliberations. Such changes are the nature of the marketplace—especially a segment as dynamic as travel and they make intervention impractical. Nor is it government policy to shield private businesses from downward swings in the business cycle or from marketplace shifts in demand for their services.

Thus, the Commission concluded not to recommend new legislation or regulations that would attempt to reverse the trend towards agency consolidation. To be considered worthwhile, any proposals should help all parties concerned, including consumers.

Though the Commission stopped short of recommending legislation or regulation, it does have concerns related to online agent Orbitz, which dominated several of the Commission's hearings. Owned by the five largest airlines, Orbitz has been the subject of investigation by the Departments of Justice and Transportation almost since it was announced in November 1999. This Commission sat for only six months, could not match the two departments' resources and, unlike them, had no subpoena power. However, the Commission recommends that the government immediately consider whether Orbitz should be allowed to maintain its most-favored-nation clause.

The Commission also does not support mandating that web fares be made available to all distribution channels. Airlines have traditionally segmented fares among various distribution channels; if they lose their flexibility in choosing channels, they may well withdraw some fares altogether. Doing that would harm consumers more than it would help agents. Moreover, agents do have access to web fares, though at present, generally not through their Computer Reservation Systems. And even that situation was evolving as the Commission's mandate was drawing to a close. Several new web-fare programs were being discussed with the travel agency industry.

But the Commission did recommend several less radical actions that could help agents do business more efficiently.

- 1) To ensure that DOT is more responsive than the five-year CRS review shows it to have been, DOT should be required to report to Congress every two years on distribution issues.
- 2) The Travel Agent Arbiter program should be amended and strengthened. Agents should be protected from the arbitrary actions of airlines in debit memo disputes. The Arbiter could serve as the neutral party so clearly needed to relieve this burden. By including the adjudication of debit memo disputes through paper submissions, the program could inexpensively and fairly rectify this thorny doing-business issue.
- 3) The industry should provide travel agents a special box on tickets to include their service fee charges. The Commission believes this feature would be more efficient for agents, and would provide consumers better information on the elements comprising their ticket purchases.

To ensure these last two suggestions are carried through, Congress should direct DOT to convene airline and agency representatives, and to report back within six months on their progress.

Despite the decline in the number of travel agencies, the Commission believes they do and will continue to provide valuable services to consumers. Travel is increasing. The availability of travel information has exploded. Yet, that explosion has created complexity and confusion. Thus, while traditional agents have lost market share to online purchasing, expert advice from travel advisors will remain a vital service in the marketplace.

In fact, many agents have begun to capitalize on the new business environment; others will do so, as all successful businesses must. Those able to change, as the system evolves, will capitalize on the new distribution systems and prosper.

Still, the government must be vigilant to ensure that the services of travel agents remain available to consumers. It must also ensure that future changes in distribution do not deprive consumers of the benefits they have already received from the development of the Internet.